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## listening to young prisoners

a review of complaints procedures in Young Offender  
Institutions

by the Prisons Ombudsman

# foreword

## Stephen Shaw, Prisons Ombudsman

Since my appointment as Prisons Ombudsman in October 1999, one of my priorities has been to make my office relevant and accessible to all prisoners. Remand prisoners, short-sentence prisoners, women prisoners and young prisoners are all significantly under-represented in my caseload.

The under-use of my office by all four groups is a matter for concern. However, the under-representation of young prisoners is a particular personal anxiety, given that the two most worrying establishments I have visited in the past 12 months have both been young offender institutions. (In contrast, the two 'healthiest' prisons have both been in the high security estate, the area from which I receive the greatest number of complaints.) It is absolutely right and proper that the majority of problems faced by young prisoners should be sorted out informally. But is it a paradox or actually part of the explanation that the worst institutions seem to generate the fewest formal complaints?

I commissioned this review as a first step to try to understand why young offenders make so little use of the formal request/complaints system and accordingly of my office. I am most grateful to colleagues, Julie Minnette and David Barnes, for carrying the work forward, and to the Director General of the Prison Service and governors of individual YOIs who provided so much material for me. We have also benefited from the advice and support of the Youth Justice Board and HM Chief Inspector of Prisons.

The review raises more questions than it offers answers. Many young offenders have little or no confidence in any adult authority, and there may be something in the view that learning to complain effectively is a talent which comes with greater maturity. However, I did not ask for this work to be conducted as an academic exercise. I want to identify and implement processes and practices which will be used by young people in custody. All of those involved with juveniles and young offenders can and must do better.

That said, I cannot ignore the wider pressures on my small team of specialist investigators. The volume of eligible cases has increased significantly this year. Our output of cases cleared has risen too, but the simple fact is that we are finding it very difficult to cope. A more proactive, child-friendly approach to complaints from young prisoners is

essential. But there is no point in being naive about the resource implications.

It may be that the Prison Service's new complaints procedure - now being piloted in Feltham and four adult establishments - will significantly alter the picture revealed in this review. There is no doubt that, hitherto, many young prisoners have been actively discouraged from registering formal complaints. All of that must end. While I do not want a 'complaints culture', I do expect young prisoners to be helped and encouraged to make their views known. That is a challenge both to the office of Prisons Ombudsman and to the Prison Service as a whole.

**Stephen Shaw**  
**February 2001**



# introduction

The office of Prisons Ombudsman was established in 1994. The Ombudsman's terms of reference (which are reproduced at the end of this report) require him to investigate complaints from individual prisoners who have failed to obtain satisfaction from the Prison Service request/complaints system and which are eligible in all other respects.

In practice, however, complaints are much more likely to come from the adult, male, high security estate rather than from any other part of the prison system. Table 1 compares the number of complaints received by the Prisons Ombudsman from five high security prisons with those from five young offender institutions in the years between 1994 and 1999.

Table 2 provides a more detailed list of complaints to the Prisons Ombudsman from young offender institutions during 1999. Feltham, Glen Parva and Portland - the three YOIs which have occasioned most public and Prison Service concern - generated just two eligible complaints between them, and just 13 in total.

As Table 1 makes clear, since 1994, for every one eligible complaint from Feltham, there have been over 40 from Whitemoor. Nor is Feltham unusual amongst YOIs. Indeed, Hatfield YOI has had absolutely no dealings with my office at any time.

