

Minister's Office Block B,
Castle Buildings
Stormont Estate
Ballymiscaw
Belfast
BT4 3SG
Tel: 028 90522744
private.office@dojni.x.gsi.gov.uk

Our ref SUB/1333/2015

Christine Darrah
Clerk to the Committee for Justice
Northern Ireland Assembly
Parliament Buildings
Stormont Estate
Belfast
BT4 3XX

24 November 2015

Dear Christine,

**JUSTICE (No. 2) BILL: TABLE OF SUMMARY EVIDENCE AND
PROPOSED DEPARTMENTAL AMENDMENTS TO PART 2**

Thank you for your letter of 12 November, in which you forwarded a table of summary evidence from the Committee in respect of Part 2 of the Justice (No 2) Bill and asked for comments by the Department on the issues raised. You also requested sight of proposed amendments prior to the attendance of officials to give oral evidence on this part of the Bill at the meeting scheduled for 26 November 2015.

I am pleased to advise that policy leads have reflected on the points raised in evidence and recorded in the table and offered responding comments under the 'Department of Justice response' column, as requested.

To assist with reading the Department's response, Members may wish to note that references to the Prisoner Ombudsman refer to the current office and office holder. Prison Ombudsman refers to the proposed new Office provided for in the Bill.

The Department's input is hopefully self-explanatory so we do not propose rehearsing the points made in detail here in response to aspects of appointment, independence or title. We do, however, wish to draw your attention to a particular issue.

The Committee will have noted from the written submission from the Northern Ireland Human Rights commission (NIHRC), that the NIHRC has suggested it should be open to the Ombudsman to commence investigations of his own volition. The Minister believes that this issue would benefit from further discussion and has asked officials to raise this proactively with the Committee.

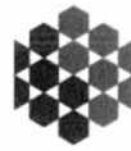
As currently drafted, clause 34 of the Bill enables the Department to refer any custody-related matter to the Ombudsman. If the Ombudsman has a concern on a custody-related matter, he can approach the Department with his concern and any subsequent investigation could be completed under these provisions. The Ombudsman and the Department are satisfied that this is the appropriate approach, but the Minister is keen to hear the views of the Committee on this aspect of the Bill.

Departmental officials will be happy to discuss the matter further with the Committee during oral evidence at the meeting on 26 November and will be happy to take the Committee's views on board.

Officials appearing before the Committee at its meeting on 26 November 2015

The officials who will be in attendance for the meeting on 26 November are:

- Rosemary Crawford (Deputy Director, Policing Policy and Strategy Division);



- Anne McConkey (Head of Probation and Prisoner Ombudsman Branch);
- Michael Meehan (Probation and Prisoner Ombudsman Branch); and
- Graham Walker (Head of Criminal Law Branch and Justice (No 2) Bill Manager).

Amendments to Part 2 of the Bill

I understand that the Committee would welcome sight of the text of any proposed amendments prior to taking evidence from officials. The Department proposes to bring forward three amendments to Part 2 of the Bill. The proposed text is attached at Annex A.

The amendments include two changes offered in response to suggestions made by the Attorney General at the time of the Bill's Introduction. These relate to the creation of a general power to defer investigations where the Ombudsman considers it necessary to do so; and an amendment to add the Attorney General to the list of bodies to which protected information may be disclosed. The third amendment arises from discussions with the Committee during the Prisoner Ombudsman's oral evidence session to standardise the requirement of the Ombudsman to inform police of a suspected criminal offence as part of any investigation he is conducting rather than just as part of an investigation into a death in custody.

Remaining tables

The remaining tables on Parts 1, 3 and 4 of the Bill are in the process of being finalised. These will be returned under separate cover, together with the text of the remaining proposed Departmental amendments, in advance of the appearance of officials before the Committee on 3 December to speak to these parts of the Bill.

As discussed and agreed yesterday the Department's proposed amendments to the Firearms (Northern Ireland) Order 2004 are also being finalised and will be shared with the Committee ahead of this week's meeting.

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice
www.dojni.gov.uk

I trust this is helpful, and please do not hesitate to get in touch if you have any queries.

A handwritten signature in black ink that reads "Tim Logan".

TIM LOGAN
DALO

Enc. Proposed Amendments
Table of Responses

PART 2: THE PRISON OMBUDSMAN FOR NORTHERN IRELAND

Part 2 of the Bill creates the office of Prison Ombudsman for Northern Ireland and sets out his main functions which are to deal with complaints, death in custody investigations and investigations requested by the Department. These functions are currently carried out by the Prisoner Ombudsman on a non-statutory basis. Detailed in the Bill are conditions for the eligibility of complaints, the circumstances in which an investigation may be initiated or deferred, reporting arrangements and provision for regulations to be made in relation to these matters.

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
General	Mid and East Antrim Borough Council states that the change of Prison Ombudsman from a non-statutory to a statutory footing provides an opportunity to assess the administrative support required to provide these services and consideration of relocation in the context of the utilisation of Ballymena Courthouse.	The Department welcomes Mid and East Antrim Borough Council's comments. It is intended that the new Office will perform the same functions as carried out by the current Prisoner Ombudsman. There are no plans to change the administrative support structure of the Office, or indeed to relocate from its current offices within the Justice estate.
Clause 28: The Prisoner Ombudsman for Northern Ireland	The NI Ombudsman supports placing the Prison Ombudsman on a statutory footing however outlines concerns regarding the cost implications of establishing the office as a separate entity, particularly when there is already a proposal for a new office of NI Public Service Ombudsman (NIPSO) which he believes	The Department welcomes the NI Ombudsman's support for the statutory footing. The Department considers that the proposed arrangements provide value for money.

