

Date: 1/3/2019

# **Protocol**

Between

## **The Ministry of Justice**

As the Department

and

## **The Prisons and Probation Ombudsman**

## **1. Introduction**

- 1.1. This protocol has been drawn up by the Ministry of Justice (MoJ) and the Prisons and Probation Ombudsman (PPO). It sets out at a high level the role of each organisation in relation to the other, and the responsibilities of the principal individuals in running, sponsoring and overseeing the office of the PPO.
- 1.2. The PPO is appointed by the Secretary of State for Justice following a pre-appointment scrutiny hearing by the House of Commons Justice Select Committee. The PPO is an administrative public appointment with no legal or statutory basis.
- 1.3. Both the PPO and other members of the PPO's office have responsibilities as set out in their [Terms of Reference](#)<sup>1</sup>, however, for simplicity, this protocol refers to responsibilities as belonging to the PPO. This protocol does not detail the criteria and extent of the investigations of the PPO, which is documented in the Terms of Reference.
- 1.4. This protocol does not confer any legal powers or responsibilities. It is approved by the Permanent Secretary and the sponsoring Minister of State, and then signed and dated by the Permanent Secretary at the MoJ and by the PPO.
- 1.5. This protocol remains in place until a new document has been agreed and replaces it. It must be reviewed at least every three years and, where appropriate, revised by agreement between the PPO and the MoJ.
- 1.6. This protocol is published on the PPO's website and copies of the document are placed in the Libraries of both Houses of Parliament.

## **2. Purpose and remit of the PPO**

- 2.1. The PPO is supported in their work by three Deputy Ombudsmen, Assistant Ombudsmen and other staff.
- 2.2. The PPO carries out independent investigations into complaints and deaths in custody. The PPO has two main duties:
  - to investigate complaints made by prisoners, children in detention (Young Offender Institutions and Secure Training Centres), offenders under supervision by the Prison Escort and Custody Services and probation services, and immigration detainees and;
  - to investigate deaths of prisoners or children in detention (Young Offender Institutions, Secure Training Centres and Secure

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<sup>1</sup> <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkhjmgw/uploads/2017/04/PPO-Terms-of-reference-2017.pdf>

Children's Homes), residents of approved premises, offenders under the supervision of the Prison Escort and Custody Service and immigration detainees due to any cause, including any apparent self-inflicted deaths, homicides and natural causes.

- 2.3. The State has a procedural duty to bring about an effective and independent investigation when it is arguable that there has been a breach of certain substantive rights of the European Convention on Human Rights, including both Article 2 and 3 rights. The PPO's investigations will support the Government to fulfil these obligations.
- 2.4. The PPO:
  - may cooperate with other bodies, where it is appropriate to do so, for the efficient and effective discharge of the PPO's functions;
  - may act jointly with other public authorities, where it is appropriate to do so, for the efficient and effective discharge of the PPO's functions; and
  - may provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- 2.5. The PPO's geographical remit covers England and Wales, except in the case of immigration detainees where it extends to the UK and international transfer of offenders e.g. for the purposes of immigration escorts.

### **3. Independence**

- 3.1 The PPO is operationally independent of, though sponsored by, the MoJ.
- 3.2 The PPO and their entire staff work wholly independently of the services in its remit and their departmental sponsors.
- 3.3 This includes independence from Ministers and officials of the MoJ, Home Office, Her Majesty's Prison and Probation Service (HMPPS), Her Majesty's Courts and Tribunals Service (HMCTS), the National Probation Service for England and Wales and the Community Rehabilitation Companies for England and Wales, the Parole Board, Coroners, any individual Local Authority, the Youth Justice Board (YJB), providers of youth secure accommodation, the Department for Education (DfE), the Welsh Government, the Department of Health and Social Care, NHS England or other Government Departments.
- 3.4 This independence enables the PPO to conduct fair and impartial investigations, making recommendations for change where necessary, without fear or favour. The real, perceived and visible independence of the PPO from the MoJ and authorities in its remit is fundamental to the purpose and function of the PPO.

- 3.5 The following paragraphs (3.6 – 3.11) identify those elements of the relationship between the MoJ and the PPO from which the required independence of the PPO is drawn. Further details of these elements are set out elsewhere in this protocol.

### Corporate Governance

- 3.6 Neither the Secretary of State nor the Permanent Secretary at the MoJ may dismiss the PPO except in the limited circumstances set out in the terms of appointment which are not subject to unilateral change.