In itself, complaining is not a good thing. But the right to register a complaint is. All the more so, when those concerned are among the most damaged and disadvantaged members of society:

**"Young people in custody have been shown to be a particularly marginalised group ... a substantial proportion have had contact with social services or have spent time being 'looked after'. Most have been failed by the education system. Over half ... had been excluded from school. The majority were unemployed before entering custody; and most had been involved with drug or alcohol misuse at some time.**

**"Many young prisoners struggle to maintain family links and a significant proportion of both male and female young offenders report that they are already parents themselves ... a high percentage of young people have suffered physical, sexual or emotional abuse prior to custody. Experience of loss and bereavement is common.**

**table 1**  
complaints to the  
prisons ombudsman,  
1994-1999

	eligible	ineligible	total
Frankland	122	125	247
Full Sutton	181	203	384
Long Lartin	83	177	260
Wakefield	108	125	233
Whitemoor	177	220	397
Aylesbury	6	16	22
Feltham	4	4	8
Glen Parva	4	11	15
Hatfield	0	0	0
Lancaster Farms	1	6	7

**table 2**  
total complaints to the  
prisons ombudsman  
1999

	eligible	ineligible	total
Aylesbury	3	3	6
Brinsford	0	3	3
Castington	1	5	6
Deerbolt	0	2	2
Dover	2	3	5
Feltham	2	2	4
Foston Hall	1	3	4
Glen Parva	0	2	2
Guys Marsh	0	7	7
Hatfield	0	0	0
Hollesley Bay	2	6	8
Lancaster Farms	0	5	5
Moorland	3	16	19
Onley	1	3	4
Portland	0	7	7
Stoke Heath	0	1	1
Styal	3	6	9
Swinfen Hall	0	7	7
Thorn Cross	0	1	1
Wetherby	0	1	1

**“A number of young people are very vulnerable when they enter custody. The incidence of mental health problems amongst young offenders is significant both before and during their time in prison. Rates of suicide, and self-injurious behaviours are high amongst young prisoners.”**

**(‘Tell Them So they Listen’: Messages from Young People in Custody, Home Office Research Study 201, Home Office 2000.)**

According to the basic skills assessment screening test carried out in 1998, reported in the *Prison Statistics*, 29 per cent of prisoners in YOIs were below Level 1 for reading, 42 per cent were below Level 1 for writing and 41 per cent below Level 1 for numeracy. Only one young prisoner in three was above Level 1 for reading, one in four was above Level 1 for writing, and only one in five above Level 1 for numeracy. (Level 1 is the expected level for an eleven-year old.)

The under-use of the services of the Prisons Ombudsman by young offenders became apparent from the time the office was set up. My predecessor, Sir Peter Woodhead, reported in his 1996 Annual Report on a study - consisting of a series of interviews - conducted on his behalf with young offenders at Aylesbury, Brinsford, Feltham, Onley and Reading:

**“The overwhelming conclusion from those interviews was that the young offenders had a large number of grievances but had little idea of how to go about raising them. Many were unaware, not only of the role of the Prisons Ombudsman but also about the mechanics of the Prison Service’s own request/complaints system. It also emerged that the requirement that complaints must be submitted in writing is a major deterrent to young offenders, many of whom had literacy problems and few of whom were used to expressing themselves formally in writing. Finally, most of those interviewed expressed little hope that making a formal complaint would have any effect.”**

**(Prisons Ombudsman’s Annual Report 1996, Cm 3687.)**

Acknowledging that it was “not easy to see how this problem can be resolved,” my predecessor said he needed to make greater efforts to increase young prisoners’ awareness of the Prisons Ombudsman’s work and role.

It is important to note that current grievance procedures are the same for all prisoners regardless of their age, sentence length or any other factor. Prisoners should first try to resolve their grievance informally with establishment staff before applying for a formal request/complaint form. Once completed and submitted, the complaint should be answered by someone from the establishment’s Senior Management Team, with the exception of certain categories of complaint, which are dealt with directly at Prison Service Headquarters. If the prisoner remains dissatisfied, he/she must apply for an appeal form, which should be answered by Headquarters. Only then can they request that the Prisons Ombudsman investigates their complaint. The total time expired will be:

<b>Informal resolution attempt</b>	1 week
<b>Application/complaint submitted</b>	1 week
<b>Reply received</b>	1 week
<b>Application/Appeal submitted</b>	1 week
<b>Reply received</b>	6 weeks
<b>Letter to Ombudsman</b>	1 week
<b>Investigation completed</b>	12 weeks
<b>TOTAL</b>	23 weeks

This demonstrates that an unresolved grievance will take almost six months to follow the entire official procedure. This is a minimum expectation only. Delays have occurred at all stages. It has not been uncommon for the Prisons Ombudsman to investigate complaints that arose over a year before they reached my office.