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 28 creates the office of Prison Ombudsman as a corporation sole and, states the aims and outcomes expected of the exercise of the Ombudsman's powers.</p>	<p>would be an appropriate and cost effective legislative instrument for the establishment of a Prison Ombudsman e.g. through the NI Public Service Ombudsman Bill.</p> <p>The NI Ombudsman also highlights that the Prison Ombudsman's Office has a small staff and it will always be challenging to recruit and retain the level of expertise required to investigate the health aspects of deaths in prison custody and this also supports the argument for combining the Prison Ombudsman role with that of the proposed new office of the NIPSO.</p>	<p>The Department chose not to establish the Office as a separate Non Departmental Public Body, which means the Office can continue to avail of the Department's shared services (such as ICT, personnel and audit functions) and minimise administrative costs.</p> <p>The Prisoner Ombudsman has a current staff complement of 11 full time equivalent staff. This includes the Prisoner Ombudsman, Director of Operations, 4 Complaints investigators, 3 Death in Custody investigators supported by an administrative team of 2. If these functions were to be carried out elsewhere it is not apparent what savings if any might be possible.</p> <p>The Department has noted a lack of political support expressed to the idea of combining the complaints remit of the Prisoner Ombudsman within the remit of NIPSO in OFMDFM Committee discussions on the matter.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The NI Ombudsman, the Ombudsman Association and NIACRO all raise concerns regarding whether the office as currently proposed meets the requirements of independence – see more detailed comments under Schedule 3.</p>	<p>Additionally there is some concern that combining the remit might lead to slower timeframes or a dilution in the focus of dealing with prisoner complaints, which would be undesirable.</p> <p>The current staffing model in the Office works well and seconded civil servants have shown independence from Prison Service and the healthcare Trust. In addition, the Prisoner Ombudsman can recruit via the Interchange mechanism (in the same way as the NI Ombudsman). It is noted that most of the civil servants who join the Office already have investigative experience in other areas. The Prisoner Ombudsman notes the opportunities to refresh the staff pool from time to time is welcome.</p> <p>The Department is satisfied the arrangements proposed for the new Office provide the requisite independence.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
		<p>The new Prison Ombudsman will continue to operate completely separately from the prisons structure and hierarchy and will have no involvement in the running of prisons.</p> <p>The Bill provides the Prison Ombudsman with formal statutory independence.</p> <p>His Office will operate independently of government interference or control.</p> <p>The Ombudsman will be recruited via an openly advertised process, based on the merit principle, for a period not exceeding seven years.</p> <p>Like the new Prison Ombudsman, the Police Ombudsman for Northern Ireland and the Chief Inspector of Criminal Justice Inspection receive grant-in-aid from the Department of Justice and are appointed by members of the Executive.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 29: Main functions of the Ombudsman</p> <p>Clause 29 lists the main functions that the Ombudsman must carry out, namely dealing with complaints, investigating deaths in custody and carrying out any other investigations as may be requested by the Department of Justice</p>	<p>The Prisoner Ombudsman highlights that the Bill will provide, for the first time, a statutory basis for the Prison Ombudsman to investigate cases of death in custody. He states that this is a duty that the state is required to fulfil under Article 2 of the European Convention on Human Rights and it could be deemed not to be doing that currently without a statutory basis for investigations.</p> <p>The Prisoner Ombudsman outlines that there is invariably a healthcare dimension to be considered in death in custody investigations. He states that the Bill does not propose to change the existing arrangements whereby the Ombudsman investigates healthcare matters on a non-statutory basis under the provisions of a protocol with the South Eastern Trust. The Ombudsman states that the Trust regards the Ombudsman's role as a duplication of its Serious Adverse Incident process which has a statutory basis. The Ombudsman outlines that this arrangement poses considerable challenges for the Ombudsman's Office at operational level – essentially it delays access to healthcare information and to Trust staff for interview. The Ombudsman is in ongoing discussion with the Trust about the arrangement and it is expected to be addressed in greater detail in the Regulations that will underpin the Bill.</p>	<p>The Department agrees that this is an important point and notes that placing the Prison Ombudsman on a statutory footing will enhance the independence and perceived impartiality of the Office.</p> <p>The Department believes that the ongoing discussions between the Prisoner Ombudsman and the South-eastern Trust are essential to progress important operational aspects, and these do not require legislation.</p> <p>Officials are continuing work, in conjunction with the Prisoner Ombudsman, with colleagues from the Trust to review the current protocols for information sharing in place for Death in Custody Investigations. The existing protocol details the arrangements to provide the Prisoner Ombudsman with appropriate access to prison healthcare record (SEHSCT) for the purpose of Death in Custody investigations.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The NI Ombudsman does not accept that investigation of deaths in custody is a suitable role for the Prison Ombudsman. In Scotland it is undertaken by the Procurator Fiscal and in Ireland by the Inspector of Prisons. He believes this should be dealt with by the Police Ombudsman for NI or the Coroner's Office. The NI Ombudsman suggests that the dual role of investigating maladministration and deaths in custody requires broad skills which can be difficult to establish and retain in a small office. An option is to separate two functional areas as in the Scottish model. The Scottish Public Services Ombudsman deals with prisoner complaints and the Procurator Fiscal with deaths in prison custody. Deaths in custody could be dealt with by PONI or the Coroner. He suggests that maladministration should be dealt with by NIPSO so that investigative expertise for prisoner complaints can be developed.</p> <p>The NI Ombudsman highlights his role to investigate complaints of maladministration (including those which involve clinical judgement) in relation to the actions of all health and social care bodies etc including staff who provide prison healthcare.</p>	<p>Since the establishment of the Prisoner Ombudsman in 2005, feedback to the Office's Death in Custody reports from coroners and families and their representative has been mostly positive.</p> <p>It is noted that the proposal regarding the Police Ombudsman investigating deaths in prisons would require amending the existing legislation.