### Reports

- 3.7 The content of PPO reports and publications is solely at the discretion of the PPO (subject to accuracy checking).

### *Annual report*

- 3.8 The PPO will produce and publish an annual report after the end of each financial year, which the Secretary of State will lay before Parliament.

### *Written reports following investigations*

- 3.9 The PPO reports in the PPO's own name, and has complete discretion on the publication and timing of reports that identify lessons to be learned from collective analysis of investigations. Written reports are not cleared with any external person or external body, although drafts are shared with investigated bodies to allow factual inaccuracies to be corrected.

### *Additional reports on issues relating to the PPO's investigations*

- 3.10 The PPO will use their judgement and expertise in deciding what issues to report on in other publications, such as themed learning lessons reports.

### Responses to policy proposals, etc

- 3.11 The PPO will reply to any consultations on policy proposals, draft guidance, Prison Service Instructions (PSIs), Probation Instructions, policy frameworks, detention services orders (DSOs), Parliamentary proposals e.g. the Justice Select Committee etc. at the PPO's discretion.

### Funding

- 3.12 The PPO receives funding from the MoJ and the Home Office. The Department for Education or the Welsh Government fund fatal incident investigations at secure children's homes, as and when they occur.

- 3.13 The majority funder is the MoJ which is responsible for ensuring that the use of such funds meets the standards of governance, decision-making and financial management, as set out in *Managing Public Money* (see paragraph 5 below). In making decisions in relation to the PPO the Permanent Secretary, as Principal Accounting Officer, will take into account the PPO's operational independence.

#### Relationship with the media and the public

- 3.14 The PPO issues press notices to the media under its own name. As an independent organisation, the PPO is free to speak publicly and participate in debates and events. The PPO's press officer engages with the media at the discretion of the PPO and will liaise with MoJ Press Office on issues where appropriate, for example, by routinely providing embargoed publications and press notices. Any liaison with the MoJ will not be intended to undermine the PPO's independence. The PPO will maintain a website, separate from any presence on gov.uk.

#### Statutory footing

- 3.15 A key priority for the PPO is to obtain statutory status. The MoJ will explore ways to address this when Parliamentary time allows.

### **GOVERNANCE AND ACCOUNTABILITY**

#### **4. Ministerial Responsibility**

- 4.1 The Secretary of State for Justice is accountable to Parliament for the 'policies, decisions and actions of this Department'<sup>2</sup> including matters relating to performance of the PPO.

#### **5. The Principal Accounting Officer's specific accountabilities and responsibilities**

- 5.1 The Permanent Secretary of the MoJ is the Principal Accounting Officer. The PPO is not a distinct legal entity and therefore does not have its own Principal Accounting Officer to whom financial responsibility is delegated. The PPO accounts to the Principal Accounting Officer for the appropriate use of resources in accordance with budgetary delegation arrangements. The responsibilities of the Principal Accounting Officer are set out in Chapter 3 of *Managing Public Money*.
- 5.2 The Principal Accounting Officer is personally responsible for ensuring that the PPO delivers the standards set out in Box 3.1 of *Managing Public Money*.

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<sup>2</sup> 1.1 [MoJ Accounting Officer System Statement 2017](#)

- 5.3 The Principal Accounting Officer is responsible to Parliament for the issue of any funding to the PPO. The Principal Accounting Officer is also responsible for advising the Secretary of State for Justice:
- on an appropriate budget for the PPO in the light of the MoJ's overall public expenditure priorities; and
  - how well the PPO is achieving its strategic objectives and whether it is delivering value for money.
- 5.4 The Principal Accounting Officer is also responsible for ensuring arrangements (consistent with the overriding principle specified in section 3 on independence) are in place in order to:
- ensure the PPO is fulfilling its obligations as set out in its [Terms of Reference](#)<sup>3</sup>;
  - review performance and delivery against the PPO's business plan;
  - address significant problems relating to financial probity which may arise in relation to the PPO, making such interventions as are judged necessary;
  - periodically carry out an assessment of the risks to both the MoJ and the PPO's objectives and activities;
  - inform the PPO of relevant Government policy in a timely manner; and
  - bring concerns about the activities of the PPO's staff to the PPO, and, as appropriate to the MoJ Departmental board.

