



# insideissues

INDEPENDENT, IMPARTIAL INVESTIGATION



## Who Are We?

Our phone number if you need assistance with any of your cases is 0800 783 6317

**Prisoner Ombudsman**  
Pauline McCabe

**Acting Head of Operations**  
Paul Bullick

**Acting Senior Investigator**  
Karen McAfee

**Investigators**  
Geraldine Lennon  
Michael Hillis

**Investigative Case Worker**  
Kevin McQuillan

**Operations Manager**  
Pat McKinney

# MESSAGE TO PRISONERS FROM THE OMBUDSMAN

**I am delighted to have been appointed to the important position of Prisoner Ombudsman.**

Brian Coulter has worked very hard over the last three years to develop the Ombudsman's Office and to establish its reputation as professional and impartial. I look forward very much to building on his achievements.

It is in everyone's interest that prisons are safe, respectful and as purposeful as possible and that every effort should be made in helping to reduce the likelihood of prisoners reoffending. A complaints system that effectively addresses problems and concerns has an important part to play in achieving this.

I know that, at times, there are problems with the processing of complaints in prisons and that there are sometimes reasons why prisoners feel unable to complain. I want to play a positive role in ensuring that the prison complaints system, in all of our prisons, operates effectively. In particular, my Office will build on previous good practice in delivering a service that is impartial, objective, honest, thorough and fair in respect of every single complaint we receive.

I welcome the fact that the investigators in my Office have been involved in resolving more complaints at local level in the last year. This results in a positive outcome for the prisoner concerned and offers an important opportunity for Prison Service personnel to contribute to the resolution of complaints in a helpful and constructive way.

Over the coming weeks I shall be spending time in all our prisons and meeting a wide range of people who have an interest in our prisons, prisoners and Prison Service personnel. I have also issued an invitation to each of the many groups who look after the interests of prisoners and their families or who carry out advocacy or support roles for prisoners, to meet with me.

I look forward very much to updating you on my first three months in Office in our next issue.

**Pauline McCabe  
Ombudsman**



# REVIEW OF OPERATIONS

**The office of Prisoner Ombudsman has been in operation now for over three years. I would like to take this opportunity to report on some of the developments during this time and provide some information about future plans.**

## RESIGNATION OF FIRST PRISONER OMBUDSMAN FOR NORTHERN IRELAND

Brian Coulter, the first Prisoner Ombudsman for Northern Ireland since 2005 has now resigned his post. Brian was appointed Prisoner Ombudsman on 1 May 2005 following a 23 year career in health and social services retiring at Senior Management Level. During his time as Prisoner Ombudsman Brian developed excellent relationships with the Prison Service enabling him to make valuable and worthwhile recommendations for change within the Prison Service.

Prisons' Minister Paul Goggins thanked the outgoing Prisoner Ombudsman Brian Coulter for his diligent work in helping to protect the rights of prisoners. He also recognised the rigorous and impartial way that Brian and his team fulfilled their duties.

As acting Head of Operations I would like to thank Brian for his work as Prisoner Ombudsman and wish him well for the future.

## NEW PRISONER OMBUDSMAN APPOINTED

Pauline McCabe was appointed to take over from Brian Coulter as Prisoner Ombudsman with effect from 1 September 2008. Pauline looks forward to continuing the important role of dealing with prisoner complaints impartially with a view to protecting the rights of prisoners. Pauline also hopes to maintain and strengthen the positive relationships with the Prison Service.

## INVESTIGATION DEVELOPMENT

I am pleased to report that a Senior Investigator has now been appointed to manage investigative functions within the Prisoner Ombudsman's Office. This welcome addition together with robust capacity management has meant that we have been able to eliminate the considerable backlog of complaints that had built up. The result of that is that I am pleased to report that we are presently meeting our key business targets for investigation and reporting of complaints. We have also further developed the investigation process and introduced a new policy on how evidence is recorded thus ensuring a consistency of approach amongst my investigators. In the past the Ombudsman spoke of local resolution as a way of resolving complaints without going to a full investigation. Local resolution is when a prisoner agrees

to resolve his/her complaint with the Prison Service. This agreement is normally pleasing to both parties. As a result of developing a policy in this regard I am pleased to report an increasing number of complaints have been resolved in this way resulting in a "win/win" situation for both the prisoner and the Prison Service. Furthermore the Office of the Ombudsman has fully endorsed the "Principles of Good Complaints Handling" as set out by the British and Irish Ombudsman's association. These principles are the basis on which we conduct all investigations.