</p> <p>The Department agrees that it is important to avoid any confusion or ambiguity around who investigates which type of complaints. We have discussed this matter with the Prisoner Ombudsman and his view is that for the persons who use the service, it is clearly set out who they should complain to.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>He also states that it is essential to avoid any ambiguity or confusion on the part of the prisoner, prison staff and Health and Trust staff by making it absolutely clear that the investigation of a prisoner complaint about the actions of SEHSCT health professionals are entirely the same as that provided to a member of the public and he is willing to meet again with DoJ and SEHSCT staff to clarify these issues.</p>	<p>Prisoners have access to the Office via a Freephone service and matters concerning healthcare complaints can be speedily redirected.</p> <p>Complaints forms for both the Prisoner Ombudsman and the Healthcare Trust are colour-coded for ease of use by prisoners and visitors.</p> <p>The Department notes that prisons are closed institutions and there is invariably a healthcare dimension to Deaths in Custody.</p> <p>In order for the State to adequately fulfil its Article 2 duty under the European Convention on Human Rights (ECHR) it is essential that investigators examine the interface between Prisons and the healthcare Trust.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The Ombudsman Association supports the principle that the body investigating deaths in custody in Northern Ireland should be on a statutory basis, and also supports the strengthening of independent redress for prisoners. However, it states that the body proposed in this Bill would not result in a body that those who currently use the Northern Ireland Ombudsman, or other ombudsman schemes, would recognise as an independent ombudsman.</p>	<p>The Department understands that the Prison Ombudsman would not be an Ombudsman as per the criteria applied by the Ombudsman Association, and notes there are other bodies titled “Ombudsman” who similarly do not meet the full criteria (e.g. Police Ombudsman for Northern Ireland and the Prisons and Probation Ombudsman in England and Wales).</p> <p>The Department considers that in all material ways the Prison Ombudsman meets the Cabinet Office requirements i.e. independence from those who the Ombudsman has the power to investigate; accessibility; effectiveness; fairness and public accountability.</p> <p>The Department notes that the Prisoner Ombudsman is recognised by relevant stakeholders in Northern Ireland as an independent Ombudsman with a clear function regarding deaths in prison custody. The Office’s use of Clinical Reviewers adds an important independent dimension to such investigations.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>NIACRO welcomes the inclusion of investigating deaths in custody in the stated main functions of the Ombudsman. It recommends the scope of this remit is extended to juvenile custody.</p> <p>NIACRO recommends that handling complaints and investigating issues or deaths relating to the Youth Justice Agency, Juvenile Justice Centre and Probation Board should also be incorporated into the Prison Ombudsman role.</p> <p>NIACRO also recommends that the functions are extended to include investigations into near deaths in custody and that this is reflected in the Bill. (See specific comments under clauses 30 and 32)</p>	<p>The Safeguarding Boards Case Management Review Process within juvenile custody already covers this function. The proposals in the Bill will allow for the Minister to request the Ombudsman to undertake additional investigations if he considers there is a need to do so.</p> <p>There are already complaints mechanisms in place for each of these bodies and complaints can be made to the Northern Ireland Ombudsman if individuals remain dissatisfied. The Department has no plans to amend the powers of the new Prison Ombudsman to include these bodies.</p> <p>The Prisoner Ombudsman currently investigates near deaths in custody at the Department's request under the arrangements detailed in the "Northern Ireland Prison Service Suicide and Self harm prevention policy 2011".</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The NI Human Rights Commission highlights that the Bill currently does not allow for the Ombudsman to perform a proactive role in investigating matters of systematic concern and advises that it should be amended to provide the Prison Ombudsman with the power to carry out investigations on his or her own initiative.</p>	<p>The Department considers that such investigations can be addressed in future by a request from the Minister to the Prison Ombudsman to carry out an investigation under clause 34.</p> <p>The Department has undertaken to legislate for the “as is” position. If the Ombudsman has a concern on a custody-related matter he can approach the Department with his concern and any subsequent investigation could be completed under these provisions.</p> <p>The current Ombudsman and the Department are satisfied that this is workable and proportionate.</p> <p>However, the Department would welcome the Committee’s views on the proposal and will be happy to discuss and consider the matter further.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The NIHRC notes that the Public Services Ombudsman Bill proposed a power for the Public Services Ombudsman to investigate on his or her own initiative where there is reasonable suspicion of systemic maladministration or systemic injustice, subject to a number of procedural matters.</p> <p>The NIHRC also highlights that International Human Rights law requires that prisoners be treated with dignity and have access to an effective remedy where their human rights have been abused.</p> <p>The Commission states that the Bill does not place a specific obligation on the Ombudsman to ensure the accessibility of the complaints procedures, and, noting the high proportion of prisoners with mental health problems and the low levels of literacy amongst the prison population, recommends the inclusion of an additional function within Clause 29 to provide that the Ombudsman must promote understanding and awareness of its complaints procedures to ensure they are accessible to all prisoners.</p>	<p>The Prison Ombudsman is one element of a wider prison oversight architecture which includes Criminal Justice Inspection and Her Majesty's Inspectorate of Prisons who, given economies of scale, perform thematic investigations.</p> <p>In contrast to these organisations the Ombudsman's investigations relate to individual cases.</p> <p>The Department is satisfied that the provisions of the Bill are compliant with Article 2 of the European Convention on Human Rights (ECHR).</p> <p>The Ombudsman understands the dynamics of the client base and tailors his communication to meet their needs and the Department does not consider that it is necessary to include such an obligation in the primary legislation.</p> <p>The Department notes the Office is easily-accessible as Freephone and Freepost services are provided for prisoners.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
		<p>In addition, the Office undertakes substantial engagement with prisoners via a biannual newsletter, the annual report and foreign national prisoner fora.</p> <p>The recently published Review of Prisoner Ombudsman Complaints-handling reported a positive and practical Complaints Handling Scheme within the Office.</p>