Many young offenders’ sentences amount to months not years. Compared to adult prisoners, many more young offenders (42 per cent in 1998) are serving sentences of up to 18 months and only 31 per cent over 3 years. In contrast, only 16 per cent of adult male prisoners are serving up to 12 months and 43 per cent are serving over 3 years.

As noted earlier, a revised complaints system - again applying to all categories of prisoner - is currently being piloted. It is expected to be rolled out to all establishments during 2001 and 2002.

# what we found

To investigate the position in individual young offender institutions, we asked each establishment to provide data on the following:

- average population of both juveniles and young prisoners;
- number of request/complaint forms issued;
- number of request/complaint forms returned;
- number of appeals to Headquarters

In addition, we asked for a subject breakdown and any other information available. This was supplemented by looking at the relevant Inspectorate report and most recent BoV report for each establishment. Our approach meant that we did not study particular problems which may be faced by young prisoners held in predominantly adult establishments.

Overall, the survey found significant variations in use of request/complaint procedures between establishments. There were also differences in the proportion of forms returned (average around 70 per cent). There were differences too between establishments in terms of the proportion of complaints which go to appeal and to the Ombudsman (although, because the numbers are so low, it is difficult to interpret the latter variations).

Compared with complaints from adult establishments, a far higher proportion in young offender institutions concern property. The number of appeals against adjudications is much lower. **The Prison Service should ensure that young prisoners are fully aware of the appeals system following adjudications.**

There follow the details on individual YOIs.

## Ashfield

HMYOI Ashfield only opened on 1 November 1999. In the first three months, 48 request/complaint forms were issued and 41 returned (85 per cent). There were no appeals to Headquarters.

It is of interest that all forms were copied to the director on receipt. This seems to be a very good practice. We were also told that each wing had a BoV box. The director told us, "Many young people seem to prefer this system for raising a grievance/request and the BoV member will usually come to discuss the issue with me or one of my senior managers."

## Aylesbury

With an average population of 230 during 1999, Aylesbury issued 385 request/complaint forms of which 265 were returned (69 per cent). We were told that, "Eighty per cent of complaints stemmed from missing property. The other 20 per cent were a mix of requests for transfers, complaints against staff, appeals against adjudications and appealing against decisions."

## Brinsford

Whereas at Aylesbury there were an average of 1.7 complaint forms issued per head of population in 1999, in Brinsford the figure was 0.6 (190 forms issued, 121 returned, for an average population of 341). Only nine complaints (including seven appeals against adjudications) were sent to Prison Service Headquarters.

## Castington

A higher proportion of appeals resulted at Castington (197 forms issued, 136 returned, 18 appeals). Again property claims predominated - 130 out of 287 complaints for the two years 1998 and 1999. Castington follows an interesting practice: all replies to request/complaints are signed by the Head of Residence from senior officer and principal officer drafts.

## Deerbolt

Like Brinsford, Deerbolt is notable for the low level of complaint forms issued per head of population (population 422, forms issued 152, forms returned 98). This equates to 0.36 forms per average population per year.

## Dover

The figures for Dover during 1999 were as follows:

Average population	284
Forms issued	253
Forms returned	183
Appeals to Headquarters	14

Fifty-five of the complaints concerned property, 19 concerned HDC, 26 concerned adjudications and 20 concerned staff. It is not clear if the figures for Headquarters and adjudications are consistent. It may be the word 'appeal' has been taken to exclude reserved subjects like adjudications.

