

Prisoner Ombudsman for Northern Ireland

CORPORATE PLAN 2014-17

BUSINESS PLAN 2014-15

Prisoner Ombudsman for Northern Ireland Corporate Plan 2014-17
Business Plan 2014-15

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FOREWORD

I am pleased to introduce the Prisoner Ombudsman's Corporate Plan for 2014–2017 and Business Plan for 2014–2015. These plans demonstrate how we will do the things that are required of us, and how we will discharge our functions with due regard for independence, impartiality and human rights. The Corporate Plan provides a strategic view of our work over the next three years; and the Business Plan sets out in more detail the targets for the first year. Performance against the objectives and targets will be accounted for in Annual Reports.

The Plans take account of ongoing feedback from prisoners and their families; and they have been developed in consultation with the heads of relevant agencies, as well as Department of Justice officials.

The key goal for the incoming year is to further the process of placing my Office on a statutory footing. Statutory footing will demonstrate visible independence, and underpin information sharing agreements with the Prison Service, the Coroners Service, the Police Service and the South Eastern Health and Social Care Trust. I will work closely with officials, politicians and others to further this aim, as it is anticipated the empowering legislation will be introduced in 2014 and commence in 2015, by which stage our Office will have been in existence for ten years.

I continue to support the NIPS Reform Programme, which is now well underway - it sets an important context for our work. Improved prison regimes should reduce the number of complaints being referred by prisoners, though this is not likely to be realised in the immediate future. My Office will therefore continue to undertake thorough investigations and report impartially for the duration of these Plans.

Tom McGonigle

Prisoner Ombudsman for Northern Ireland

MARCH 2014

PART ONE: CORPORATE PLAN 2014-17

PLANNING ASSUMPTIONS

The following assumptions provide the context for our 2014-2017 Corporate Plan:

1. The Prisoner Ombudsman's Office will be placed on a statutory footing during the lifetime of this Corporate Plan.
2. The rate of imprisonment in Northern Ireland (101 per 100,000 population in February 2014) will remain lower than elsewhere in the UK (148 per 100,000 population in England, Wales & Scotland), and broadly comparable with the Republic of Ireland (94 per 100,000 population).
3. Actual numbers of people being sent to prison in Northern Ireland will continue to rise steadily.
4. The Northern Ireland remand population will remain disproportionately high (29% of the prison population compared to 19% in England & Wales).
5. A significant number of prisoners will be committed to custody on recall.
6. The volume of complaints that are "closed" after internal investigation by the NIPS will continue to be around 6,500 per annum at Stage 1; and 1,200 at Stage 2.
7. Numbers of referrals will remain unpredictable as our work is demand-led, but eligible¹ prisoner complaints received will increase in line with the rising prisoner population: current figures indicate around 400 eligible complaints per annum.
8. Rates of complaints from visitors, foreign national prisoners and complaints about Probation practice in prisons will remain low.
9. We will initiate investigations into an average of five fatal incidents per annum.
10. There will be year on year reductions in the budget, requiring us to continuously re-examine how we deliver services.

¹ A complaint is "Eligible" if the prisoner remains dissatisfied after exhausting Stages 1 and 2 of the NIPS internal complaints process

ROLE AND METHODOLOGY

The Prisoner Ombudsman's Office was established in 2005 following the Steele Review into separated conditions, which noted Northern Ireland was the only part of the United Kingdom that did not have a Prisoner Ombudsman. It suggested the establishment of an office would ***“make a valuable contribution to defusing the tensions which are bound to arise in prisons in Northern Ireland.”***

That contribution is fulfilled through two specific functions:

- Investigate and report on Complaints from prisoners and their visitors; and
- Investigate and report on Deaths in Custody.

Terms of Reference govern the investigation of eligible complaints and of Deaths in Custody. The Terms of Reference and relevant Prison Rules can be found on our website www.niprisonerombudsman.gov.uk

We have developed detailed manuals for investigating Complaints and Deaths in Custody. These are continuously updated in line with changes to legislation and Prison Rules.

We work to apply *“The Principles of good Complaints Handling”* which are:

- Clarity of Purpose
- Accessibility
- Flexibility
- Openness
- Transparency
- Proportionality
- Efficiency
- Quality Outcomes

CORPORATE GOVERNANCE

The Prisoner Ombudsman is appointed by the Minister of Justice under Section 2(2) of the Prison Act (Northern Ireland) 1953, as extended by Section 2 of the Treatment of Offenders Act (Northern Ireland) 1968. This makes provision for the Ministerial appointment of “*governors, medical officers and such other officers and staff as appear to be necessary.*” The Prisoner Ombudsman is accountable to the Northern Ireland Assembly through the Justice Minister, and acts independently of the Prison Service.

