

INSIDE ISSUES

Summer 2015

Our Annual Report for 2014-15 was published on 24 June 2015.

Copies have been placed in each Prison Library if you are interested in seeing the report.

Some extracts from the annual report are included in this issue.

We received 1,429 eligible complaints in 2014-15, triple the 2013-14 figure. Separated Republican prisoners in Maghaberry accounted for 81% of these complaints, while amongst the rest of the prison population there was a reduction of 27% in complaints received. The main reason for the reduction appears to be that Maghaberry's internal complaints system was under considerable pressure and therefore unable to process many eligible complaints to our office.

PLEASE THEREFORE LET US KNOW IF YOU ARE OVERDUE A STAGE 2 RESPONSE AND WANT TO ESCALATE YOUR COMPLAINT TO US.

I welcomed NIPS initiatives to improve prisoner wellbeing and address issues that formerly led to complaints. These included no longer automatically handcuffing prisoners during transportation and fewer prisoners being accommodated in Maghaberry's square houses. Increased finds of illicit drugs has been a positive step and efforts to provide predictable regimes were generally successful in Hydebank Wood, Ash House and Magilligan Prisons. Greater freedom of movement within Ash House Women's Prison and significantly increased levels of off-landing activity in Hydebank Wood have also helped.

However I was seriously concerned about high levels of staff unavailability at Maghaberry. This resulted in unpredictable, restricted regimes, long periods of



Prisoner Ombudsman's Update

lockup and limited purposeful activity, all of which heightened tensions and increased frustrations and vulnerability levels among prisoners.

We made 137 recommendations for improvement in relation to complaints and 83% of these had been accepted at the time of writing.

The process of placing my office on a statutory footing continued. This was led by the Department of Justice and their proposal was accepted by the Justice Committee of the Northern Ireland Assembly in June 2014. Legislation was drafted and it is hoped this will be enacted by the end of the current Assembly mandate in May 2016.

Budget cuts will impact on my Office in 2015-16. I will continue to prioritise the investigative function, but delays in meeting timeframes will be inevitable if our resources reduce further.

Tom McGonigle.

**Tom McGonigle
Prisoner Ombudsman for Northern Ireland**



The
**Prisoner
Ombudsman**
for Northern Ireland

Detention in the Care and Supervision Unit

A number of prisoners complained about being asked to move from Maghaberry CSU into the general population where they believed there would be a risk to their safety. Although the NIPS did not have information to suggest there was any such risk, the prisoners still refused to leave the CSU. The NIPS advised the prisoners that it was their intention to move them to a residential location and that if they refused they would be charged and placed on Rule 35(4) (which empowers NIPS to keep charged prisoners apart pending adjudication). However, they also explained that the prisoners would not be moved from the CSU by force.

The Ombudsman recognised the difficulties for anyone living in the CSU environment for a prolonged period of time, but found that the NIPS was acting legitimately within Prison Rules. Although we did not uphold the complaint, we recommended that special effort should be made to mitigate the impact of isolation for prisoners who spend lengthy periods in the CSU, including proportionate charging and adjudication decisions, and maximising opportunities for association with other prisoners. The NIPS accepted this recommendation and advised that a new regime was introduced for all occupants of the CSU in November 2014. They added that although prisoners who refuse to leave the unit are normally charged, this was not the case for the prisoners who raised these complaints.

Eligible Complaints Received April 2014 – March 2015

Location	Total	% of all complaints	% of complaints excluding Roe	% of overall prison population on 31 March 2015
Maghaberry	235	16%	86%	56%
Roe 3&4	1,153	81%	-	2%
Magilligan	32	2%	12%	31%
Hydebank Wood	2	-	-	7%
Ash House	7	-	2%	4%
Overall Total	1,429			

Adjudication

A prisoner felt the proper procedure had not been followed during his adjudication.

Examination of the documentation and audio recording of the adjudication revealed a number of deficiencies: a statement was not made available to him despite a previously accepted Ombudsman recommendation that this should be done; he did not receive adequate opportunity to advance his argument of self-defence; the issue of witnesses was not dealt with until after he had been found guilty; and the Adjudicating Governor admitted contested evidence from a third party after he had left the room.

We recommended the adjudication should be quashed and that all Adjudicating Governors be reminded of the need to adhere to the Adjudication Manual. The NIPS accepted both recommendations.

We also noted that the procedural deficiencies of the adjudication should have been readily-apparent during the NIPS internal investigation of this complaint. If this had been done, the matter could have been locally resolved.

Use of Restraints during Hospital Visits

A prisoner complained about being humiliated by being handcuffed during a medical examination at an outside hospital. The Prison Service maintained this was necessary because the individual was a Category A prisoner.

The Security Manual clearly stated it was appropriate for a Category A prisoner to be handcuffed during transit to hospital. However, the manual was ambiguous regarding the use of handcuffs while in the treatment room. It appeared to suggest that handcuffs can be removed, providing the room was secure and the officer in charge conducted a risk assessment and considered it safe to do so. Although a risk assessment was carried out, the NIPS said these assessments only deal with staffing levels required and not the use of restraints. However, the Security Manual states that the risk assessment "...will decide the level of escort and restraint required for the safe custody of the prisoner."

We recommended the NIPS should review the Security Manual to avoid ambiguity. The NIPS accepted the recommendation and advised that a review had been undertaken both at Establishment and Operational Management Board levels.

Loss of Home Leave

A prisoner complained about loss of his home leave for a period of three months following an adjudication. The charge related to having illicit medication in his cell. The prisoner explained that the medication had previously been prescribed to him but he was no longer taking it. He was found guilty by the adjudicating governor and given a caution.

