

Framework document between the Ministry of Justice and the Prisons and Probation Ombudsman

1. Introduction

1.1. The purpose of the framework document

This framework document sets out the terms of an agreement reached by the Prisons and Probation Ombudsman for England and Wales (“the Ombudsman”) and the Secretary of State for Justice.

1.2. The structure of the framework document

The document is structured as follows:

Section 2	Remit and what is delivered
Section 3	Ministry of Justice, sponsorship and other relationships
Section 4	Planning and performance
Section 5	Finance, audit and assurance
Section 6	Human Resources
Section 7	Other Corporate Services

1.3. Key accountability relationships between the Ombudsman and the MoJ

The Ombudsman’s office is operationally independent of, though it is sponsored by, the Ministry of Justice (MoJ). The framework describes the respective roles and responsibilities of the Ombudsman and the Ministry of Justice and how the relationship between them will be conducted including the delivery of services to support the work of the office. The Ombudsman and the MoJ will maintain and keep under review protocols for the operation of corporate support services provided by the MoJ.

1.4. How the framework can be reviewed

This framework document is effective from 1 December 2009. It will be subject to review at least every three years. Amendments may be made at any other time by mutual agreement and this will include whenever a new Ombudsman is appointed.

2. Remit and what is delivered

2.1. Function, activities and legislative basis

The Prisons Ombudsman was set up in 1994 as an independent body to investigate complaints from prisoners that could not be resolved by the Prison Service's internal complaints system. The remit was extended in 2001 to consider complaints by offenders under the supervision of the Probation Service and was accordingly renamed the Prisons and Probation Ombudsman. The remit was further extended in 2006 to cover complaints by those in immigration detention. In addition, in April 2004, the office acquired a new function to investigate all deaths of those in prison custody, of residents of probation approved premises and of detainees in immigration removal centres or subject to managed escort.

Following consultation with the Ombudsman, the Secretary of State may commission the Ombudsman to undertake special investigations outside his formal remit.

The Ombudsman's terms of reference are published on his website (www.ppo.gov.uk) and in his annual report.

The Ombudsman is wholly independent of the National Offender Management Service Agency (including HM Prison Service and the Probation Service), the UK Border Agency and the Youth Justice Board.

2.2. Independence

The principle of operational independence is fundamental to the work of the Ombudsman and to the relationship with the MoJ. The Ombudsman operates entirely independently in discharging his remit, as set out in the published terms of reference. This includes deciding the appropriate means of conducting investigations, assessing evidence, reaching conclusions and communicating the outcomes of investigations. In carrying out their functions, officials in the MoJ will have due regard to the Ombudsman's operational independence.

2.3. Aims and objectives

The Ombudsman's published statement of purpose is as follows:

“Within one united office, to deliver two services that contribute to just and humane penal and immigration detention systems:

To provide prisoners, those under community supervision, and those in immigration detention with an accessible, independent and effective means to resolve their complaints.

To provide bereaved relatives, the Prison Service, the Probation Service, the Border and Immigration Agency, and the public at large, with timely, high-quality investigations of deaths in prison custody and other deaths in remit.”

The outcomes of the investigatory function provided by the Ombudsman contribute to the MoJ's regulatory framework and to the MoJ's Departmental Strategic Objective 4: A more effective, transparent and responsive criminal justice system for victims and the public.

2.4. What is delivered

The Ombudsman's office investigates complaints and fatal incidents in accordance with its terms of reference. The Ombudsman replies in writing to all those whose complaints have been investigated and advises them of any recommendations made. In some cases, he issues a formal report. All fatal incidents investigations result in a formal report.

As well as producing his annual report, the Ombudsman publicises the office and disseminates general learning from investigations. The Ombudsman may also issue other reports in line with his terms of reference.

2.5. Organisation, size and location

The Ombudsman's main premises are in London and a small facility is used in Manchester. In April 2009, the Ombudsman's office had over 100 staff and an

annual budget of £5.8 million. This budget does not include provision for services provided by the MoJ or Home Office as the former sponsoring department. The office's notional share of these central costs was estimated in 2007/08 as £2.1m. Approximately 90% of staff are directly involved in investigations. The remaining staff support the general running of the office.