The Prisoner Ombudsman is an independent office holder for policy and administrative purposes. For corporate governance purposes the Prisoner Ombudsman is classified as an Arms Length Body.

The management team comprises the Prisoner Ombudsman, Director of Operations (who fulfils the role of Accounting Officer), two Senior Investigating Officers and the Office Manager.

Corporate governance is delivered through formal quarterly meetings with the Department of Justice sponsoring Division (Reducing Offending Division/Safer Communities Directorate) when key corporate documents and processes are reviewed. Financial probity is overseen by the Department of Justice Internal Audit Unit. An Annual Report is prepared after the end of each financial year and published on the Prisoner Ombudsman’s website. The Director of Operations is responsible for ensuring that policies and actions comply with Department of Justice rules and processes, and for managing the resources allocated to the office efficiently, effectively and economically.

The Prisoner Ombudsman’s specific powers regarding the investigation of complaints by prisoners, ex-prisoners or visitors to prison establishments are currently set out in the Prison & Young Offender Centre (NI) Rules 2009.

Staffing and Budget

In February 2014 the staff complement comprised of 11.55 Full Time equivalent posts/ 13 people:

- Prisoner Ombudsman (4 days pw);
- Director of Operations;
- 2 x Senior Investigators (1 @ 30 hrs pw);
- 5 x Investigators; and
- 4 x Support staff (2 job-sharing).

The Prisoner Ombudsman is a public appointee, and all other staff are established civil servants. Investigators are selected for their analytical skills and report writing capacity, and relevant training is provided to suit the particular circumstances of our role.

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The 2013-14 operating budget was £690k, of which 85% was spent on salaries. We retain independent legal and public relations advice, and commission clinical reviews, from within this budget. It is envisaged that similar levels of income, adjusted for inflation, will be essential to deliver this Corporate Plan over the next three years.

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COMPLAINTS

The Prisoner Ombudsman investigates complaints from prisoners and their visitors if they remain dissatisfied after completing the NIPS internal complaints process. Prisoners' complaints cover a wide range of issues, arising from their regime and treatment, comparison with other prisoners and the various pressures generated by communal living in a secure environment. Almost 80% of complaints are received via a Freephone service. We have online access to the NIPS complaints database which enables prompt confirmation of eligibility when a prisoner calls.

We work to the “Balance of Probabilities” standard of proof in complaints investigations. This is the standard commonly used by Ombudsmen and in civil litigation. It requires establishment that the occurrence of an event was more likely than not, which is a lower threshold than the criminal test of “Beyond Reasonable Doubt”

We will suspend an investigation if the Ombudsman forms the view that a criminal investigation should be undertaken by the PSNI. We will also suspend an investigation if a prisoner applies for leave to judicially review a NIPS decision that relates to their complaint. This is because the outcome of a judicial review is legally enforceable, whereas our recommendations are not, and therefore the judicial review has greater authority. We take previous judicial review findings into account when investigating complaints.

We receive around 400 eligible complaints each year, plus several ineligible complaints and requests for advice. During January - December 2013 we completed investigations into 459 complaints, which represented an increase of 41% from 2012. Our target is to have the final report with a complainant within 18 weeks of receiving their complaint.

Complaints Received (Eligible & Ineligible) by Origin
January – December 2013

Location	Total	Percentage of complaints	Percentage of overall prison population
Maghaberry	513	77%	58%
Magilligan	99	15%	29%
Hydebank Wood	33	5%	9%
Ash House	24	3%	4%
Overall Total	669		

We offer an interpretation service to those who cannot speak English. Foreign national prisoners made only 2% of all complaints received in 2013, despite comprising some 8% of the overall prison population.

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We also have an arrangement with the PBNI to investigate complaints about their practice in prisons. However no complaints about PBNI practice have reached our office since this arrangement began in June 2009. A total of 36 complaints from prisoners were resolved internally by the PBNI between 2011-13 (29 at Stage 1 and 7 at Stage 2).