## **6. Responsibilities of the MoJ as sponsor**

- 6.1 As the PPO is operationally independent of MoJ but integrated, for example, in terms of its accounting and a number of other functions (please see section 14), the Department has appointed a sponsorship team who applies the principles of sponsorship which are usually reserved for bodies operating at arms' length.
- 6.2 The MoJ operates a proportionate risk-based approach to sponsorship which will be vigilant to the independence of the PPO as set out in paragraph 3 above and in accordance with the Cabinet Office [Code of Good Practice](#)<sup>4</sup> on partnerships between Departments and Arm's Length Bodies. The PPO's sponsorship team is drawn from the sponsorship of independent scrutiny bodies team in the MoJ Policy, Communications and Analysis Group. The team has a dual policy and assurance function with guidance and best practice on assurance provided by the Arms' Length Body Centre of Expertise.

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<sup>3</sup> <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkhjmgw/uploads/2017/04/PPO-Terms-of-reference-2017.pdf>

<sup>4</sup> <https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice>

- 6.3 The MoJ sponsorship team's policy responsibilities are to act as the policy interface for the PPO and in particular:
- support the PPO's voice being heard across the MoJ and Government, where policy development will have an impact on custody, probation supervision and other matters within the PPO's remit, to include in cases where the views of the PPO may be at variance with current Government policy;
  - inform the PPO of relevant Government policy in a timely manner, determining how ministerial policies in relation to the PPO can best be delivered in terms of policy and strategy implementation;
  - advise and brief Ministers in respect of the PPO's remit, when requested by ministers; and
  - invite comments from the PPO on policy proposals, draft guidance, Prison Service Instructions (PSIs), policy frameworks, where appropriate.
- 6.4 The sponsorship team's assurance responsibilities are to act as a 'critical friend' to the PPO and in particular:
- lead the budget negotiation, in tandem with the MoJ Finance Business Partner, for each financial year;
  - support the development of positive and effective working relationships between the PPO and all parts of the MoJ, ensuring that the sponsorship relationship is tailored and proportionate to the needs of both organisations;
  - where appropriate, act as a champion of the PPO in pursuing agreed issues of concern with the MoJ and, where necessary, other Departments;
  - meet quarterly to consider issues, risks, finance and progress against business planning documents, ensuring that risks to both the PPO and the MoJ are assessed periodically, and provide assurance to MoJ's Executive Committee (ExCo) that robust governance arrangements are in place;
  - address any significant problems in the governance or management of the PPO by raising them with the PPO in the first instance, and if necessary, draw them to the attention of the Principal Accounting Officer; and
  - in liaison with the PPO and the ALB Centre of Expertise, complete the Annual Impact Support and Analysis process which assists in providing assurance to the MoJ Executive Committee that the appropriate assurance and partnership arrangements are in place, reflecting both the needs of the PPO and the Department.
- 6.5 The sponsorship team will work with the PPO; both parties will aim to ensure that requests for advice or information are dealt with expeditiously, and, in the event of delays, a revised timetable is mutually agreed.

- 6.6 The PPO has access to the MoJ's Executive Committee on request.
- 6.7 The PPO may meet the sponsoring MoJ Director at any mutually agreed time.

#### Accountability and Sponsorship

- 6.8 In addition to the sponsorship quarterly meetings, the MoJ sponsorship team will maintain regular contact with the PPO to ensure there is ongoing dialogue. The PPO will meet the MoJ sponsoring Director to consider strategic issues arising from the quarterly sponsorship meetings, and any other pertinent issues. These meetings will be held at least twice a year but may be called at any mutually agreed time.

#### Escalation of issues

- 6.9 Any potential conflict between the MoJ and the PPO should be attempted to be resolved through ongoing dialogue and/or at the quarterly sponsorship meetings. There may, however, be a need for intervention outside of this monitoring framework, in circumstances where:
- either party considers that the other does not comply with this protocol or that there is a real risk to the operational independence of the PPO;
  - there are early indications that a risk of material failure may occur in the operation of the PPO and the judgement of the PPO or the MoJ is that additional input or resource beyond that available to the PPO is needed to prevent the risk materialising;
  - the financial performance of the PPO is deteriorating and there are significant concerns within MoJ Group Finance over financial control; and
  - broadly, an adverse situation arises which the National Audit Office, on behalf of Parliament, may in the public interest be asked to investigate. This could include a situation beyond poor financial control, poor performance or issues relating to regularity or propriety.

