

22 September 2015

Alastair Ross MLA  
Chair, Committee for Justice  
Room 355  
Parliament Buildings  
Stormont  
BELFAST  
BT4 3XX

Dear Chair

I have noted the current discussions relating to the arrangements for the handling of prisoner complaints in Northern Ireland. The Office of the Ombudsman for Northern Ireland suggested it might be helpful to write to the Committee to offer experience from the Scottish perspective. I hope this information is helpful in informing your Committee's discussions on progressing this issue.

As Scottish Public Services Ombudsman (SPSO), my office has responsibility for reviewing all complaints relating to prisons, looking at both general prisons complaints and those about prisoner healthcare. Complaints about prisons (not including healthcare) represented a not insignificant 7% of the total complaints SPSO received in 2013/14. I provide below some background to the SPSO's role in prisons complaints. I also refer to the SPSO prison complaints report for 2013/14, which is useful in understanding the issues arising from the complaints that are escalated to us and how we handle them. This is available at <http://www.spsso.org.uk/news-and-media/ombudsman-publishes-annual-prisons-complaints-report>

### **The Scottish Public Services Ombudsman (SPSO) and prisoner complaints**

The SPSO is the independent body that handles complaints from members of the public about devolved public services in Scotland. We are the final stage of complaints handling for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water and sewerage providers, the Scottish Government and its agencies and departments and most Scottish public authorities. Underpinning our role is the principle of a 'one-stop-shop' and a streamlined landscape of external independent review of complaints about public services.

As part of the agenda of public service reform - and the Crerar and Sinclair recommendations for simplification and efficiency in complaints handling - the SPSO took on a number of additional areas of jurisdiction over recent years, including the role of the Scottish Prisons Complaints Commission (following its abolition in 2010) and the role of Scottish Ministers as the stage of last resort for prison health complaints (following the

transfer of healthcare responsibilities to the NHS in November 2011). We are, therefore, now the body with responsibility for reviewing all complaints relating to prisons, looking at complaints once they have completed the internal complaints processes.

In addition to our investigation of complaints from prisoners, we engage with the Scottish Prison Service (SPS) and individual prisons to ensure that we are sharing information from complaints learning effectively. We visit prisons to familiarise ourselves with the environment in which prisoners live and staff work, and to help inform how we ensure a good level of awareness of our service, despite the low levels of literacy in prisons. Through our training unit, we have also delivered tailored training to support prison staff in handling complaints. Our Complaints Standards Authority has worked with the SPS from an early stage to ensure that local complaints processes are robust, streamlined, simple and in line with our standards for best practice in the wider public sector.

All prisoners can complain to the SPSO and we can also take complaints from visitors and relatives. Our office is readily accessible, within the constraints of the prison system, with prisoners frequently writing and calling my office, using our freephone number. We have developed leaflets and posters to help prisoners understand how to complain and what we can do with complaints, ensuring that these are particularly clear, understandable and accessible given the limited reading and writing ability of many in the prison population. We also publicise our Freephone helpline very clearly in the information provided for prisoners, to make sure they know that they can easily speak to us about their complaint.

**Our impact and key trends in our figures - volumes and issues**

In our most recent prison sector annual report, relating to 2013-14, our third full year of handling prisons complaints, we provide analysis of the issues raised by prisoners and the themes and learning we have seen. As you can see this includes case studies demonstrating our impact for individuals. As you can see from the table below, the top subjects of complaint include communication and records; security, control and progression; privileges and prisoner property; health, welfare and religion; complaints about prison discipline. Our report also highlights where we think the complaints process is working well and where, in our experience, prisoners are encountering problems. Where we see something wrong we make recommendations to ensure that all prisons can learn from this, and some of our recommendations are illustrated in the prison complaints report. We have a good and constructive relationship with the Scottish Prisons Service who work closely with my team to ensure learning and improvement as a result of our complaints, similar to the way in which we work with other public service sectors and using the tools, training resources, guidance and standards we have developed for the public sector as a whole.

In most of the cases we uphold, the main issue relates to failure to correctly follow the procedures set out in the prison rules, which is something reflected in the analysis and case studies in our annual report on prisons complaints.

***Top subjects of prison complaints received 2013/14***

<b>Subject</b>	<b>Complaints received</b>	<b>As % of all prison complaints</b>
Communication and records	57	18%
Security, control and progression	55	18%
Privileges and prisoner property	51	16%
Health, welfare and religion	33	11%
Physical and personal environment	26	8%
Discipline	25	8%
Work, education, earnings and recreation	25	8%
Admission, transfers and discharge	15	5%
Leave from prison (including home detention leave)	11	4%

### **Prisoner healthcare**

Prisoner health complaints are not included in the figures in our sectoral report for complaints received about prisons - instead we record them in the complaint numbers for the health sector. We first received complaints about healthcare in prisons during 2011/12, so this is the second full year for which we have statistics for these. Responsibility for this was transferred, in part, to ensure appropriate external independent review, with the previous arrangements being the responsibility of Scottish Ministers and the SPS. The table below shows the subjects and numbers of prison health complaints we received.

***Top subjects of prison healthcare complaints received 2013/14***

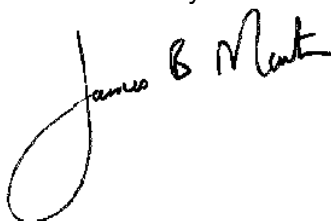
<b>Subject</b>	<b>Complaints</b>
Clinical treatment/diagnosis	104
Appointment and admissions/waiting lists	8
Complaints handling	8
Communication/staff attitude/dignity/confidentiality	6
Policy/administration	2
Nurses/nursing care	1
<b>Total</b>	<b>129</b>

### **Deaths in custody**

Deaths in prisons custody are not within the SPSO's remit. In Scotland, there is a mandatory requirement to hold a fatal accident inquiry for deaths in "legal custody" which includes deaths in prison or the death of a prisoner in another setting (a hospital for example). There is presently legislation before the Scottish Parliament to update the current legislation, which dates back to 1976, but there is no suggestion this mandatory requirement be changed. Further information on this is available from this a link to the Scottish Parliament's Bill page <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/87332.aspx>

As I say, I hope this information is useful in informing the current debate in Northern Ireland on suitable arrangements for the handling of prisoner complaints in Northern Ireland. Please let me know if there is anything further that would assist the Committee.

Yours sincerely



Jim Martin  
Ombudsman