<p>Clause 30: Complaints</p> <p>Clause 30 requires the Ombudsman to investigate a complaint to which the clause applies. The Clause sets out who may bring a complaint and allows a person to be entitled to complain on behalf of another person who has died or is unable to act.</p>	<p>NIACRO recommends that handling complaints and investigating issues or deaths relating to the Youth Justice Agency, Juvenile Justice Centre and Probation Board should also be incorporated into the Prison Ombudsman role.</p>	<p>The Department notes that there are already complaints mechanisms in place for each of these bodies and complaints can be made to the Northern Ireland Ombudsman if individuals remain dissatisfied.</p> <p>The Safeguarding Boards Case Management Review Process within juvenile custody includes procedures for investigation of deaths in the Juvenile Justice Centre. The proposals in the Bill will allow for the Minister to request the Ombudsman to undertake additional investigations if he considers there is a need to do so.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>NIACRO recommends that there should be a mechanism to ensure the principle of timeliness is upheld and time sensitive complaints are addressed quickly and appropriately.</p> <p>NIACRO is concerned that some complaints may be disregarded without due consideration and states that, in determining if a complaint is “frivolous, vexatious or raises no substantial issue”, there must be robust accountability to ensure subjective views do not prevent complaints from being taken seriously. This could include clear guidelines for the Prison Ombudsman – developed in consultation with relevant stakeholders including voluntary and community organisations and service users – and an independent monitor for a selection of cases.</p>	<p>The Department therefore has no plans to amend the powers of the new Prison Ombudsman to include these bodies.</p> <p>The Department notes that Clause 28(4)(a) requires that matters are dealt with efficiently and effectively, and considers this addresses the issue. The regulations made under clause 30(13) will make provision for the timelines within which complaints must be handled. Guidance on timeliness is also provided in the Ombudsman’s Terms of Reference for Investigations.</p> <p>The Prisoner Ombudsman currently has included in his Terms of Reference guidance on how to deal with complaints which are “frivolous, vexatious or raises no substantial issue”. The Department notes, the Ombudsman has not determined a complaint as such since June 2013.</p> <p>The Ombudsman’s Terms of Reference are currently under review and will be redesigned with external input from the NI Ombudsman’s office.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>NIACRO also recommends that a list of types of complaints disregarded is kept and published in the annual report, and that this is made publically available.</p> <p>NIACRO recommends that, given the role of the Patient Client Council in handling complaints relating to healthcare in prisons, the complaints procedures of both the Prison Ombudsman and the Patient Client Council are harmonised and have effective two-way communication systems in place, to ensure that end users can access complaints procedures effectively and their concerns are heard by the appropriate body.</p> <p>NIACRO recommends that Clause 30 Subsection (3a) should explicitly include prisoners on remand in the list of persons entitled to make a complaint.</p>	<p>In addition, detail on how to make a complaint about the Prison Ombudsman is available from the Office and is viewable on its website. The Ombudsman’s annual report publishes details on ineligible complaints received.</p> <p>The Department does not consider this needs to be included as part of the legislation. The Patient Client Council advises and assists prisoners on how to complain about any part of health and social care, but is not itself a complaint handler. The Prisoner Ombudsman has procedures in place to redirect complaints about healthcare as necessary, and processes are clearly set out. The Prison Ombudsman will ensure that those procedures are clearly signposted for service users.</p> <p>The Department is satisfied that the provisions included in Clause 30 include remand prisoners. Also, Clause 39, Interpretation, states “prisoner” means any person held at a prison’.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The Prisoner Ombudsman has highlighted that prisoners' complaints about healthcare are not eligible for investigation by the Prisoner Ombudsman. Healthcare complaints must be raised with the SEHSCT and if a complainant is dissatisfied with the Trust response they can complain to the NI Assembly Ombudsman. The Prisoner Ombudsman highlights that this can be confusing for prisoners but is the existing statutory provision.</p> <p>The Prisoner Ombudsman also highlights that the process for referring concerns to the PSNI is outlined at Clause 32(6) in relation to deaths in custody but does not feature explicitly in the complaints clauses. He has clarified that he would apply the same process in relation to any concerns that arise during complaint investigations.</p>	<p>The Department agrees that it is important to avoid any confusion or ambiguity around who investigates which type of complaints. We have discussed this matter with the current Prisoner Ombudsman and his view is that for the persons who use the service, it is clearly set out who they should complain to.</p> <p>Prisoners have access to the Office via a Freephone service and matters concerning healthcare complaints can be speedily redirected.</p> <p>Complaints forms for both the Prisoner Ombudsman and the healthcare Trust are colour-coded for ease of use by prisoners and visitors.</p> <p>The Department considers there is merit in this additional point and has proposed an amendment accordingly.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 31: Report of investigation of complaint</p> <p>Clause 31 specifies that the Ombudsman must report in writing on the outcome of an investigation into a complaint to the Department and the complainant, and may report to any other person as the Ombudsman sees fit.</p>	<p>NIACRO recommends that reports are published on all investigations and that these are made publically available. It also recommends that the Office should have a duty to publish trends, analysis and other associated data on an annual basis, perhaps within the annual report provided for in Schedule 3, to ensure findings of investigations are not viewed in isolation but contribute to a broader understanding of issues in prisons and emerging themes, problems and solutions.</p> <p>NIACRO also recommends that the Prison Ombudsman's report of an investigation into a complaint and the subsequent response from the Department to the report recommendations are made publically available to ensure transparency and communicate the work of the Prison Ombudsman.</p>	<p>The Department is content that the provisions in Clauses 31 meet the requirements of the Office. They permit the Ombudsman to report to such persons as he may think fit.</p> <p>The Department considers that including in the legislation the requirement for the Prison Ombudsman to publicly report on all matters would be inappropriate.