## Drake Hall

Drake Hall women's prison holds a small number (20-25) of young prisoners at any one time. We were told, "As with any prisoner, all young offenders would be encouraged to speak to their house staff and personal officer before requesting a form, this often results in the problem being solved at this point."

## Feltham

The figures for Feltham for 1998 and 1999 were as follows:

	1998	1999
Complaint forms issued	351	266
Complaint forms returned	177	187
Appeals	6	5

The small number of appeals is very striking. In 1999, over half the complaints concerned property or money, 31 per cent were recorded as treatment/requests for transfer and 5 per cent as facilities. Some 13 per cent concerned allegations against staff.

On 9 February 2000, a new Governor's Order was issued "to ensure that the procedures are being followed properly and prisoners are provided with good quality replies."

## Glen Parva

Staff behaviour was the cause of 15 per cent of the complaints at Glen Parva during 1999, although property again topped the list. **The full figures were:**

	1998	1999
Complaint forms issued	189	260
Complaint forms returned	128	169
Appeals	19	48

## Guys Marsh

As with Dover, there is a possible inconsistency in Guys Marsh's figures. Thirty-six out of 48 issued forms were returned including eight which went to Headquarters. We were told that 18 concerned adjudications, 16 property and others 19.

It is pleasing to read in HM Chief Inspector's 1999 report on Guys Marsh that all replies to request/complaints "were written in simple language for clarity." This is self-evidently good practice. Sir David suggested all replies should be typed since manuscript was sometimes difficult to decipher. I return to this issue shortly.

## Hatfield

An interesting feature of Hatfield's complaints during 1999 was that 19 out of the total of 34 concerned Home Detention Curfew. There were just three property complaints and two appeals against adjudications.

In his Inspection Report on Hatfield, published in mid-1999, HM Chief Inspector of Prisons noted that the establishment had reverted to hand-written replies to request/complaints, not typed ones as prior to 1998. He added, "knowledge of the system, although adequate, could be reinforced ... in induction".

### Huntercombe

The number of complaint forms issued at Huntercombe doubled between 1998 and 1999:

	1998	1999
Complaint forms issued	56	111
Complaint forms returned	46	72
Appeals	2	7

The principal cause of complaints was property missing following transfers.

Concerns about access to application forms has been expressed by the Board of Visitors. In their 1999 Annual Report, the BoV write:

"We have been concerned throughout the year about the availability of our application forms and the need, in some cases, of prisoners to apply for a Governor's application in order to ask for a BoV application."

The governor at Huntercombe told us:

"I am in the process of producing an audio taped version of the Induction Booklet. This is a forerunner of developing more accessible advice for young people."

The governor's initiative is to be strongly commended. **All YOIs should produce audio and video versions of their literature and, more generally, develop more accessible information for young people. This applies no less to the office of Prisons Ombudsman.** However, too much should not be expected of induction. Many prisoners are already unable to take in the quantity of information on offer. In any event, the lesson of all education - and of all advertising - is that messages must be repeated to be retained. The introduction of in-cell television presents a tremendous opportunity through a designated information channel.

### Hollesley Bay

Hollesley Bay was one of the few establishments to be able readily to distinguish request/complaints made by juveniles from those made by young offenders. This is good practice. **If they are to have utility as management information, the recording of request/complaints in YOIs should separate out juveniles and young prisoners.** Hollesley Bay's figures were as follows:

	Juveniles		Young Prisoners	
	1998	1999	1998	1999
Forms issued	73	50	215	297
Forms returned	43	31	114	162

### Lancaster Farms

The majority of request/complaints at Lancaster Farms concern HDC, adjudications and property:

	1998	1999
Complaint forms issued	169	214
Complaint forms returned	117	156
Appeals	0	2

### Moorland

In 1999, no fewer than 35 of the total of 248 request/complaints concerned dentistry. Forty-two involved property and six were about adjudications. The number of returned forms increased by over 42 per cent between 1998 and 1999:

	1998	1999
Complaint forms issued	233	314
Complaint forms returned	174	248
Appeals	10	31

## Onley

Onley presents a mixed picture. It is very pleasing to note that all replies to request/complaints were typed. In a perfect world, all replies to request/ complaints in all establishments should be typed and the name (as well as the signature) of the respondent appended. However, this is particularly important with young prisoners, given the difficulties many will face with reading and writing.