- 6.10 In such circumstances, the issue should be raised with the sponsoring Director and the PPO and, if necessary, escalated further as either party sees fit.

### **7. Responsibilities of the PPO**

#### Responsibilities to the Principal Accounting Officer

- 7.1 The PPO should provide assurance to the Principal Accounting Officer that they have systems in place adequate to meet the standards in Box 3.1 of *Managing Public Money* (in line with his responsibilities in the MPM paragraph 3.3.1). The PPO is responsible for assisting the



Principal Accounting Officer in fulfilling the PPO's responsibilities (set out in 2.2. above) by:

- accounting to the Principal Accounting Officer for the appropriate use of resources in accordance with the budgetary delegation arrangements;
- ensuring the effective procedures for handling complaints about the PPO are established and made widely known including within the PPO;
- acting in accordance with the terms of *Managing Public Money* and other instructions and guidance (insofar as they concern matters of financial probity, procurement and Human Resources) issued from time to time by the MoJ, the Treasury and the Cabinet Office;
- giving evidence on the PPO's stewardship of public funds, normally with the Principal Accounting Officer, when requested by the Public Accounts Committee;
- being subject to the scrutiny of the House of Commons Justice Select Committee and giving evidence when called to do so; and
- providing assurance to the MoJ in preparing its Governance Statement to Parliament covering human resources, corporate governance, risk management, finance and commercial processes, key business processes and oversight of any local responsibilities, for inclusion in the MoJ annual report and accounts.

### Responsibilities to the MoJ

7.2 The PPO's particular responsibilities to the MoJ include:

- developing, consulting on and publishing the PPO's annual corporate business plan. This is developed independently of MoJ but takes into consideration the Department's wider strategic aims and agreed priorities. However, the final judgement remains with the PPO;
- providing forecasts and monitoring information on performance and finance to the Department. This is to include: prompt notification of over and under spends and details of corrective action being taken; any significant problems whether financial or otherwise (including legal challenge), and whether detected by internal audit or other means, are notified to the Department in a timely fashion; and
- ensuring that financial considerations are taken fully into account by the PPO at all stages in reaching and executing their decisions, as outlined in the spending controls and that financial appraisal techniques are followed.

### Terms of Reference

7.3 The PPO and the Secretary of State have agreed [Terms of Reference](#)<sup>5</sup> which the PPO has published. Such a document, setting out the manner in which the PPO will carry out its functions, will continue to exist and be available on the PPO website. Any amendments to this document may be proposed by the PPO or the MoJ, and:

- if accepted, there may follow a period of formal or informal consultation (the format of which will be agreed by both the MoJ and the PPO);
- after any consultation, the final amendments must then be agreed by the PPO and the MoJ; and
- the PPO will then publicise the amendments and update their website.

#### Consultation with and advice to Ministers

7.4 The PPO has direct access to Ministers to raise any issues of concern or to provide an update on performance and delivery, in relation to the functions set out in the [Terms of Reference](#)<sup>5</sup>, and will meet Ministers at a mutually agreed time.

7.5 The sponsorship team and relevant policy team, as and where relevant, should be made aware of any contact with Ministers and copied in on any written submissions for such meetings.

### **8. Corporate Governance**

#### Appointment of the PPO

8.1 The appointment of the PPO is by open competition and is for an initial period of three years. Appointments will comply with the Cabinet Office *Governance Code for Public Appointments*. The PPO and the sponsoring Director will meet annually to discuss performance and progress against the business plan.

8.2 The preferred candidate for the post of PPO is subject to scrutiny by the Justice 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.

#### Responsibilities of the PPO's Executive Committee

8.3 The PPO's governance and collective decision-making process is vested in the PPO's Executive Committee. The PPO has sole responsibility for deciding the membership, remit and Terms of Reference for its Executive

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<sup>5</sup> <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkhjmgw/uploads/2017/04/PPO-Terms-of-reference-2017.pdf>

Committee. However, the PPO's Executive Committee has neither statutory status nor statutory authority.

- 8.4 The PPO's Executive Committee should ensure that effective arrangements are in place to provide assurance on operational delivery, issues relating to financial probity and broader governance. The PPO's Executive Committee is expected to assure itself of the effectiveness of the internal control and risk management systems.