</p> <p>The detail of reporting is a complex and emotive issue for those involved in an investigation and the Ombudsman must weigh up many factors in his decision on what information to publish.</p> <p>Complaints reports will contain personal details that those affected are unlikely to want published.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 32: Investigations into deaths in custody</p> <p>Clause 32 provides that the Ombudsman must investigate the death of any person at a prison or in the custody of a prison officer outside a prison, and may also investigate a death if it appears to be linked to events which occurred while the deceased was being held at a prison or in such custody.</p>	<p>NIACRO recommends that, in relation to subsection (4), there should be a mechanism to ensure the principle of timeliness is upheld and time sensitive complaints are addressed quickly and appropriately.</p> <p>NIACRO recommends the scope of the Prison Ombudsman's remit is extended to juvenile custody.</p> <p>NIACRO also recommends that, as has been recent practice, the scope of the Prison Ombudsman to investigate near deaths in custody should be reflected in the Bill.</p>	<p>The Department notes that Clause 28(4)(a) requires that matters are dealt with efficiently and effectively.</p> <p>The regulations made under clause 30(13) will make provision for the timelines within which complaints must be handled.</p> <p>Guidance on timeliness is also provided in the Ombudsman's Terms of Reference for Investigations.</p> <p>The Safeguarding Boards Case Management Review Process within juvenile custody already covers this function. The proposals in the Bill will allow for the Minister to request the Ombudsman to undertake additional investigations if he considers there is a need to do so.</p> <p>The Prisoner Ombudsman currently investigates near deaths in custody at the Department's request under the arrangements detailed in the "Northern Ireland Prison Service Suicide and Self</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The NIHRC acknowledges that under Clause 36(4) it is a criminal offence for an individual to intentionally obstruct the Ombudsman in the carrying out of an investigation. However it considers that the effectiveness of the Ombudsman’s investigations would be augmented by empowering the office to compel witnesses for interview. This would be an easier way to ensure co-operation rather than having to pursue the matter through the courts.</p> <p>The Commission therefore recommends, in light of the emphasis the Committee of Ministers have placed on investigators having the power to compel witnesses to ensure an effective investigation, that consideration should be given to providing the Prison Ombudsman with a specific power to compel witnesses to assist in its investigations.</p>	<p>harm prevention policy 2011”. The Department considers that such investigations can be addressed in future by a request from the Minister to the Prison Ombudsman to carry out an investigation under clause 34.</p> <p>The Department has undertaken to legislate for the “as is” position. The Department considered that providing the power to compel would give the Ombudsman a power he does not currently have and would be a significant departure from what is currently exercised by the Office. Clause 36(4) provides that ‘a person who intentionally obstructs the Ombudsman in the carrying out of an investigation under this Part commits an offence’. This further strengthens the power and independence of the Office.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The NIHRC also notes that Clause 32 does not place a requirement on the Ombudsman to initiate an investigation within a certain time period although the Ombudsman is subject to a general requirement to act efficiently under clause 28 (4(a)). The Commission advises that, provided adequate resourcing is allocated, the statutory framework for the office of the Prison Ombudsman should provide prompt and expeditious investigations into deaths in custody.</p> <p>The Prisoner Ombudsman has highlighted that there is invariably a healthcare dimension to be considered in death in custody investigations. The Bill does not propose to change the existing arrangement whereby he investigates healthcare matters on a non-statutory basis under the provisions of a protocol with the SEHSCT and this arrangement poses considerable challenges for his office at operational level – essentially it delays access to healthcare information and to Trust staff for interview. The Ombudsman expects this to be addressed in greater detail in Regulations that will underpin the Bill.</p>	<p>The Department does not consider that the primary legislation is the best place to include such an obligation and will instead seek to set out time limits in the procedures for the Prison Ombudsman in Regulations.</p> <p>The Department believes that the ongoing discussions between the Prisoner Ombudsman and the South-eastern Trust are essential to progress important operational aspects, and these do not require legislation. Officials are continuing work, in conjunction with the Prisoner Ombudsman, with colleagues from the Trust to review the current protocols for information sharing in place for Death in Custody Investigations. The existing protocol details the arrangements to provide the Prisoner Ombudsman with appropriate access to prison healthcare record (SEHSCT) for the purpose of Death in Custody investigations.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 33: Report on investigation into death</p> <p>Clause 33 provides that where an investigation into a death has taken place and a report has been produced, certain authorities and persons must be given that report.</p>	<p>The NIHRC notes that Clause 33(7) will provide that Regulations “<i>may make provision enabling the Ombudsman to publish the whole or any part of a report</i>”. The Commission considers that the Ombudsman should have the ability of his or her own volition to publish a report in whole or in part and therefore recommends that clause 33(7) be amended to provide that: “<i>Regulations <u>must</u> make provision as to the procedures to be followed in relation to reports under this section and <u>must</u> in particular include provisions ...enabling the Ombudsman to publish the whole or any part of a report</i>”.</p> <p>NIACRO recommends that the Prison Ombudsman’s report of an investigation into a death in custody and the subsequent response from the Department to the report recommendations are made publicly available to ensure transparency and communicate the work of the Prison Ombudsman.</p>	<p>The Department is content that the provisions in clause 33 meet the requirements of the Office. They permit the Ombudsman to report to such persons as he may think fit. The Department considers that including in the legislation the requirement for the Prison Ombudsman to publicly report on all matters would be inappropriate.</p> <p>The detail of reporting is a complex and emotive issue for those involved in an investigation and the Prison Ombudsman must weigh up many factors in his decision on what information to publish. In the case of Death in Custody reports, the presumption will continue to be that the Ombudsman will publish (in a suitably redacted form), if agreement is obtained from those family members affected.</p>
<p>Clause 34: Investigations requested by the Department</p>		