2.6. Status of the office holder

The Ombudsman is an administrative appointment but the Government is committed to putting the Ombudsman on a statutory basis at the first suitable legislative opportunity. A review of previous draft legislation to put the Ombudsman on a statutory basis is in progress. The Ombudsman's future aspiration is for his office to have greater administrative independence from the MoJ although there is no agreement to this effect with the Government or the MoJ.

The Ombudsman is appointed by, and reports directly to, the Secretary of State for Justice.

In future candidates for the post of Ombudsman may be subject to scrutiny by Parliamentary select committee prior to appointment. Such pre-appointment hearings will be non-binding but the Government will consider the committee's conclusions and recommendations before deciding whether to proceed with the appointment.

3. Ministry of Justice, sponsorship and other relationships

3.1. Relationship with the Ministry of Justice

The Ombudsman is sponsored by the MoJ which provides resources for the operation of his office. The Ministry provides some support services and this framework document sets out the principles governing how these services are provided.

3.1.1. Secretary of State for Justice

The Secretary of State is accountable to Parliament for matters relating to the discharge of the Ombudsman's remit and for laying the Ombudsman's annual report before Parliament.

The Ombudsman will meet from time to time with the Secretary of State and Ministers as necessary to discharge his duties.

The Ombudsman provides appropriate advice or information to the Secretary of State and/or Ministers and their officials where required.

The Secretary of State sets the terms of reference for the Ombudsman. The Secretary of State will consult the Ombudsman about changes to the terms of reference.

The Secretary of State will approve the framework document and any significant changes and revisions.

3.1.2. Permanent Secretary

The Permanent Secretary is designated as the departmental sponsor for the office and is responsible for:

- advising the Secretary of State on matters relating to the Ombudsman and his office;
- providing a budget to the Ombudsman, as agreed between them, to enable the Ombudsman to achieve his objectives and targets as set out in his business plans;
- providing support services which are not supplied direct by the office on matters such as human resources, IT, finance and procurement;
- providing assurance, as the Ministry's Accounting Officer, that the Ombudsman's office operates within the usual rules predominantly contained within 'Managing Public Money';
- monitoring the corporate performance of the Ombudsman's office.

The Ombudsman and the Permanent Secretary will meet from time to time as necessary to discharge their duties.

3.1.3. Director General and sponsorship team

The Permanent Secretary will delegate specific functions to the Director General of the Criminal Justice Group who is supported by senior officials and a sponsorship team. These functions include sponsorship, which covers the policy and administrative arrangements including funding of the Ombudsman's office.

The principal contact for the Ombudsman at official level will be the Director General of the Criminal Justice Group, supported by the sponsorship team in day-to-day contact with the Ombudsman and his staff.

The Ombudsman and the Director General of the Criminal Justice Group will meet at least quarterly. These meetings will allow discussion of general issues identified by the Ombudsman in the course of his investigations, any issues relating to protocols and any other issues as appropriate. In addition, the annual report, business planning and budget setting will be discussed as required during the annual cycle. Other meetings will take place as necessary.

3.1.4. MoJ generally

The MoJ will consult the Ombudsman over policy proposals which are relevant to his work and will invite the Ombudsman's views on the development of strategy and policy where appropriate.

The Ombudsman and his staff have day to day contact with those providing support services on an operational basis. Where policy issues arise regarding service provision, the sponsorship team should normally be contacted.

3.2. Relationship with relevant MoJ Agencies

The Ombudsman and his staff have regular liaison meetings with the organisations whose work he oversees, namely the NOMS Agency (including

HM Prison Service and the Probation Service) and the UK Border Agency of the Home Office (see 3.3.3).

As well as matters arising from individual investigations, the Ombudsman and the relevant agencies may discuss any issues of general significance arising from investigations as well as any policy developments in the agency that are relevant to the Ombudsman's work. The agencies should be informed of any proposed changes to the Ombudsman's practice which are relevant to them.

Reports of the Ombudsman's investigations (including those which are in the form of a letter to the complainant), together with recommendations, are copied to the relevant agency. The procedures for providing reports to agencies in draft and for responding to recommendations are set out in the Ombudsman's terms of reference.

3.3. Other relationships

3.3.1. Relationship with Parliament

The Secretary of State's accountability to Parliament in relation to the Ombudsman is described in section 3.1.1.

The Ombudsman will provide information to MoJ officials (normally the sponsorship team) as is reasonable to respond to Parliamentary Questions and correspondence and for other purposes.