The NIPS processes large numbers of complaints internally: 6,500 per annum at Stage 1, of which 1,200 proceeded to Stage 2 between October 2012 – September 2013. Examination of the complaints that reach our Office suggests there is scope for the NIPS to improve the quality of its internal complaints handling. It is therefore welcome that the NIPS set a target in 2014-15 for its governors to reduce by 5% the number of complaints that are upheld by the Prisoner Ombudsman.

We measure the outcomes of complaint investigations in a variety of ways. During January - December 2013 we:

- Upheld 50%
- Partially upheld 6%
- Did not uphold 26%
- 12% were resolved locally; and
- 6% were withdrawn

This compares with an uphold rate of 31% by the Prisons and Probation Ombudsman for England and Wales in 2012-13.

Complaint reports often make recommendations for improvement 323 recommendations were made during 2013. In cases where responses have been received, 91% of recommendations were accepted by the NIPS.

In order to protect the privacy of individuals involved we do not publish the individual findings of complaint investigations. However, complaint themes and examples are summarised in our Annual Report and in “Inside Issues,” which is the Prisoner Ombudsman’s periodic publication for prisoners.

DEATHS IN CUSTODY

The aims of Death in Custody (DiC) investigations are to

- Establish the circumstances of the death;
- Address any concerns of the bereaved family;
- Examine whether any change in operational methods, policy and practice, or management arrangements would help prevent recurrence of a similar death or serious event;
- Inform the Coroner's inquest.

We aim to attend the scene of a prison death within four hours of being notified, and to have the draft investigation report forwarded for factual accuracy check within nine months of the prisoner's death.

The Prisoner Ombudsman's Office initiated investigations into the deaths of 44 prisoners between September 2005 – December 2013, an average of five per annum.

- 28 at Maghaberry;
- 12 at Magilligan;
- 3 at Hydebank Wood YOC; and
- 1 at Ash House Women's Prison.

While the Northern Ireland Commissioner for Complaints investigates prisoner complaints about healthcare, the Prisoner Ombudsman retains overall responsibility for investigating healthcare aspects of death in custody. Matters concerning the application of Prison Service policy and practice, staffing and healthcare issues are inter-related, and this arrangement ensures a comprehensive approach and full consideration of all relevant evidence in the investigation of deaths in custody. Independent experts may be engaged to carry out a clinical review of the healthcare that was provided to the deceased as part of DiC investigations.

DiC reports are provided to the next of kin, the Minister of Justice, NIPS, SEHSCT and the Coroners Office, so that the facts plus our analysis and recommendations are shared with those who are directly affected. Our preference is to publish DiC reports in full, in order to serve the public interest. However we must balance the public interest against our legal obligations in respect of data protection and privacy, and we take careful account of next of kin views when considering publication. If publishing, we therefore offer to anonymise reports and redact dates or other identifying information.

Five DiC reports were completed between January - December 2013; and on 31st December 2013 there were seven DiC investigations ongoing.

MISSION AND PRINCIPLES

The Prisoner Ombudsman's Office work is underpinned by a mission statement and six supporting principles:

MISSION STATEMENT

To help ensure that prisons are safe, purposeful places through the provision of independent, impartial and professional investigation of complaints and deaths in custody

Principle 1 - INDEPENDENCE

To maintain and strengthen confidence in the independent and impartial approach of the Office of the Prisoner Ombudsman.

Principle 2 - PROFESSIONALISM

To continuously review and develop investigation processes for Complaints and Deaths in Custody, ensuring high standards of investigative practice, robustness, a proportionate approach and balanced reporting.

Principle 3 - SERVICE-ORIENTATION

To provide an effective and courteous service to all stakeholders and positively influence the implementation of recommendations in order to assist the NIPS and SEHSCT to deliver a purposeful, rehabilitative custodial regime.

Principle 4 - CLEAR COMMUNICATION

To maximise awareness of the role of the Prisoner Ombudsman among key stakeholders, and to keep those to whom we provide a service fully informed about the content and progress of investigations in which they have an interest.

Principle 5 - EFFICIENCY

To ensure the Office uses its resources efficiently and complies with relevant legislative and governance requirements.

Principle 6 - FORWARD LOOKING

To develop the role of the Office to meet emerging needs.