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 34 provides that the Department can request the Ombudsman to carry out an investigation into any custody related matter.</p>		
<p>Clause 35: Report on investigation under section 34</p> <p>Clause 35 stipulates that where such an investigation has been carried out, a report must be produced and given to the Department and any other person the Department may request.</p>	<p>NIACRO recommends that the Prison Ombudsman's report of an investigation into any custody related matter requested by the Department and the subsequent response from the Department to the report recommendations are made publically available to ensure transparency and communicate the work of the Prison Ombudsman.</p>	<p>The Department is content that the provisions in Clauses 35 meet the requirements of the Office.</p> <p>The Department considers that including in the legislation the requirement for the Prison Ombudsman to publicly report on all matters would be inappropriate. The detail of reporting is a complex and emotive issue for those involved in an investigation and the Department in this case must weigh up many factors, and would be expected to take account of advice from the Prison Ombudsman in any decision on what information to publish. Reports may contain personal details that those affected are unlikely to want published.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 36: Powers of Ombudsman</p> <p>Clause 36 confers powers on the Ombudsman of entry into a prison, juvenile justice centre or any other premises occupied by the Department for the purposes of its functions under the Prison Act (NI) 1953.</p>	<p>The NI Ombudsman is concerned that the proposed information gathering powers for the Prison Ombudsman are incomplete and inadequate. He suggests that they need to be explicit and comprehensive powers to obtain and disclose information equivalent to those in the NI Public Service Ombudsman Bill.</p>	<p>The Department recognises that the new Office will not have as wide-ranging powers in relation to information gathering as have been proposed for the NIPSO.</p> <p>For example, the NIPSO Bill gives NIPSO the same powers as the High Court in relation to the attendance and examination of witnesses and the production of documents. It will be an offence to obstruct NIPSO in the course of his work.</p> <p>In the Justice (No.2) Bill we have sought instead to model the powers of the new Office on those available to the Criminal Justice Inspection Northern Ireland. This is still a strengthening of the current position in that Clause 36(4) provides that ‘a person who intentionally obstructs the Ombudsman in the carrying out of an investigation under this Part commits an offence’ and the Ombudsman may require that documents be produced for the purposes of an investigation.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>Information Commissioner’s Office notes the provisions relating to the Prison Ombudsman powers of entry and access to documents relating to any prescribed investigations. It would welcome further clarity on the arrangements for information sharing and disclosure in these circumstances, particularly relating to access to any Juvenile Justice Centre. In addition, it welcomes the clear limitations of disclosures as defined within the Bill in this context.</p> <p>The NIHRC states that, to ensure compliance with its Article 2 investigation obligation the Ombudsman must be able to secure relevant evidence concerning the incident leading to the death. The NIHRC states that it does not appear from Clause 36 that the Ombudsman will have powers to interview individuals who may have information relevant to an investigation.</p>	<p>The Department will liaise with the ICO in relation to information sharing and disclosure.</p> <p>The Department has undertaken to legislate for the “as is” position. The Department expects that there will continue to be cooperation with the Prison Ombudsman. We have recognised that providing such an additional power in legislation would not necessarily ensure that any unwilling witnesses would provide useful evidence.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Clause 37: Disclosure of information</p> <p>Clause 37 states that information collected by the Ombudsman during the course of an investigation is protected.</p>	<p>The NIHRC highlights that where circumstances emerge that a prisoner has been seriously ill-treated by a prison officer these should be addressed by way of a criminal investigation and notes that Clause 37 (1) empowers the Ombudsman to disclose information for the purposes of a criminal investigation.</p> <p>The NIHRC notes section 58 of the Police (NI) Act 1998 which provides that: <i>“If the Ombudsman determines that the report indicates that a criminal offence may have been committed by a member of the police force, he shall send a copy of the report to the Director [of Public Prosecutions] together with such recommendations as appear to the Ombudsman to be appropriate”</i>. The Commission advises that consideration should be given to inserting a clause into the Bill modelled on section 58 of the Police (NI) Act 1998 requiring the Prison Ombudsman to disclose to the PSNI where a report indicates that a criminal offence may have been committed.</p>	<p>The Department agrees and has proposed an amendment that will standardise the requirement of the Ombudsman to inform police of a suspected criminal offence as part of <u>any</u> investigation that he is conducting.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The Commission also suggests that Clause 37 be amended to permit disclosure of protected information to the NIHRC for the purposes of the exercise of any function of that office given it is empowered to carry out investigations and to enter places of detention with respect to an investigation and has carried out a number of investigations relating to the human rights of prisoners and regularly engages with the Prison Ombudsman.</p>	<p>The Department has suggested an amendment to include the Attorney General for Northern Ireland to the list of bodies under clause 37(2), to whom protected information can be disclosed, for the purpose of directing inquests.</p> <p>With regard to the NIHRC, the Department considers that the provisions in clause 37(2)(j) are sufficient to allow the Ombudsman to share relevant information, should he so consider it, with the Commission.</p> <p>In addition clause 31(6) provides that the Ombudsman may report on the investigation of a complaint to such persons as he may think fit.</p> <p>Under clause 33(2) he may report on the outcome of an investigation into a death in custody to any person he considers should receive the report.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Schedule 3</p> <p>Paragraph 1: Appointment</p> <p>This paragraph sets out that the Department appoints a person to be the Ombudsman. This will be achieved by way of a public appointment process.</p>	<p>The NI Ombudsman states that the appointment and funding of the Prison Ombudsman as proposed by DOJ under the Bill will not meet the requirements of independence. The NI Ombudsman suggests that the office should be created under separate statutory arrangements which ensure the appointment is not made by a member of the Executive.</p> <p>The Ombudsman Association is concerned that the Prison Ombudsman as currently proposed would not meet internationally recognised standards of independence and as drafted would not meet the Ombudsman Association's criteria for independence or the criteria of the International Ombudsman Institute. The Association's position is that with regard to Ombudsman schemes that cover public services they should be appointed by, and accountable to, a democratically elected body not a Government Minister or official.</p>	<p>The Department considers that making an appointment under separate arrangements outside the Department of Justice is an unnecessary requirement, and would have only a cosmetic benefit. It is the Department's view that the best fit for the Prison Ombudsman is with the Department of Justice.</p> <p>The Ombudsman will be recruited via an openly advertised process, based on the merit principle, for a period not exceeding seven years. Like the new Prison Ombudsman, the Police Ombudsman for Northern Ireland and the Chief Inspector of Criminal Justice Inspection receive grant-in-aid from the Department of Justice and are appointed by members of the Executive.</p> <p>The Northern Ireland Prison Service has no input into the appointment process. Whilst there is some variability in the tenure of similar office-holders in other jurisdictions, a single seven year term is considered an appropriate</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
		<p>period, and is in line with emerging European practice.</p> <p>The Department is satisfied the arrangements proposed for the new Office provide the requisite independence.</p> <p>The Bill provides the Prison Ombudsman with formal statutory independence, and sets out his remit.</p> <p>His Office will operate independently of government interference or control, and it is notable that there has been no suggestion of political interference from the Department since its inception in 2005.</p> <p>A number of operational protocols are in place defining the precise nature of the relationship between the Ombudsman and the Justice Department, and these help to maintain the independent operation of the Ombudsman.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The Ombudsman Association also points to the comparisons between the proposed Prison Ombudsman for Northern Ireland and the existing Prisons and Probation Ombudsman (PPO) that covers England and Wales. The latter body was also a ‘Complaint Handler Member’ of the Association for several years, as it did not meet the criteria of independence to be an Ombudsman Member, before it left the Association in 2014. It states that attempts to put the PPO on a statutory footing, on an almost identical basis to that for the proposed Prison Ombudsman for Northern Ireland, failed in the Westminster Parliament because of opposition in both the House of Commons and the House of Lords. Parliamentarians noted that the proposed body was more ‘departmental’ than ‘independent’.</p> <p>The Ombudsman Association highlights the UK Cabinet Office’s Guidance on Ombudsman Schemes’ for UK Government Departments which addresses when it is appropriate to use the title ‘ombudsman’. While the guidance is aimed at UK Government Departments rather than those in the devolved administrations it may be useful to note what it sets out as best practice considering the broad similarities between the two jurisdictions.