## **FINANCIAL RESPONSIBILITIES**

### **9. *Managing Public Money* and other Government-wide corporate guidance and instructions**

- 9.1 The PPO will follow the principles, rules, guidance and advice in *Managing Public Money* (and its successors), referring any difficulties or potential bids for exceptions to the sponsorship team at the MoJ in the first instance. A list of guidance and instructions with which the PPO should comply is at **Appendix A**.
- 9.2 Once the budget has been approved by MoJ, the PPO will have authority to incur expenditure approved in the budget without further reference to the MoJ, on the following conditions:
- the PPO will comply with delegations and spending controls. Delegations will not be altered without prior agreement of the MoJ;
  - the PPO will comply with *Managing Public Money* regarding novel, contentious or repercussive proposals;
  - inclusion of any planned and approved expenditure in the budget will not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed.
- 9.3 The PPO will provide the MoJ with such information about its operations, performance, individual projects or other expenditure as the MoJ may reasonably require.
- 9.4 The MoJ has a responsibility for funding the PPO. If the PPO believes the funding insufficient, and wishes to escalate their concerns, they should write formally to the sponsoring Director, outlining the reasons why they believe the funding is insufficient.
- 9.5 If the matter requires further escalation, the Deputy Director, ALB Centre of Expertise should be consulted.

### **10. Risk Management**

- 10.1 The PPO will ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice

in corporate governance. The PPO will also develop a risk management strategy, in accordance with HM Treasury's guidance on [Management of Risk: Principles and Concepts](#)<sup>6</sup>.

10.2 The PPO should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with HM Treasury's guidance on [tackling fraud](#)<sup>7</sup>. The PPO should also be responsible for its management of health and safety risks.

10.3 Risks should be subject to regular review at the quarterly sponsorship meetings, and where the risk is capable of affecting the MoJ itself, escalated to the appropriate MoJ business group or departmental risk register, as appropriate.

## **11. Corporate and business plans**

11.1 The PPO will set out the content of their corporate and business plans at their own discretion but will take account of their funding provision and consideration of the MoJ's wider strategic aims and priorities. The PPO will aim to publish the plans on their website by the beginning of the financial year. The plan should reflect the PPO's [Terms of Reference](#)<sup>8</sup> and budgetary allocations.

## **12. Budgeting procedures**

12.1 Each year, in light of decisions by the MoJ on the updated draft corporate plan, the MoJ will send to the PPO, as close to the end of the financial year as possible, a formal statement of the annual budgetary provision. The statement will be allocated by the Department with consideration of competing priorities across the Department, and of any forecast income approved by the Department, including funding from other Departments, and will include a statement of any planned changes in policies affecting the PPO.

12.2 The PPO business plan will take account of approved funding provision and any forecast receipts, and will include a profile of expected expenditure and other income over the year.

12.3 The PPO will operate relevant systems that enable timely and effective reviews (at least quarterly) of financial and non-financial performance against the budgets and targets set out in the corporate and business plans. A mid-year review of the current year's business plan will aim to be completed in October, and inform the identification of priorities for the following financial year. Reporting information to the MoJ will be proportionate to the PPO's activities and risks posed to the MoJ. As a

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<sup>6</sup> <https://www.gov.uk/government/publications/orange-book>

<sup>7</sup> [http://webarchive.nationalarchives.gov.uk/20120906143131/http://www.hm-treasury.gov.uk/d/managing\\_the\\_risk\\_fraud\\_guide\\_for\\_managers.pdf](http://webarchive.nationalarchives.gov.uk/20120906143131/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf)

<sup>8</sup> <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkjmngw/uploads/2017/04/PPO-Terms-of-reference-2017.pdf>

minimum, the PPO will provide the MoJ with monthly information that will enable the Department satisfactorily to monitor:

- the PPO's cash management and headcount information;
- forecast outturn by resource headings with variance analysis; and
- other data required for HM Treasury's Online System for Central Accounting and Reporting.

#### Delegated authorities

12.4 The PPO's delegated authorities are set out in writing in a letter from the sponsoring Director General to the PPO. The PPO will obtain the MoJ's prior written approval before:

- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the PPO's annual budget as approved by the MoJ;
- incurring expenditure for any purpose that is or might be considered to be novel or contentious, or which has or could have significant future cost implications;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the MoJ;
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
- carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*.

12.5 From time to time, the MoJ may need to impose Department-wide spending controls on the PPO that may require additional instances of written approval. In considering the applications under any such spending controls, the MoJ must take due and proper regard to the PPO's independence and ensure that the PPO has the necessary resources to perform their functions. In respect of recruitment of staff, spending control applications should be applied in light of any specific agreement to further delegate the authority to recruit to the PPO.