The adjudication records showed that he pleaded guilty to possessing medication that was no longer being prescribed to him and he was awarded loss of home leave for a period of three months. As the prisoner was guilty of an offence against prison discipline we concluded that the award of loss of home leave, while unfortunate, was not unreasonable and we did not uphold the complaint.

Withdrawal of Ceramic Cups

A number of prisoners complained about withdrawal of ceramic cups from sale in Maghaberry's Tuckshop. This decision was based on a review following *"several attacks by prisoners on prisoners and prisoners on staff."*

We requested a copy of the review but the Prison Service did not have a written record of it. When asked to provide information about the number of incidents which led to this decision they indicated there were two in 2012, one in 2013 and two in 2014. The circumstances of each incident were not known so it was not possible to establish their seriousness or whether ceramic cups were actually used as weapons.

Significantly, while the NIPS decided to withdraw ceramic cups from sale henceforth, they did not consider it necessary to remove the numerous ceramic cups which were already in prisoners' possession. This called into question the level of assessed risk and meant that many potential weapons would still be in circulation.

We also pointed out that prisoners possess other items, such as flasks, which could be used as weapons. Therefore, unless all such items are confiscated, the decision to withdraw ceramic cups from sale appeared to be disproportionate.

We recommended that the decision to withdraw ceramic cups from sale be rescinded. The NIPS accepted this recommendation.

Legal Papers

A prisoner complained that his confidentiality was breached when staff removed papers and did not return them until after a court appearance. He explained that staff searched an envelope marked SO 5.3.5 which indicated the contents were legally privileged.

We examined the search record which stated the papers were removed as they were not legal papers. However there was no record of how that decision was made. SO 5.3.5 states that *"Correspondence shall be withheld from the prisoner only on the direction of the Director of Operations at NIPS HQ or his authorised representative."*

We therefore concluded that in this instance it was not appropriate for staff to make a decision that legal privilege applies to some papers and not others. As per SO 5.3.5 no decision to remove papers identified as legally privileged should be made without approval from NIPS senior management.

We upheld this complaint and made two recommendations relating to the proper application of SO 5.3.5. These were accepted by the Prison Service.

Main Complaint Topics 2014-15 excluding Roe 3&4

Complaints Topic	2014-15	2013-14	2012-13
Property and Cash	35	48	43
Visits	10	46	24
Staff attitude	35	46	36
Accommodation	43	41	7
Adjudications	6	15	4
Mail	3	21	7
Searching	13	21	9
Transfers	12	19	17
Health & Safety	0	18	6
Access to regime	4	15	19
Home leave	7	15	15
Lock down	12	14	22
Discrimination	3	13	16
Education	9	12	5
Adverse reports	5	10	4
Miscellaneous	79	96	163
TOTAL	276	450	407

"Miscellaneous" complaint categories include -

- Lack of Offending Behaviour Programmes;
- Night time monitoring of prisoners;
- Passive Drug Dog indications; and
- Work allocation.

Late Unlocks

We received a large number of complaints about late unlocks at Maghaberry Prison.

The Prisoner Ombudsman's Office has been increasingly concerned about the negative impact of restricted regimes at Maghaberry. This is recognised by the Prison Service but they explained that they are experiencing unprecedented staffing shortages as a result of high levels of sickness absence and staff vacancies. We recommended that all possible opportunities be utilised to enable prisoners to maximise their time out of cell, and we continue to actively monitor this situation.

Legal Visits

A firm of solicitors complained about changes to the visiting arrangements at Hydebank Wood which resulted in weekday morning visits being discontinued. They said that the removal of these visits was a "serious hindrance to adequate representation." In response the Prison Service said that the visits were discontinued due to staff restructuring in the face of severe cuts but that the staff had been redeployed to try to enhance the regime for all prisoners. They added that "Up to 30 professional visits could be accommodated at the weekend though this opportunity was very rarely taken up by the legal representatives."

We acknowledged that staffing cuts presents its own set of challenges for the Prison Service in delivering the full range of services. However, it was clear that legal representatives generally only availed of weekday visits, while the changes meant that half the total weekly professional appointments were now only available at weekends. We were not surprised that there was low uptake of these appointments and therefore recommended that a review of the professional visiting arrangements be undertaken with a view to re-introducing a number of weekly morning slots.

The Prison Service accepted the recommendation.

Cleared complaint outcomes 2013-2015

	Upheld	Not Upheld	Partially Upheld	Local Resolution	Withdrawn	Total
2014-15	473 (44%)	227 (21%)	173 (16%)	143 (14%)	52 (5%)	1,066
2013-14	216 (46%)	136 (29%)	26 (6%)	58 (12%)	32 (7%)	468



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 kary 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 pożyczaniu 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 būsime sujungti, vertėjas padės mūsų Skundus nagrinėjantiems pareigūnui suinoti reikalingą informaciją apie jus.



Portuguese

Se não estiver satisfeito com a forma como o Serviço Prisional investigou a sua reclamação, poderá enviar a sua reclamação para o Provedor do Prisioneiro através do nosso número gratuito 0800 783 6317. (08.30-12.00 & 16.00-17.00)

Pode telefonar para o número gratuito mesmo se tiver poucos ou nenhuns conhecimentos de inglês. Precisar apenas de dizer “Portuguese, português”. Deverá esperar até a sua chamada ser transferida a um intérprete. É importante que não desligue o telefone e permaneça à espera. Quando a chamada for transferida, o intérprete prestará assistência na sua língua materna através do nosso Oficial de Reclamações para obter algumas informações gerais.