## DEATH IN CUSTODY INVESTIGATIONS

Since 2005, the Ombudsman has opened 14 investigations into deaths in prison custody. The Ombudsman is notified automatically of each death by the Prison Service. The investigation into these sad events provides greater transparency to the investigative process. Helping the Prison Service and other associated providers learn lessons from deaths in custody is a major objective of these investigations. It is also of great importance to ensure the family of the deceased has the opportunity to raise any concerns and that these are taken into account as part of the investigation.

## RAISING AWARENESS OF THE PRISONER OMBUDSMAN

In the Ombudsman's Annual report published for 2007/08 comment was made on the Prison Service's internal complaints process. It was clear that the number of complaints from prisoners to the Ombudsman had reduced compared to other years. I have no doubt that in part at least, the reduction in the number of complaints coming to the Ombudsman was due to a greater awareness amongst operational managers of the importance of correctly dealing with internal complaints. Unfortunately however there was still some evidence to suggest that some staff do not see complaints as a positive indicator. For this reason I am taking forward some work in order to help raise awareness amongst prisoners of what the Ombudsman does. This work will include greater information to prisoners at committal and induction. It is also planned to redesign some of the literature and information issued to prisoners, with particular reference initially to younger prisoners.

**If any of you have any suggestions as to how information about the role of the Prisoner Ombudsman can be developed or improved please write to us at Inside Issues, Prisoner Ombudsman for Northern Ireland, 22 Floor, Windsor House, Belfast.**

**Paul Bullick  
A / Head of Operations**

# How does the Prisoner Ombudsman System Work?

Whatever your complaint is about, you should use the Prison Service complaints system first to try and deal with the problem.

If after exhausting the internal prison complaints' system you are still not happy and think that you have been dealt with unfairly, you can complain to the Prisoner Ombudsman. You must do this within 30 days of getting a final reply from the Prison Service.

- Talk to staff on the wing and see if they can sort the matter informally;
- If they can't help, make a formal complaint through the Prison Service internal complaints process;
- If you are not satisfied with the answer, you can write to me.

The Ombudsman will not normally investigate a complaint before you have had a final reply to your complaint, but if you have not had a response from the Prison Service within 6 weeks, you can complain to us.

To make an application to the Prisoner Ombudsman, you should write to us or fill out an application form. These should be readily available in your Wing/House. If you have any difficulties with this you can phone us using the Freephone number 0800 783 6317.

When you send your application to us, we will decide whether we are able to investigate your complaint. We will tell you if you need to pursue your complaint further with the Prison Service. If appropriate we will begin an investigation.

A Prisoner Ombudsman investigator will look carefully at all the facts and will report to the Ombudsman. They may:

- try to seek a local resolution to your complaint; or
- write a letter or short report; or
- draft a longer report that will be sent to the Prison Service for comment.

Once we have their comments to the longer report we will send the draft to you. You will be given the opportunity to comment on the report at this stage. Once everyone has seen the report, the Ombudsman will formally approve it and make recommendations if appropriate. Where the Ombudsman makes recommendations, he will also then follow up and check that these have been acted on.

## THE COMPLAINTS PROCESS

### STAGE 1

Complaint to staff  
Not satisfied

### STAGE 2

Complaint to staff  
Not satisfied

### STAGE 3

Complaint to staff  
Not satisfied

Complaint to Prisoner Ombudsman  
for Northern Ireland



# CASE EXAMPLES

EXAMPLES OF SOME RECENT  
INVESTIGATIONS INTO COMPLAINTS

## SICK IN CELL

**Mr V complained** to me about being searched on return from work and being locked in his cell for long periods when he was ill.