### All replies to request/complaints in YOIs should be typed.

More disturbing was the low number of request/complaints:

	Juveniles		Young Prisoners	
	1998	1999	1998	1999
Forms issued	12	25	82	93
Forms returned	12	21	66	61
Appeals	0	0	0	2

These low numbers may reflect Onley's practice whereby a request/complaint form is only issued by the request/complaint clerk if "this has been approved by a governor grade". It is difficult to see that this practice is consistent with the guidance in the Complaints Manual. While it is absolutely right to try to deal with problems informally, the prisoner has a right to request/complaint forms which is not at the discretion of staff (whatever the grade). This is a matter the Governor should review.

In his Inspection Report on Onley, Sir David Ramsbotham recorded:

**"The system required all applications for formal request/complaints to be sanctioned by a governor grade before issue. We found that there were a remarkably low number of formal request/complaints ..."**

In the same report, Sir David wrote:

**"I believe that there is an urgent need for the Prison Service to consider its adjudication, application and request and complaints procedures to confirm their suitability for this age of offender. The procedures are designed for adults. I am not happy that they are suitable for young prisoners ... I do not believe**

**that they understand the systems, and they are given no 'prisoner's friend' or other help. Those who speculate why Young Prisoners do not submit as many requests and complaints as their adult counterparts should reflect on whether lack of understanding of what the procedure is all about, has anything to do with it."**

Sir David's comments were a further encouragement to both myself and my colleagues to carry out this review.

## Portland

The request/complaint figures for Portland YOI demonstrate that the under-use of formal procedures by young people is far from inevitable. By encouraging prisoners' access to the system, the number of complaints tripled between 1998 and 1999:

	1998	1999
Complaint forms issued	66	204
Complaint forms returned	54	148
Appeals	2	8

The governor told us:

**"The apparently large increase from 1998 to 1999 was largely a result of a conscious effort to provide more ready access to the request/complaint system."**

It is of interest that no fewer than 18 of the complaints received in 1999 involved allegations against staff. I believe that all YOIs could learn from Portland's experience.

## Stoke Heath

Stoke Heath is a large YOI near Market Drayton, holding both juveniles and young prisoners. Given its size, there are very few formal request/complaints.

	1998	1999
Average population	599	613
Complaint forms issued	50	134
Complaint forms returned	32	101
Appeals	14	22

## Swinfen Hall

Swinfen Hall seems to receive a higher volume of complaints than most YOIs. Again, this may be evidence of a more proactive approach. It was volunteered that notices are "displayed advertising the address and services provided by the Prisons Ombudsman's department," albeit this is a requirement everywhere which is subject to internal audit. I have not found a shortage of my posters wherever I have visited. It is my intention to have new display material designed over the next 12 months.

	1998	1999
Complaint forms issued	273	328
Complaint forms returned	204	229
Appeals	28	35

## Thorn Cross

From a very low base, the number of complaints at Thorn Cross more than doubled between 1998 and 1999:

	1998	1999
Complaint forms issued	59	126
Complaint forms returned	32	79
Appeals	11	7

I note that in his 1998 Inspection Report on Thorn Cross, HM Chief Inspector of Prisons recorded prisoners as saying, "they would not dare to put in a request/complaint."

## Werrington

Werrington is a small all-juvenile institution. As I have seen for myself, it is now an excellent establishment. However, even in this light, the very small number of complaints is remarkable: just six received in both 1998 and 1999.