</p>	<p>The Department notes the failed attempt to create a statutory footing for the Prisons and Probation Ombudsman. There have however been repeated Ministerial commitments by UK Ministers to place that office on a statutory footing.</p> <p>The Department understands that the Prison Ombudsman would not be an Ombudsman as per the criteria applied by the Ombudsman Association, and notes there are other bodies titled “Ombudsman” who similarly do not meet the full criteria (e.g. Police Ombudsman for Northern Ireland and the Prisons and Probation Ombudsman in England and Wales).</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>The Ombudsman Association proposes a number of solutions namely:</p> <ul style="list-style-type: none"> (i) Subsume the proposed activities into the soon to be established NIPSO and/or other existing bodies (ii) Make the proposed Prison Ombudsman for NI a truly independent ombudsman along the lines of the NIPSO (iii) Rename the proposed body using a title such as 'commissioner' which better reflects its status and relationship with the Department 	<p>The Department considers that in all material ways the Prison Ombudsman meets the Cabinet Office requirements i.e. independence from those who the Ombudsman has the power to investigate; accessibility; effectiveness; fairness and public accountability.</p> <p>The Department considered this option at the outset, however noted a lack of political support expressed to the idea of combining the complaints remit of the Prisoner Ombudsman within the remit of NIPSO in OFMDFM Committee discussions on the matter.</p> <p>The Department also had some concern that combining remits might lead to slower timeframes or a dilution in the focus of dealing with prisoner complaints, which would be undesirable.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>NIACRO states that the Prison Ombudsman role should be subject to an appointment process that is distanced from the Department of Justice to ensure independence, contrary to the appointment process outlined in Schedule 3 of the Bill.</p>	<p>The Prison(er) Ombudsman title, role and brand are now well-established in NI and the Department considers that it would be a mistake to forfeit the title unnecessarily.</p> <p>During oral evidence to the Committee, NIACRO in response to questions on the independence of the office indicated that they were “not un-content” with the current arrangements.</p>
<p>Paragraph 4: Resignation/Removal</p> <p>This paragraph provides that a person holding office may resign by providing written notice (para 4(1)). The Department may remove a person from office on certain specified grounds which are: ill-health,</p>	<p>NIACRO outlines that Schedule 3 (2d) states that the Ombudsman may be removed from office if that person has been convicted of a criminal offence. NIACRO recommends that this criterion is removed as it is both illogical and incompatible with a desistance approach. It states that this blanket policy contains no element of risk assessment or consideration of the relevance of the offence to the post. NIACRO also recommends that instead, a robust risk Assessment is applied to applicants with a criminal conviction to ensure fair recruitment and compliance with best practice.</p>	<p>The Department notes that this clause “permits” removal from office rather than requires it. In making a decision to remove, relevant factors can be considered, and we would expect this to include a robust risk assessment. There is no bar on an applicant with a criminal record applying for the post as Prison Ombudsman. The Department is content that it is appropriate that the Ombudsman may be removed from holding office if he has been convicted of a criminal offence. This is in line with</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>failure without reasonable excuse to discharge the functions of the office for a period of 3 months, bankruptcy, conviction of a criminal offence or otherwise inability, unfitness or unwillingness to perform the functions of the office (para 4(2)).</p>		<p>other legislation governing the Police Ombudsman and the Chief Inspector, Criminal Justice Inspection.</p>
<p>Paragraph 5 + 6:</p> <p>These paragraphs set out that the Department will determine the salary and allowances payable</p>	<p>The NI Ombudsman notes that the salary of the new office holder is paid by the Department which in his view again undermines the independence of the role.</p>	<p>The Department notes that this is a similar position to other bodies which operate independently of the Department, for example Criminal Justice Inspection, the Police Ombudsman.</p> <p>There has been no suggestion from the Prisoner Ombudsman that the Department has undermined the independence of his office through funding decisions.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>Paragraph 7:</p> <p>This paragraph provides that if there is a vacancy the Department can make a short term appointment of an acting Ombudsman</p>	<p>The NI Ombudsman states that, for the reasons he has already outlined re undermining the independence of the post, it is also inappropriate that an Acting Prison Ombudsman be appointed by the Department.</p>	<p>The Department considers that the arrangements provide the requisite independence.</p>
<p>Paragraph 8: The Ombudsman's Officers</p> <p>This paragraph sets out that the Ombudsman can appoint staff with numbers and conditions of employment subject to the approval of the Department.</p>	<p>The NI Ombudsman states that it is inappropriate that the Department has a role in relation to the approval of the terms and conditions of staff of the new body and that such arrangements do not meet the criteria of independence.</p>	<p>The Department considers that the arrangements provide the requisite independence.</p>
<p>Paragraph 11: Finance</p>	<p>The NI Ombudsman states that the appointment and funding of the Prison Ombudsman as proposed by DOJ under the Bill</p>	<p>The Department considers this unnecessary and that the</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>This paragraph sets out that the Department will provide the Ombudsman with such sums as appear to it to be appropriate for meeting the expenses of the office, and determine the terms and conditions of that financing.</p>	<p>will not meet the requirements of independence. The NI Ombudsman suggests that the office should be created under separate statutory arrangements which ensure the appointment is not made by a member of the Executive.</p>	<p>arrangements provide the requisite independence.</p>
<p>Paragraph 12: Annual Report</p> <p>This paragraph provides that the Ombudsman must prepare an annual report as soon as practicable after the end of the financial year on how the functions of the office have been carried out</p>	<p>NIACRO recommends that the Office should have a duty to publish trends, analysis and other associated data on an annual basis, perhaps within the annual report provided for in Schedule 3, to ensure findings of investigations are not viewed in isolation but contribute to a broader understanding of issues in prisons and emerging themes, problems and solutions.</p>	<p>The Department considers it unnecessary to stipulate in the primary legislation this requirement. The Ombudsman currently publishes a statistical analysis of complaints in his Annual Report, which includes information on those complaints received by establishment, ‘trending’ against previous years and provides context in terms of similar complaints</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
<p>(para 12(1)). The Department will lay a copy of the report before the Assembly and arrange for it to be published (para 12(2)).</p>	<p>NIACRO is concerned that some complaints may be disregarded without due consideration and states that, in determining if a complaint is “frivolous, vexatious or raises no substantial issue”, there must be robust accountability to ensure subjective views do not prevent complaints from being taken seriously. This could include clear guidelines for the Prison Ombudsman – developed in consultation with relevant stakeholders including voluntary and community organisations and service users – and an independent monitor for a selection of cases. NIACRO also recommends that a list of types of complaints disregarded is kept and published in the annual report, and that this is made publically available.</p>	<p>handled by the Prisons Ombudsman for England and Wales and the Scottish Public Services Ombudsman.</p> <p>The procedures for reporting will be detailed in the Prison Ombudsman Regulations, which will be presented to the Assembly for approval in due course.</p> <p>The Ombudsman currently has included in his Terms of Reference guidance on how to deal with complaints which are “frivolous, vexatious or raises no substantial issue”. The Department notes, the Ombudsman has not determined a complaint as such since June 2013.</p> <p>The Ombudsman’s Terms of Reference are currently under review and will be redesigned with external input from the NI Ombudsman’s office. In addition, detail on how to make a complaint about the Ombudsman is available from the Office and is viewable on its website.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
	<p>NIACRO is concerned that some complaints may be disregarded without due consideration and, in this context, recommends that a list of types of complaints disregarded is kept and published in the annual report, and that this is made publically available.</p> <p>The NI Ombudsman is of the view that, in order to ensure independence from the Department that has responsibility for the NI Prison Service the new office holder should lay his/her report on the functions of the office before the Assembly (rather than the Department laying it as currently provided for in the Bill).</p>	<p>The Ombudsman's annual report publishes details on ineligible complaints received.</p> <p>The Department notes this point and would have no objection to the new office holder laying his/her report. The Department does not input into the report except where necessary to ensure factual accuracy.</p>
<p>Paragraph 14:</p> <p>This paragraph adds the Prison Ombudsman to the list of ombudsmen that the Information Commissioner may disclose information to if it appears to the Commissioner that the information relates to a matter which could be the subject on an investigation by that ombudsman. It also</p>	<p>The NI Ombudsman states that this exemption in the Data Protection Act 1998 solely relates to those ombudsmen who are independent and meet the Ombudsman Association criteria for Ombudsmen and the view of the Information Commissioner should be obtained.</p>	<p>The Department notes that whilst the ICO has not commented on this matter it will liaise with the ICO in relation to information sharing and disclosure.</p>