My Investigating Officer met with Mr V to clarify this complaint and discuss several others he had also raised with my Office. During interview it was explained that all prisoners may be subjected to random rub down searches or full body searches when returning from work and that this was not a form of victimisation unless records showed it was excessive without due cause. The staff in the Residential House also confirmed that it is not house policy to search prisoners on return from work, however the Standby Search Team (SST) may on behalf of the Governor carry out random searches of prisoners returning from work according to Prison Rules paragraph 16 sub paragraphs 4-10:

- (4) The governor may direct that a prisoner or prisoners be searched at such other times as is considered necessary for the safety and security of the prison.
- (5) Where the governor has grounds to believe that a prisoner is in possession of a prohibited or unauthorised article and that item may only be discovered by means of a full search the governor may direct that the prisoner be required to submit to a full search.
- (6) A prisoner shall not be undressed, or required to undress, in the sight of another prisoner, or any persons other than the officers conducting the search, but a prisoner may be required to remove a hat, coat or overcoat.
- (7) Any search for which a prisoner must undress may only be carried out by an officer of the same sex as the prisoner.
- (8) Where a prisoner refuses to co-operate with a search, including a full search, such force as is necessary to effect the search may be used.
- (9) This rule does not permit the search of a body cavity, but a prisoner may be required to open his mouth to permit a visual inspection.
- (10) Under this rule a search of a prisoner may include a search of any prisoner's cell and property.

SST records confirmed that on the dates in question Mr V received a full body search and that nothing was taken from him. I did not consider from these records that Mr V was subjected to excessive searches during this period.

Mr V also explained to my Investigating Officer during interview that on occasions he could be sleepy in the mornings due to medication and as a result may take longer to "get started" than other prisoners. He felt that staff should understand this and have more compassion towards him. Mr V was unhappy about being locked in his cell on the days he reported sick.

My investigator established that the current policy was set out in a Notice to Prisoners. This Notice stated:

"When a prisoner reports sick at unlock he should be confined to his cell until he is seen by a Nursing

Officer who will assess his illness and decide:

- If the prisoner is fit for regular activities i.e. work/education or if the prisoner is ill and to what degree he is incapacitated;
- The Nurse Officer will then decide according to the illness if the prisoner should be confined to his cell for up to 24 hours before reviewing him again; or
- Whether or not there is a need, urgent or otherwise, that the prisoner be seen by a doctor."

The policy states that a prisoner should remain in cell until he is seen by the doctor, although in most cases unless directed otherwise by healthcare staff, house staff will permit a prisoner out of cell to collect his meals.

My Investigating Officer agreed to check with Healthcare staff to establish if there were any medical reasons why Mr V should be treated differently from other prisoners who were unwell. My Investigating Officer consulted with the Healthcare staff including the doctors who would have been aware of Mr V's healthcare needs. From this it was clear that in the past Mr V had a variety of difficulties regarding work duties and house allocation, however in recent months these did not appear to give rise to any problems. I was also able to confirm that Mr V's attendance and performance at workshop courses and education had been spoken of positively and that his illness had not played a factor recently. The doctor reported that interference with any current routine would not be of benefit. The doctor also confirmed that there were no current medical issues that would suggest Mr V should be treated any differently from other prisoners within Maghaberry prison.

Taking account of the views of professional medical staff, along with the other evidence available, **I was unable to uphold Mr V's complaint.**

## STAR STATUS

### Mr S wrote to my office

asking that I investigate a complaint about Star Status. He had applied to the Prison Governor to have Star Status restored but this was refused. Mr S subsequently initiated an Internal Complaint to the Prison Service stating: "I am writing to complain about the decision made by the Governor about not giving me back my Star Status."

After receiving a response from the Prison Service explaining the reasons why 'Star Status' was refused, Mr S remained unhappy and proceeded to complain to my Office.