Members of Parliament and Peers may deal direct with the Ombudsman on matters relating to his responsibilities.

The Permanent Secretary and the Ombudsman are both liable to be summoned before the Public Accounts Committee or Justice Select Committee in connection with their respective responsibilities.

The remit of the Parliamentary Commissioner for Administration includes most cases handled by the Ombudsman.

3.3.2. Relationship with other arm's length bodies

Consistent with Data Protection legislation, the Ombudsman may share information with relevant bodies, such as the Inspectorates of Prisons and Probation and the Independent Police Complaints Commission, and may work jointly with them where this is considered to be of mutual benefit.

Where the remits or operating procedures of other bodies overlap with those of the Ombudsman, protocols will be developed and agreed between the Ombudsman and the relevant body.

3.3.3. Relationship with other government departments

The Ombudsman's office has also agreed working relationships with the UK Border Agency of the Home Office. The agreed procedures have been formalised in the respective organisations' internal instructions.

3.3.4. Relationship with international bodies

The Ombudsman has no formal links to international bodies but provides reports and other information as appropriate.

3.3.5. Relationship with the media

The Ombudsman may use the services of the MoJ Press Office to communicate to the media or may make separate arrangements. The MoJ Press Office currently provides media relations support to the Ombudsman. Further details are set out at 7.7 below and in a protocol on communications.

If any matters being dealt with are of a particularly sensitive or controversial nature, the Ombudsman would be expected to inform the Secretary of State or the Departmental Sponsor.

The Ombudsman will provide information in response to reasonable requests from the MoJ Press Office.

3.3.6. Relationship with the public

The Ombudsman may respond to enquiries from the public as he sees fit.

3.3.7. FOI and data protection requests

The Ombudsman will operate in accordance with MoJ policies on freedom of information and data protection and any such requests are to be handled in line with those procedures. Consistent with MoJ policies, the Ombudsman will develop his own policy on disclosure of material collected during investigations.

4. Planning and performance

4.1. Business and corporate planning framework

The Ombudsman produces an annual business plan, which is developed independently of MoJ plans and targets. The plan identifies service targets for the coming year, and sets out the Ombudsman's improvement priorities and planned development activities.

The business plan is published on the Ombudsman's website.

4.2. Risk Management

The Ombudsman will be responsible for putting in place arrangements to manage risk to his business. Significant risks will be shared with the sponsorship team which will then report them to the CJ Group Risk Manager, who has responsibility for co-ordinating and reporting CJG strategic risks to the Executive Board and MoJ Corporate Management on a quarterly basis.

4.3. Performance monitoring and reporting

Performance will be monitored through the Ombudsman's annual report to the Secretary of State which he lays before Parliament.

4.4. Complaints against the Ombudsman

The Ombudsman operates an internal procedure in respect of complaints about the service provided by the Ombudsman and his office to users. If complaints are made direct to the MoJ about the service provided by the PPO they will be referred to the Ombudsman to be dealt with in accordance with his office's internal procedures. The Ombudsman is the arbiter of all such complaints.

The Parliamentary Commissioner for Administration may subsequently investigate complaints about perceived maladministration by the Ombudsman.

5. Finance & Procurement

5.1 Finance, audit and assurance

The Permanent Secretary of the MoJ is the Principal Accounting Officer. The annual budget for the Ombudsman's office, and day to day responsibility for it, is formally delegated to the Ombudsman. The relevant roles and responsibilities pertaining to these appointments together with the provision of services and relevant detailed processes will be specified in a separate protocol.

On behalf of the Permanent Secretary, the Director General of the Criminal Justice Group is charged with delegating and monitoring the Ombudsman's resource, providing assurance on effective financial management and value for money, and compliance with MoJ systems and processes.

The Ombudsman will comply with the financial cycle and timetable of the MoJ. This does not affect the operational independence of the Ombudsman but is the mechanism by which the MoJ agrees plans and resource, delegates resource, and monitors MoJ finances throughout the financial year. There will be an opportunity for discussion between the Ombudsman and the Director General of the Criminal Justice Group each year before the annual budget is determined.

The Prisons and Probation Ombudsman may be required to provide an annual assurance regarding its System of Internal Control.

Services provided by the MoJ, through the Criminal Justice Group, to the Prisons and Probation Ombudsman for finance purposes include:

- a finance system including prompt payment for goods and services, financial reports, and relevant financial information; and
- a payroll system.