	1998	1999
Average population	136	97
Complaint forms issued	6	7
Complaint forms returned	6	6
Appeals	0	1

I note that a Notice to Staff (No: 71/1999) reads as follows:

**"Ordinarily first representations will be made by trainees to wing staff. However, certain issues require the mandatory issue of a formal request/complaint form. These are:**

- A. Allegations against staff**
- B. Lost property/confiscation - this includes items such as phone cards**
- C. Confidential access to Governor."**

Notice to Staff 72/1999 is an example of very good practice in that it provides a comprehensive list of Heads of Function from whom replies to Request/Complaints must come. It also says that the reply "must be submitted to the Governor before being issued to the trainee." However, I am concerned by the final paragraph which reads, "Appeals against an initial Request/Complaint will be dealt with by the Governor." As at Onley, I think the Governor should review how far his local procedures (reflected in both Notices to Staff) are consistent with the guidance in the Complaints Manual.

## Wetherby

Most of Wetherby's population are juveniles. Like Werrington, there are very few formal complaints:

	1998	1999
Average population	320	330
Of whom juveniles	220	280
Complaint forms issued	30	32
Complaint forms returned	20	26
Appeals	4	5

The absence of formal complaints is long-standing. HM Chief Inspector of Prisons' 1994 Inspection Report on Wetherby notes the issuing of just 16 forms in 12 months (half the forms being subsequently withdrawn).

# conclusions

The number of complaints registered at any establishment may be a poor indicator of the quality of regime or the care offered to individual prisoners. As we have seen, most YOIs have few formal complaints. However, the number can be encouraged upwards by the approach of governors (and, conversely, can be forced down as well).

A small number of complaints may indicate:

- Prisoners genuinely have little to complain about.
- Grievances and problems are sensibly and effectively settled informally.
- Prisoners do not know about the formal procedures.
- Prisoners are prevented from having access to the formal procedures.
- Prisoners are discouraged from using the formal procedures or believe - rightly or wrongly - that they may be disadvantaged if they complain.
- The delays in the formal system render it irrelevant.
- The formal system's reliance upon written complaints may be a disincentive.
- Young prisoners seek more immediate relief than could be delivered by the formal complaints system and, in any case, have limited confidence in adult authority.

The suggestion from this review is that, to a greater or lesser extent, each one of these factors is involved. What actions should now be taken?

So far as my own office is concerned, it is apparent that I must produce more colourful and attractive literature - using a variety of formats (lots of prisoners do not read notice-boards). Where possible, I must encourage the notion of 'surgeries' and other visits to YOIs to assess and support the request/complaint process. It may be too that encouraging complaints by telephone is particularly relevant to young prisoners.

There is no question that my office's procedures will often be perceived as legalistic, bureaucratic, perhaps even intimidating or incomprehensible. In their place must come practice which

is friendly, simple, quick and jargon-free. I should look to use a variety of media - including electronic media - to get my message across. I must address the absence of information and knowledge amongst those who mentor and support young people - including social workers and lawyers. I must not be afraid to champion my successes - and to use champions in whom young people have confidence. And I should target parts of the complaints system - like appeals against adjudications - which are not so affected by delay.

I believe Boards of Visitors can play a part as well. My reading of HM Chief Inspector's Reports on YOIs, and likewise the Annual Reports of Boards of Visitors, has not shown a great emphasis on request/ complaints. I strongly support the monitoring role of Board of Visitors and I believe **all BoV Annual Reports should include a section on request/ complaints**. Amongst other things, the BoV should consider any differences in terms of ethnicity affecting request/complaints, although this is not a matter which has been considered further in this review.

Given the new complaints system currently being piloted, it is more difficult to make proposals to the Prison Service. I anticipate that ready access to forms and a simpler and much speedier system will reduce many of the problems identified earlier. But this review has raised large questions in my mind, as well as small ones. Should the BoV play a formal role in request/complaints in YOIs? At Headquarters, could young prisoner appeals be fast-tracked or become the responsibility of a dedicated team? Should a separate complaints system be established for young prisoners and/or juveniles? Is there a role for an Advocacy Service?