My Investigator established that he applied for Star Status and was given a written response by the Governor who advised:

"I can advise you that the only category of prisoner automatically entitled to be classified as Star Class are first time offenders. However, Ordinary Class prisoners i.e. those who have previously served a prison sentence may apply to be re-classified in line with Prison Rule 9. It is clear from prison records that you are not a first time offender; indeed your current sentence is your second period of imprisonment."

"Each application for re-classification from Ordinary Class to Star Class is considered on its own merits in line with Prison Rule 9 paragraphs 1 and 2 which state:

"Prisoners shall be classified in accordance with any directions made by the Secretary of State, having regard to their age, offence, length of sentence, previous record, conduct in prison or whilst on temporary release under Rule 27 and the requirements of security, good order and discipline at the prison in which you are confined."

Paragraph 2 of the same rule states:

"A prisoner may be re-classified following a review by the governor taking into account any of the matters set out in paragraph 1."

I examined the Prison Service Policy for Pre-Release Home and Resettlement Leave Arrangements which became effective from 1 March 2004 and which were revised in April 2005. I established from this that the practice of classifying prisoners as either 'Star' or 'Ordinary' was used to identify first offenders (Star) from regular offenders (Ordinary) so that the prisoners in each group could be managed and accommodated separately where practicable. However, developments towards integrated regimes, coupled with the introduction of earned privilege schemes rendered obsolete the Star/Ordinary classification process.

The policy also set out the new arrangements by which sentenced prisoners coming towards the end of their sentence may apply for periods of temporary release. It stressed that Pre-Release leave, whether under the old arrangements or the new arrangements, was neither a right nor an entitlement but it was, and still is, a privilege to be earned by prisoners.

As part of my investigation I also examined Mr S's Criminal Record and noted that this was not his first prison sentence. My investigator spoke to the Governor who assessed Mr S's application for re-classification. He confirmed that each application is considered on its own merits in line with Prison Rule 9 and that the type and nature of a prisoner's offence is also taken into account when making a decision.

My Investigator then met with Mr S to clarify the position with this complaint and to discuss his concerns. My investigator also took time to fully explain the background, rules and regulations relating to Star and Ordinary Status and the reasons why he did not automatically qualify for Star Status. After discussion Mr S acknowledged that **I could not uphold his complaint.** He also agreed that his personal circumstances did not qualify him to be classified as a Star Status prisoner. I consider this to be a successful local resolution to the prisoners complaint.

## REQUEST FOR VISIT

**Mr O wrote** to me saying "I requested to see the IMB on the 24th April 2008. This was referred to House Management on that date. I asked staff on the 28th and 29th about my request and got no positive response. I then was forced to complain about my request as I believe it was ignored and overlooked (again). I submitted the complaint form on the 2nd May 2008 and as a direct result of complaining I was seen that evening by the IMB."

"As you can see I spoke to the IMB on the 2 May 2008 and they assured me that they were not informed of my request whatsoever. The first they knew of it was when I submitted the complaint form. I followed on with the complaint and advised the IMB of my intentions, and they said that they would be interested in the outcome."

"Those responsible should have to be held accountable for their actions or in this case the lack of them. They should be made to accept responsibility and apologise in writing via the House Governor. This would prevent a reoccurrence and lighten the workload for yourselves, and it would definitely ease tensions on the wings."

I was concerned that for some reason his initial request to see the IMB on 24th April did not fulfil its objective and it appears that it was only after he initiated the Internal Complaint Process on 2 May that his objective was achieved.

My Investigating Officer contacted the Senior Officer who had responded to Mr O's Internal Complaint to clarify what happened.

The Senior Officer responded saying:

"I can confirm that I rang this through to the IMB Office. As there is no register or record kept of the time, content or contact information I am unable to confirm names of people or times. The only thing I could be sure of was that it was a female that I was talking to and that the request was passed on the 29/4/08 and I think that all I said was that Mr O had requested to see them when it was possible. The only record of the requests and complaints by individuals is on Prism. I can only suggest that, as this was designed to provide instant information and to cut down paperwork, all requests /complaints for the attention of the IMB are sent via this system thus allowing a trail as such of all the relevant info. I hope this is of help to you".