The Ombudsman, whilst not requiring internal or external audit services for his own purposes, is expected to provide access to either, including the NAO for the purpose of specific audit activity or compiling Value for Money reports, should the need arise.

5.2 Procurement

The MoJ will provide procurement services as necessary to enable the Ombudsman to fulfil his functions whilst maintaining his operational independence. The specific responsibilities of the MoJ and the Ombudsman will be the subject of a separate protocol.

6 Human Resources

6.1 Staff

The Ombudsman may appoint such staff as he thinks necessary to discharge his functions, subject to budgetary constraints.

Staff appointed by the Ombudsman are civil servants, employed by the MoJ, and are subject to MoJ terms and conditions. Variations may only be made to those terms and conditions if permitted by a protocol setting out the Ombudsman's and the Ministry's freedoms and obligations on matters relating to staff.

The Ombudsman may also recruit staff on loan or secondment for an agreed fixed term from an organisation outside the MoJ. Such staff will be subject to the terms and conditions of their parent organisation.

The Ombudsman may decide the best means of recruitment of staff, whether this be through the MoJ's or the Civil Service's internal arrangements or through external recruitment.

The Ombudsman may also make use of fee paid contractors or temporary agency staff who are employed by an external organisation. They are not civil servants. The Ombudsman may also employ casual staff and others on fixed term appointments.

6.2 Provision of HR services

The Ombudsman will look to the MoJ for its HR services. The provision of these services to the Ombudsman is described in the protocol which sets out the HR services provided by the MoJ to the Ombudsman and details the responsibilities of both parties in relation to these services and provisions for reviewing the document.

The services covered by the protocol are as follows:

- Pay and Benefits, including Pensions;
- Recruitment;
- Learning and Development;
- Performance Management;
- HR Policy Advice and Guidance;
- Management Information;
- Workplace Support;
- Employee Relations.

7 Other Corporate Services

7.1 General approach

Protocols will be agreed between the Ombudsman and the MoJ covering services currently provided by the Ministry to support the effective operation of the office. These will include the provision of human resources, IT, finance, communications, accommodation and office facilities. The protocols set out the levels of service that are required of the MoJ, the obligations which are put on the Ombudsman and his staff to support effective delivery of the services, and specific areas where the Ombudsman has been granted the freedom to operate his own policy or procedure.

With the prior agreement of the MoJ, the Ombudsman will be free to opt out of particular services provided by the Ministry if this can be justified on the grounds of cost effectiveness, improving overall performance or where the provision of a particular service by the MoJ could be seen as representing a conflict of interest. Further details will be contained within specific corporate service protocols.

7.2 Information and Communication Technology

The Home Office currently provides IT and telephony services for the Ombudsman's office. The feasibility of transferring responsibility for the provision of such services to the MoJ is under review. A protocol or protocols will be drawn up depending on the outcome of the review.

MoJ provides library services to the Ombudsman's office.

7.3 Accommodation

The MoJ has responsibility for the strategic provision of accommodation to enable the Ombudsman to fulfil his functions. The day to day management of accommodation and facilities will be the subject of a separate protocol.

7.4 Security and Business Continuity

MoJ will provide corporate advice, assurance and specialist support on all issues relating to physical, personnel, information and personal security as well as business continuity issues. Specific details, including on the provision of a national security vetting service for Ombudsman staff, will be included in a detailed protocol.

7.5 Legal Services

The Cabinet Office and Central Advisory Division in Treasury Solicitors currently provide legal services for the Ombudsman for which there is a service level agreement.

7.6 Health and Safety

The MoJ will coordinate compliance with occupational health and safety standards. The Ombudsman will retain management responsibility for implementation of, and compliance with, health and safety standards within his business area. The specific responsibilities of the MoJ and the Ombudsman will be the subject of a separate protocol.

7.7 Communications

The arrangements between MoJ and the Ombudsman for the delivery of effective communications services (including: media support, digital communications, brand management, strategic advice and support, internal communications and stakeholder management and editorial design and publication service) are detailed in a protocol on communications.

7.8 Websites

The content of the website is determined by the Ombudsman. The Home Office currently hosts the website but this responsibility will pass to the MoJ during 2009. The arrangements may be set out in a protocol.

November 2009