#### Cash holding

12.6 The PPO will use the services of the Government Banking Service.

#### Audit

12.7 The PPO will remain within the MoJ's arrangements for internal and external audit.

### **ORGANISATION MANAGEMENT**

#### **13. Staff**

13.1 The PPO is a Ministerial public appointment but staff appointed by the PPO are civil servants, employed by the MoJ, and are subject to MoJ pay and conditions (including issues relating to pensions, redundancy and compensation) and policies relating to the management of staff.

#### *Staff recruitment*

13.2 The PPO has delegated authority to:

- Recruit civil servants through the normal process abiding by MoJ and Civil Service rules on recruitment and subject to any spending control restrictions. This also applies to civil servants recruited on loan or secondment from other Departments. All new staff will have security clearance and pre-employment checks.
- Identify and recruit 'call off' staff outside the MoJ recruitment processes ('call offs' are fee paid staff with particular expertise and can be utilised by the PPO to undertake work as necessary and used for flexibility and efficiency purposes). All call offs will have security clearance and pre-employment checks.
- Recruit staff on loan or secondment for an agreed term from an organisation outside of the MoJ. Such staff will have contracts agreed with their parent organisation, and will be subject to the terms and conditions of their parent organisation.

#### *Staff Costs*

13.3 Subject to its delegated authorities, the PPO will ensure that the creation of any additional posts does not incur forward commitments that will exceed the PPO's ability to pay for them.

### **14. Corporate services**

14.1 A number of support functions will be provided to the PPO by the MoJ. Such functions will include:

- Information and Communications Technology (ICT);
- Human Resources;
- Finance;
- Accommodation;
- Facilities;
- Procurement;
- Digital services;
- Estates; and
- Information Assurance.

14.2 Some of these support functions, for example, facilities, estates and ICT, will include the management of aspects of risk on behalf of the PPO, notably elements of health and safety, fire safety and security risk management.

- 14.3 The accommodation and associated technical infrastructure, including telephony and IT services, provided by the MoJ to the PPO, must be suitable to enable the PPO to fulfil its functions and maintain actual, operational and visible independence from the services in remit.
- 14.4 The PPO will be fully consulted on, and an essential party to, any potential future relocation decisions. Any accommodation relocation will be mindful of the PPO's current arrangements, and the broader standards provided for other MoJ Executive Agencies and Arm's Length Bodies, and will not differ significantly without adequate consultation with the PPO.
- 14.5 The PPO will raise any dissatisfaction with the level of service provided by MoJ with the sponsoring Director. The Director will then make all reasonable efforts to remedy the situation and ensure an improved level of service.
- 14.6 If the matter requires further escalation, the Deputy Director, ALB Centre of Expertise, should be consulted.

#### Human Resources

- 14.7 The MoJ will provide quality specialist HR support and access to HR business professionals as required by the PPO. This will include advice on the use of contractors/call-offs and support for occupational health.

### **15. Complaints and litigation**

- 15.1 Where complaints are received about the PPO or matters within the PPO's remit, the MoJ will refer these to the PPO to deal with. Complaints about whether the PPO has conducted their investigations appropriately are considered by the Parliamentary Health Services Ombudsman. Complaints about the personal conduct of staff at the PPO will be investigated by the PPO. Complaints about the personal conduct of the PPO or those relating to the sponsorship or mandate of MoJ will be considered by the relevant Minister. If the responsible Minister decides that the complaint should be investigated, he will appoint an independent person to investigate the issues and make recommendations about resolution.
- 15.2 The PPO will manage any litigation arising from its operational activities, involving the Government Legal Department.

#### Access

- 15.3 The MoJ will have a right of access to all the PPO's financial and personnel records as required to discharge the obligations of the MoJ and the Principal Accounting Officer.

## **16. Sustainable development**

- 16.1 The PPO will comply with policies and guidance issued by the MoJ, HM Treasury or other relevant bodies in relation to sustainable development, contributing to the Government's vision for Mainstreaming Sustainable Development.

## **17. Occupational health and safety**

- 17.1 The PPO will operate the MoJ's Occupational Health and Safety policies and documentation, ensuring the proportionate management of occupational health and safety risks across the PPO.