In conclusion, without elaborating on exactly what went wrong in that no action appeared to follow from his initial request to see the IMB on 24 April, I was persuaded to pass this matter to the IMB in

order for them to determine how best a prisoner's 'request to be seen' by them is accurately received, and appropriately logged.

I was also encouraged by the Senior Officer's suggestion that an entry of any future prisoner's 'request to see IMB' should be entered on the Prison Service's own computerised information system, PRISM. This will, as he suggests, allow for an audit trail of the request at the Prison Service's side, and should correlate with any current or improved recording system which the IMB have in place.

Finally, I believed there was nothing to be gained by anyone apologising for this incident. The very presentation of this complaint ought to have the desired effect and should, as Mr O said, "prevent a reoccurrence".

**I upheld Mr O's complaint** and, in line with the suggestion from the Senior Officer, I made the following recommendation:

#### **Recommendation:**

I recommend that the Prison Service utilises its computerised information system, PRISM, to facilitate the entry of all future requests from prisoners to see the IMB.

I copied my response to the Chair of the Board of IMB, and the Chair of IMB Maghaberry for their consideration.

In their reply to my report, the Prison Service accepted my recommendation and has taken steps to address this issue.

## PRISONER'S MAIL

**During the last year** I received a number of complaints from prisoners at Maghaberry Prison about delays in receiving mail and the role played by the Letter Censors Office at Maghaberry Prison.

In addition I observed that since my Office began investigating prisoner complaints I received a total of 14 complaints from a number of prisoners relating to delays in receipt of mail and problems with letter censors. As a result I decided to carry out one overall investigation into this matter, endeavouring to ensure that all the complaints made by each individual prisoner were fully considered.

The prisoners complained to me about a range of issues including:

- delays in receiving mail from family members and friends;
- not receiving mail from family and friends;
- delays in receiving important legal documentation through the prison mail system; and
- delays in receiving daily newspapers, magazines and periodicals.

To begin it was essential to find out more about the process for the receipt of incoming mail into the prison. My investigator attended the prison and spoke with management and staff to establish the full process that was followed. I also established as part of this and previous investigations that the Letter Censors Office is usually staffed by two officers, however if there is a need for staff in other parts of the prison then one of these officers may be deployed elsewhere. The Prison Service also confirmed at this stage that the Letter Censors receive and send out 100s of pieces of mail on a daily basis. Furthermore a backlog of mail to be censored often occurs due to the fact that mail is not sorted at weekends.

I concluded in a previous investigation relating to the Letter Censors that the staffing levels were not adequate to deal with the volume of mail coming into the prison. I also included the following recommendation to the Prison Service.

**"I recommend the Prison Service consider a review both of the staffing levels in the Letter Censor's Office and a thorough review of the arrangements for processing mail to ensure mail is processed as promptly as is reasonable."**

An example of a response by the Prison Service to a prisoner's Internal Complaint is as follows:

"Unfortunately there have been operational difficulties in regard to the staffing of the censor office. This in turn has led to delays to the mail in and out. Whilst every effort is being made to prevent these delays I cannot guarantee that delays to the mail will not occur in the future."

I found this response to be disappointing and unacceptable especially given the fact that following each previous investigation into the problems with prisoner's mail and Letter Censors, I was given assurances by the Director of the Prison Service that the system would be improved. I consider that the delivery of letters and cards to a prisoner is an important avenue of communication which enables a prisoner to properly maintain contact with friends and family whilst completing a prison term. I believe that the effective handling of prisoners' mail contributes to the lessening of tensions that can arise within prisons.

As part of this investigation my investigator wrote to the Prison Service to clarify the staffing complement in the Letter Censors Office, whether or not there was currently a full staffing complement and to establish if the Letter Censors was part of a Diminishing Task Line. The Prison Service provided the following information:

- there are normally two officers working in censors Monday - Sunday;
- the staffing complement for censors is two staff. However one of the staff is required to do meal break relief for another area within the prison;
- we are currently below our Target Staffing Level (TSL); and
- the Letter Censors is part of the diminishing task line.