More modestly, should a leaflet about request/complaints be available alongside the forms? And would it be useful to have a wing based book to record all informal grievance resolution?

I hope that publication of this modest review will encourage the Prison Service (and the Youth Justice Board) to give further attention to these matters.

I conclude with this thought. Young people in custody are peculiarly vulnerable. Safeguards of prisoners' rights designed for adults may simply be unsuitable to the needs of children and young people.

Comments on this review would be welcome.

# list of recommendations in the text

- The Prison Service should ensure that young prisoners are fully aware of the appeals system following adjudications.
- All YOIs should produce audio and video versions of their induction literature and, more generally, develop more accessible information for young people. This applies no less to the office of Prisons Ombudsman.
- If they are to have utility as management information, the recording of request/complaints in YOIs should separate out juveniles and young prisoners.
- All replies to request/complaints in YOIs should be typed.
- All BoV Annual Reports should include a section on request/complaints.



# terms of reference

1. The Prisons Ombudsman, who is appointed by the Home Secretary, is independent of the Prison Service agency and reports to the Home Secretary.
2. The Prisons Ombudsman will investigate complaints which are submitted by individual prisoners who have failed to obtain satisfaction from the Prison Service requests and complaints system and which are eligible in all other respects. The Prisons Ombudsman will normally act on the basis only of eligible complaints from prisoners and not on those from other individuals or organisations.
3. The Prisons Ombudsman will be able to consider the merits of matters complained of as well as the procedures involved.
4. The Prisons Ombudsman will be able to investigate all decisions relating to individual prisoners taken by Prison Service staff, people acting as agents of the Prison Service, other people working in prisons and members of the Board of Visitors, with the exception of decisions involving the clinical judgement of doctors. The Prisons Ombudsman's Terms of Reference thus include contracted out prisons, contracted out services and the actions of people working in prisons but not employed by the Prison Service.
5. The Terms of Reference do not cover:
  - policy decisions taken by a Minister and the official advice to Ministers upon which such decisions are based;
  - the merits of decisions taken by Ministers<sup>1</sup>, save in cases which have been approved by Ministers for consideration;
  - the personal exercise by Ministers of their function in the setting and review of tariff and the release of mandatory life sentenced prisoners;
  - actions and decisions outside the responsibility of the Prison Service such as issues about conviction and sentence; cases currently the subject of civil litigation or criminal proceedings; and the decisions and recommendations of outside bodies including the judiciary, the police, the Crown Prosecution Service, the Immigration Service, the Parole Board and its Secretariat.

## Procedures

### Submitting Complaints and Time Limits

6. Before putting a grievance to the Prisons Ombudsman a prisoner must first seek redress through appropriate use of the Prison Service requests and complaints procedure. Complaints will be considered for possible investigation by the Ombudsman if the prisoner is dissatisfied with the reply from the Prison Service or receives no final reply within 6 weeks. Prisoners will have confidential access to the Prisons Ombudsman. Prison Service staff will not seek to prevent a prisoner from referring a complaint to the Prisons Ombudsman.

7. Prisoners submitting a complaint to the Prisons Ombudsman must do so within one calendar month of receiving a substantive reply from the Prison Service. However, the Prisons Ombudsman will not normally accept complaints where there has been a delay of more than 12 months between the prisoner becoming aware of the relevant facts and submitting a complaint to the Prisons Ombudsman, unless the delay has been the fault of the Prison Service.

8. Complaints submitted after these deadlines will not normally be eligible, but the Prisons Ombudsman has a discretion to consider those where there is good reason for the delay, or where the issues raised are so serious as to override the time factor.

### Determining Eligibility of a Complaint

9. The Prisons Ombudsman will examine complaints to consider whether they are eligible. To assist in this process, where there is some doubt or dispute as to the eligibility of a complaint, the Prisons Ombudsman will inform the Prison Service of the nature of the complaint and, where necessary, the Prison Service will then provide the Prisons Ombudsman with such documents or other information as the Ombudsman considers are relevant to considering eligibility.