CLAUSE/ SCHEDULE/ SUBJECT AREA	Issues Raised	Department of Justice Response
adds the Prison Ombudsman to the list of Public Authorities detailed in the Freedom of Information Act.		

Amendments to Part 2 of the Justice (No 2) Bill

Clause 30, Page 23, Line 11

Leave out from ‘at the request’ to end of line 19 and insert ‘at any time if it appears to the Ombudsman that—

- (a) a criminal investigation might be adversely affected by the Ombudsman’s investigation;
- (b) the exercise of functions under the Health and Safety at Work (Northern Ireland) Order 1978 might be adversely affected by the Ombudsman’s investigation;
- (c) it is appropriate to do so because of any proceedings for judicial review; or
- (d) it is appropriate to do so for any other reason.’

Clause 30, Page 23, Line 39

At end insert—

‘(15) At any time in the course of an investigation under this section the Ombudsman may—

- (a) draw to the attention of the police any matter which in the Ombudsman’s opinion is relevant to any criminal investigation;
- (b) draw to the attention of any body or person any matter which in the Ombudsman’s opinion calls for action to be taken by that body or person.’

Clause 32, Page 25, Line 3

Leave out from ‘at the request’ to end of line 11 and insert ‘at any time if it appears to the Ombudsman that—

- (a) a criminal investigation might be adversely affected by the Ombudsman’s investigation;
- (b) the exercise of functions under the Health and Safety at Work (Northern Ireland) Order 1978 might be adversely affected by the Ombudsman’s investigation;
- (c) it is appropriate to do so because of any proceedings for judicial review; or
- (d) it is appropriate to do so for any other reason.’

Clause 34, Page 26, Line 26

At end insert—

‘(6) At any time in the course of an investigation under this section the Ombudsman may—

- (a) draw to the attention of the police any matter which in the Ombudsman’s opinion is relevant to any criminal investigation;
- (b) draw to the attention of any body or person any matter which in the Ombudsman’s opinion calls for action to be taken by that body or person.’

Clause 37, Page 28, Line 2

At end insert—

‘(ca) to the Attorney General for Northern Ireland for the purposes of the exercise of any functions of that office;’

Clause 37, Page 28, Line 3

Leave out 'Ombudsperson' and insert 'Ombudsman'

Schedule 3, Page 43, Line 5

Leave out '*Ombudsperson*' and insert '*Ombudsman*'

Schedule 3, Page 43, Line 6

Leave out 'Ombudsperson' and insert 'Ombudsman'