It was clear from the information provided that the problems that have been highlighted in previous complaints remained current and that prisoners would continue to experience delays in receiving important mail. This is unacceptable and for this reason I considered it appropriate to carry out comparative research with other prison establishments throughout the UK. My investigator made contact with a random selection of six high security prison establishments throughout Scotland and England to establish how the Letter Censor duties are managed and to compare staffing complements.

Of all the establishments surveyed I found that only one employed prison officers to work in the Letter Censors who could be redeployed to other duties as and when required. The remainder of the establishments had either dedicated Civilian or Ordinary Service Grade Support Officers (OSG) working in the Letter Censors who could not be deployed to other duties within the prison.

From the information gathered as part of this and previous investigations I concluded that the current arrangements in place for managing the Letter Censors were insufficient. I further concluded that it is unacceptable for the Prison Service to continually cite 'operational difficulties' with regard to the staffing of the Letter Censors as justification for delays in prisoner's mail.

I also made the following recommendation to the Prison Service.

**I recommend that the Prison Service review the current management of the Letter Censors Office and take steps to change the status from a diminishing task line and to ensure a dedicated staff complement at all times that cannot be redeployed to perform other duties.**

I also asked the Director to give careful consideration to this recommendation and in doing so take account of the good practice of employing civilian or OSG Support Grade officers to carry out the very important role of letter censors that is in operation in other prison establishments. At the time of writing I am pleased to report that this recommendation was accepted and the Prison Service have taken steps to employ OSG staff to manage the Letter Censors Office on a full time basis.



An example of prisoner artwork which has been on display throughout NI



## PLEASE CONTINUE TO TELL US

The Prisoner Ombudsman is always interested to find out how accessible her service is to prisoners. For this reason please take the time to contact us using our Free Phone number **0800 783 6317** to tell us:

1. DO YOU HAVE EASY ACCESS TO PRISONER INTERNAL COMPLAINT FORMS ON THE LANDINGS?
2. DO YOU HAVE EASY ACCESS TO PRISONER OMBUDSMAN COMPLAINT FORMS ON THE LANDINGS?
3. CAN YOU SEE ANY PRISONER OMBUDSMAN POSTERS OR INFORMATION LEAFLETS DISPLAYED ON THE LANDINGS?
4. IS THE PRISONER OMBUDSMAN FREE PHONE TELEPHONE NUMBER **0800 783 6317** DISPLAYED NEAR THE TELEPHONE YOU USE?

## OVER TO YOU...

Contributions, comments and suggestions for future issues are always welcome. If you have any that you would like us to consider before the next issue please write by the end of April (marking your envelope 'Inside Issues') to:

**Paul Bullick (Editor), The Prisoner Ombudsman for Northern Ireland, 22nd Floor, Windsor House, Bedford Street, Belfast BT2 7FT**

## Making A Complaint to the Northern Ireland Prisoner Ombudsman

The Prisoner Ombudsman, Pauline McCabe is independent of the Northern Ireland Prison Service (NIPS). Her job is to consider complaints made by prisoners who remain unhappy with the answer they have received from the Prison Service.

She can help all prisoners (including former prisoners, in certain circumstances) sentenced and remand. Men and women, adults and young prisoners can complain to her. Before the Ombudsman can investigate a complaint, a prisoner must have exhausted the Prison

Service 3 stage internal complaints process. The Prisoner Ombudsman will take a fresh look at the complaint and decide whether it has been dealt with fairly. If the Ombudsman upholds the complaint, she will make recommendations to the Prison Service to put things right.



### The Prisoner Ombudsman for Northern Ireland

22nd Floor, Windsor House, Bedford Street, Belfast BT2 7FT **Tel:** 028 9044 3998 / **Fax:** 028 9044 3993

**Email:** [prisonerombudsman@nio.x.gsi.gov.uk](mailto:prisonerombudsman@nio.x.gsi.gov.uk) / **Website:** [www.niprisonerombudsman.gov.uk](http://www.niprisonerombudsman.gov.uk)

**FREEPHONE:** 0800 783 6317