STRATEGIC THEMES AND ACTION STEPS

Following are the key strategic themes and associated action steps for the three year period that is covered by this Plan:

1. Statutory Footing

There are three main benefits that should accrue from the Prisoner Ombudsman's Office being established on a statutory footing:

Perception - While operating entirely independently of the Northern Ireland Prison Service, appointment of the Prisoner Ombudsman under prisons' primary legislation nonetheless has the potential to give rise to a contrary perception. Making specific statutory provision for the Prisoner Ombudsman outside of prisons' legislation would be one clear way of affirming the independence of the office.

Information Sharing - Establishing the Office on a statutory basis will standardise the process for disclosure of information to the Prisoner Ombudsman by statutory bodies which carry data protection responsibilities. It would also provide an additional level of assurance to other statutory bodies, such as the Coroner, SEHSCT and PSNI, about the extent to which they can rely on Prisoner Ombudsman investigations when conducting their own enquiries.

Staffing - It can be difficult to identify staff with the appropriate skills mix from the pool of staff from which the Prisoner Ombudsman can currently draw - civil servants seconded directly from the Department of Justice or identified through a trawl of other government departments. The Investigator post requires specialist training and, in relation to Deaths in Custody in particular, a degree of flexibility as staff may be required to initiate investigations in prisons out of hours, at weekends and during public holidays. A statutory footing would allow for secondment of trained staff to deal with short term peaks in demand, and for direct recruitment of Investigators with the appropriate skills, within existing civil service pay scale structures and conditions of employment, to meet longer term needs.

We will work with the DoJ, politicians and other stakeholders to progress statutory footing via the Fines and Enforcement Bill.

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2. Complaints and DiC Investigations

We aim to undertake thorough, proportionate investigations, and adhere to timescales. However there are routine backlogs in Complaints and Deaths in Custody investigations. These are partly beyond our control, as the work is demand-led and volumes are therefore unpredictable. Targets are also negatively impacted when other investigations or proceedings take priority over our involvement, or if the NIPS and SEHSCT fail to provide factual accuracy feedback within agreed timescales. Nonetheless we strive to address the factors that are within our control and issue reports on time.

- a. We will maintain thorough and proportionate investigations, and adhere to current timescale targets, but reduce the backlogs that are within our control by revising the format of DiC and Complaints reports**
- b. We will redesign the Complaints reporting process, issuing more letters and fewer full reports. This will provide clearer and quicker messages, especially in minor complaints**
- c. We will work with the NIPS and SEHSCT to identify reasons for delays on their parts in providing factual accuracy feedback, and help eliminate these delays**
- d. We will work with the NIPS and SEHSCT to measure the extent and quality of implementation of recommendations which they have accepted**
- e. We will explore reasons for low rates of complaints from foreign national prisoners, people under PBNI supervision, young male prisoners at Hydebank Wood YOC and prisoners' visitors; and we will take action to address any findings that emerge**
- f. We will review with the NIPS the definition of a "Near Death," and criteria for the Prisoner Ombudsman to investigate Near Deaths**

3. Support for NIPS Complaints Handling

While we see some good internal responses to prisoners' complaints, we also see responses where NIPS staff have been unnecessarily defensive or dismissive.

In keeping with the principle that complaints should be at the lowest possible level, we will establish how the Prisoner Ombudsman might assist the NIPS to resolve more complaints locally. As a first step we will establish a baseline and identify steps the NIPS could take to improve local resolution of complaints before they escalate to the Prisoner Ombudsman.

4. Support for NIPS Reform

The Prisoner Ombudsman views the NIPS reform programme as a major criminal justice priority and is fully supportive of the strategic direction. Our unique role and independent status mean we are well placed to comment with authority, and to ensure that prisoners' experiences and feedback are taken into account in design and delivery of penal reform in Northern Ireland.

- a. The Prisoner Ombudsman will ensure individual and collective feedback from prisoners is shared with the NIPS on a regular basis. In recognition that government departments such as Health, Education, Employment and Social Development can have a significant impact on prisoners, the Prisoner Ombudsman will engage with other parts of government to support effective policy-making that will assist prison reform*
- b. We will support the NIPS to develop its staff where possible, for example by delivering training, and by providing feedback on NIPS complaints-handling and implementation of recommendations*

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5. Resourcing

The Prisoner Ombudsman's financial baseline is uncertain and budgetary reductions have become an annual requirement. A reduction in the staff complement would leave us unable to meet current targets, never mind cope with increasing demand that has been evidenced during 2013-14. Further delays in conducting investigations and reporting would compromise public confidence in our ability to fulfil our role.

