



Terms of Reference for the Investigation of Deaths in Custody and Post-Release Deaths

Introduction

1. The Prisoner Ombudsman is an independent body who is appointed by the Minister of Justice.

The Ombudsman and his staff will act on notification of a death from the Northern Ireland Prison Service (NIPS) and notification of a post-release death (normally, occurring within 14 days of release from custody).

The Ombudsman will decide on the extent of investigation required, depending on the circumstances of the death. For the purposes of the investigation, the Ombudsman's remit will include all relevant matters for which NIPS is responsible or would be responsible if not contracted elsewhere including Healthcare in Prisons. It will therefore include services commissioned by NIPS from outside the public sector.

The Ombudsman and his staff may visit any prison, Young Offenders Centre or any other premises used by NIPS for the purpose of investigating a death.

The Ombudsman and his staff may interview anyone deemed to have information relevant to the death.

Those employed in NIPS shall, subject to any legal constraints, co-operate fully with the Ombudsman.

The Aims of Ombudsman's investigation is to:

2. Establish the circumstances and events surrounding the death including relevant outside factors when appropriate;
3. Examine whether any change in NIPS and South Eastern Health and Social Care Trust (the Trust) operational methods, policy, and practice or management arrangements would help prevent a similar event happening in the future;

4.	In conjunction with the Trust, where appropriate, examine relevant health issues and assess clinical care;
5.	Provide explanations and insight in respect of each death in custody or post-release death for the bereaved relatives; and
6.	Assist the Coroner's obligation under article 2 of the European Convention on Human Rights, by ensuring as far as possible the full facts are brought to light and any relevant failing is exposed, any commendable practice is identified, and any lessons from the death are learned.
Investigation Terms of Reference	
7.	The Ombudsman will set specific terms of reference for each investigation.
8.	The Ombudsman will be responsible for investigating clinical issues relevant to the death and may obtain clinical advice if necessary.
9.	Where the Trust conducts Local Significant Incident Reviews into a death the report will be requested by the Ombudsman.
Investigations by Other Organisations	
10.	Investigation by the police will take precedence over the Ombudsman's investigation. If the Ombudsman considers that a criminal investigation should be undertaken, he will alert the police.
11.	If the Ombudsman considers a disciplinary investigation should be undertaken by NIPS or identifies any issue/s which require immediate action by NIPS or the Trust, he will alert them of the issues.
12.	The Ombudsman will work with the Criminal Justice inspection NI(CJINI), the Regulation and Quality Improvement Authority (RQIA), the Trust and any other relevant organisation to ensure relevant knowledge and expertise is shared, especially in relation to conditions for Prisoners.
Disclosure of sensitive information	
13.	Data Sharing Agreements with NIPS, the Trust and the Police Service of Northern Ireland (PSNI) outline how sensitive information will be handled, ensuring official information is made available unless it is clearly not in the public interest to do so.

14.	The Ombudsman is subject to the Data Protection Act 2018, the UK General Data Protection Regulations (UK GDPR) and the Freedom of Information Act 2000. Any requests under these acts will be considered subject to restrictions or exemptions from the rights of access under those Acts which apply.
15.	Information will be shared with other relevant statutory bodies as set out in formal information sharing agreements.

Reports of investigations

16.	<p>The Ombudsman will produce a written report of each investigation. Reports are sent to NIPS and the Trust for:</p> <ul style="list-style-type: none"> • factual accuracy review, • consideration of confidential or sensitive material which ought not to be disclosed; • any identifiable persons subject to criticism to be afforded an opportunity to make representations; • a response to the factual accuracy of the report to be provided to Ombudsman's Office within 21 days from the date of receipt of the Investigation Report . <p>The report may include recommendations to NIPS and/or the Trust and the responses to those recommendations. Upon receipt of points of factual accuracy, consideration will be given to revising the report prior to issue to the family/properly interested person¹.</p>
17.	The Ombudsman will send the report to the family of the deceased or any other persons identified as properly interested persons for a factual accuracy review prior to publication.
18.	The Ombudsman reports will be published on the Prisoner Ombudsman website, unless a valid request from the family/properly interested person not to publish is accepted by the Ombudsman.
19.	If objections are made to publication, the Ombudsman will decide whether full, limited or no publication should proceed, seeking legal advice if necessary.

Report review

20.	The Ombudsman may make further enquiries and issue a further report if necessary, in particular following the inquest or in the event further evidence is uncovered prior to inquest.
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¹ A "properly interested person" is defined as someone who has a legitimate interest in the proceedings, typically including family members, personal representatives, and others directly affected by the death.

	<p>The Ombudsman will send a proposed report to NIPS, the Trust, CJINI, RQIA and the Minister for Justice (or appropriate representative). If the proposed published report is to be issued before the inquest, the Ombudsman will seek the consent of the Coroner to do so. The Ombudsman will liaise with PSNI regarding any ongoing criminal investigation.</p>
21.	<p>The proposed published report will be anonymised to exclude the names of Individuals employed by NIPS or the Trust (job titles and names of establishments will be retained) and will not include background documents. Other sensitive information in the report may be removed or summarised before the report is published.</p> <p>The report may be anonymised, in exceptional circumstances, on the request of the deceased persons family and at the discretion of the ombudsman.</p>
22.	<p>If the Ombudsman considers the public interest so requires, he may make a special report to the Minister for Justice. In that case, steps 17 to 20 may be modified.</p>
Annual Reports	
23.	<p>The Ombudsman submits an Annual Report to the Minister of Justice following the end of each financial year. In relation to death in custody and post-release deaths the report may include selected summaries from the year's reports.</p>