10. The Prisons Ombudsman may decide not to accept a complaint or to discontinue any investigation where he considers that no worthwhile outcome can be achieved or the complaint raises no substantial issue. The Prisons

<sup>1</sup> A personal Ministerial decision is one where the Minister makes a decision either in writing or orally following the receipt of official advice or signs off a letter drafted for their signature.

Ombudsman is also free not to accept for investigation more than one complaint from a prisoner at any one time unless the matters raised are serious or urgent.

#### Access to Documents for the Investigation

**11.** The Director General of the Prison Service will ensure that the Prisons Ombudsman has unfettered access to Prison Service documents, including classified material and information entrusted to the Prison Service by other organisations provided this is solely for the purpose of investigations within the Ombudsman's Terms of Reference and subject to the safeguards referred to in paragraph 14 below for the withholding of information from the complainant and public in some circumstances.

#### Local Settlement

**12.** It will be open to the Ombudsman in the course of investigation of a complaint to seek to resolve the matter by local settlement.

#### Visits and Interviews

**13.** The Prisons Ombudsman and staff will be entitled to visit establishments, after making arrangements with the governor or his or her staff, and headquarters for the purpose of interviewing Prison Service employees, prisoners and other individuals, and for pursuing other relevant inquiries in connection with investigations within the Ombudsman's Terms of Reference and subject to the safeguards in paragraph 14 below.

#### Disclosure of Sensitive Information

**14.** In accordance with the practice applying throughout government departments, the Prisons Ombudsman will follow the Government's policy that official information should be made available unless it is clearly not in the public interest to do so. Such circumstances will arise when disclosure is:

- against the interests of national security
- likely to prejudice security measures designed to prevent the escape of particular prisoners or classes of prisoners
- likely to put at risk a third party source of information
- likely to be detrimental on medical or psychiatric grounds to the mental or physical health of a prisoner

- likely to prejudice the administration of justice including legal proceedings
- of papers capable of attracting legal professional privilege

**15.** Prison Service staff providing information should identify any information which they consider needs to be withheld on any of the above named grounds with a further check undertaken by Prison Service on receipt of the draft report from the Prisons Ombudsman.

#### Draft Investigation Reports

**16.** Before issuing his final report on an investigation, the Prisons Ombudsman will send a draft to the Director General of the Prison Service to allow the Service to draw attention to points of factual inaccuracy, to confidential or sensitive material which it considers ought to be disclosed, and to allow any identifiable staff subject to criticism an opportunity to make representations.

#### Recommendations by the Ombudsman

**17.** All recommendations will be made either to the Director General of the Prison Service or to the Home Secretary as appropriate. Recommendations should take account of the roles, duties and powers of those to whom they are directed.

#### Final Reports and Response to Complaints

**18.** The Prisons Ombudsman will reply to all those whose complaints have been investigated, sending copies to the Prison Service, and making any recommendations at the same time. The Ombudsman will also inform complainants of the response to any recommendations made.

**19.** The Prisons Ombudsman has a target date to give a substantive reply to the complainant within 12 weeks from accepting the complaint as eligible. Progress reports will be given if this is not possible.

#### Prison Service Response to Recommendations

**20.** The Prison Service has a target of four weeks to reply to recommendations from the Prisons Ombudsman. The Prison Service should inform the Prisons Ombudsman of the reasons for delay when it occurs.

### **Annual Report**

**21.** The Prisons Ombudsman will submit an annual report to the Home Secretary, which the Home Secretary will lay before Parliament. The reply will include:

- a summary of the number of complaints received and answered, the principal subjects and the office's success in meeting time targets
- examples of replies given in anonymous form and examples of recommendations made and of responses
- any issues of more general significance arising from individual complaints on which the Prisons Ombudsman has approached the Prison Service
- a summary of the costs of the office