- a. ***We will work with the DoJ to:***
 - i. ***agree a financial baseline that allows the PO to meet projected business needs; and***
 - ii. ***maintain a stable and motivated workforce in order to retain the confidence of prisoners, their families and the relevant agencies, by providing helpful and timely investigation outcomes***
- b. ***We will arrange NIPS induction for any new Investigators who join the PO Office***
- c. ***We will consider offers of inward secondment in support of our work***
- d. ***We will develop a Death in Custody database, and improve the existing Complaints database in order to provide information that is useful for management purposes and to help the public understand our role***

PART TWO: BUSINESS PLAN 2014-15

Targets for 2014-15

The strategic aims and objectives of the Prisoner Ombudsman are described in the Corporate Plan. The specific targets for 2014-15 are set out below. The intention is that they will be completed by the end of the financial year.

1. Statutory Footing

1. Identify and address implications with prisoners, their families, NIPS, SEHSCT and other relevant bodies
2. Scope and address the implications for current PO staff.
3. Identify issues to be included in the legislation and supporting regulations.
4. Contribute to the DoJ Statutory Footing Project Board.

2. Complaints and DiC Investigations

1. Produce investigation reports which are evidence-based and impartial.
2. Ensure full compliance with Complaints and Death in Custody Terms of Reference by Investigators.
3. Adhere to timescales (nine months for draft DiC reports, and 18 weeks for final Complaints reports) in all investigations.
4. Ensure an Investigator is on site within four hours of being notified about a death in custody.
5. Review appropriateness of the above timescales.
6. Update Complaints and DiC Terms of Reference.
7. Identify opportunities to reduce the length of time taken to complete Complaint and DiC investigations and associated reports.
8. Develop a suitable DiC database.
9. Update the Complaints Database.

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10. Agree with the NIPS a mechanism for monitoring implementation of accepted recommendations.
11. Review arrangements for investigating complaints about Probation services within prison.
12. Ensure low user groups - foreign national prisoners, young offenders and visitors - understand the role of the Prisoner Ombudsman and are able to access our services.
13. Refine the “Initial Information Gathering” function in connection with complaints received.
14. Review the operating hours of the Office Freephone service.

3. Support for NIPS Complaints Handling

1. Assist the NIPS to improve local resolution of complaints. In Year 1 this will include establishment of a baseline to enable future comparisons.
2. Contribute to relevant consultation exercises, conferences and other events to share the findings of Complaint and DiC investigations.

4. Support for NIPS Reform

1. Meet monthly with the NIPS Director General, and quarterly with prison governors to share feedback from investigations and other matters of mutual interest.
2. Meet regularly with other stakeholders including the SEHSCT, CJI, Independent Monitoring Boards, the Coroner, RQIA and the Northern Ireland Ombudsman to share feedback from investigations and other matters of mutual interest.
3. Contribute to the training of NIPS staff if requested.
4. Issue two editions of “*Inside Issues*” magazine to prisoners.
5. Engage with other government departments to support policy-making that assists prison reform.

5. Resourcing

1. Continuously review staff deployment in light of budgetary cuts.
2. Provide opportunities for staff to undertake training that adds value to investigation, report writing and personal development.
3. Maintain a programme of team meetings to ensure that the Prisoner Ombudsman team remains updated on developments in the NIPS, SEHSCT and other relevant agencies.
4. Review operational and corporate performance at monthly Management Team meetings.
5. Publish the Annual Report for 2014-15 before 30th September 2015.
6. Review arrangements for investigating complaints about Prisoner Ombudsman staff conduct.
7. Request the Information Commissioners Office to undertake an advisory audit of data handling practices.
8. Obtain feedback on the Prisoner Ombudsman's work from the heads of relevant agencies, the Minister of Justice for Northern Ireland and the Justice representatives of the main political parties.
9. Meet quarterly with the DoJ sponsoring division to maintain good corporate governance.
10. Conduct six monthly reviews of the Business Plan and Risk Register.
11. Ensure agreed 2013-14 Finance & Governance Audit recommendations are implemented.
12. Obtain a "Satisfactory" or better Finance & Governance Audit report for 2014-15.
13. Respond within twenty working days to all requests for information made to the Prisoner Ombudsman under the Freedom of Information Act 2000.
14. Process all payments within ten days of receipt of a valid invoice.
15. Ensure all correspondence is acknowledged within five days of receipt.
16. Answer all telephone calls within five rings.