## **18. Freedom of information and data protection**

- 18.1 The PPO will carry out their obligations under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the data protection laws introduced by the Data Protection Act 2018 and the EU General Data Protection Regulation (GDPR), effective from May 2018. This includes ensuring requests are answered in a timely way, are compliant with the relevant legislation and, where applicable, are provided in line with agreed MoJ internal processes for request handling.
- 18.2 Additionally, the PPO will maintain a central monitoring record of FOI and DPA requests received and dealt with. The MoJ may require this information for inclusion in departmental statistics.

## **19. Welsh Language scheme**

- 19.1 The PPO is committed to the principle of treating the English and Welsh languages on a basis of equality when conducting public business in Wales. The PPO follows the principles of the MoJ Welsh Language Scheme that complies with the Welsh Language Act 1993.

## **THE PPO'S RELATIONSHIPS**

### **20. Relationship with Parliament**

#### *Parliamentary Questions*

- 20.1 Parliamentary Questions about the PPO will be sent by Parliamentary Branch to the sponsorship team who will inform the PPO and agree whether the PQ is about Government policy or about the work or operation of the PPO.
- If the question is about the Government's policy in relation to the PPO, the sponsorship team will draft the response and share their draft with the PPO.



- If the question is about the activities and the administration of the PPO, the sponsorship team will send it to the PPO to draft a response. The PPO will then send a draft to the sponsorship team who will send on to Parliamentary Branch, making it clear the reply has been provided by the PPO. The general expectation is that the sponsorship team would not amend the PPO's draft.

### Ministerial correspondence

20.2 Members of Parliament will be encouraged to write directly to the PPO about specific activities and the administration of the PPO. When Ministers receive correspondence from Members of Parliament on these matters, they will normally ask the PPO to reply (sending a copy to the sponsorship team). Where a Minister decides to reply personally, for example, where the correspondence involves wider policy considerations, advice will be sought from the PPO.

## **21. Arm's length bodies**

21.1 The PPO works in partnership with scrutiny bodies such as HM Inspectorate of Prisons, HM Inspectorate of Probation, the Independent Monitoring Boards and others. This work is covered by memoranda of understanding which are published on the PPO's website.

## **22. Other Government Departments**

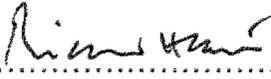
22.1 Memoranda of understanding are in place with a number of Government Departments, including the Home Office (Immigration Enforcement) and the Welsh Government. Where appropriate, the PPO will report to relevant Ministers and make contact with officials in sponsoring Departments, as well as the Welsh Government.

## **23. Other key stakeholders**

23.1 Memoranda of understanding are in place with a number of other key stakeholders and organisations. These include:

- National Police Chiefs' Council;
- Independent Office for Police Conduct;
- Guernsey Prison Service;
- Legal Ombudsman;
- Youth Justice Board; and
- Coroners' Society of England and Wales.

The PPO may make such agreements as it considers necessary.

Signed  .....

Sir Richard Heaton KCB  
Permanent Secretary  
Ministry of Justice

Date 20/2/19 .....

Signed  .....

Sue McAllister CB  
Prisons and Probation Ombudsman

Date 27.2.19 .....



Ministry  
of Justice

Prisons &  
Probation

**Ombudsman**  
Independent Investigations

## Appendix A: **APPENDIX 2 TO SPECIMEN DOCUMENT**

### **Compliance with government-wide corporate guidance and instructions**

The Body shall comply with the following general guidance documents and instructions:

- this document;
  - Appropriate adaptations of sections of *Corporate Governance in Central Government Departments: Code of Good Practice*  
<https://www.gov.uk/government/publications/corporate-governance-code-forcentral-government-departments>;
  - *Code of Conduct for Board Members of Public Bodies*  
[http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-ofconduct\\_tcm6-38901.pdf](http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-ofconduct_tcm6-38901.pdf)
  - *Code of Practice for Ministerial Appointments to Public Bodies*  
<http://publicappointmentscommissioner.independent.gov.uk/wpcontent/uploads/2012/02/Code-of-Practice-2012.pdf>
  - *Managing Public Money* (MPM);
  - Public Sector Internal Audit Standards,  
<https://www.gov.uk/government/publications/public-sector-internal-auditstandards>;
  - Management of Risk: Principles and Concepts:  
<https://www.gov.uk/government/publications/orange-book>
  - HM Treasury Guidance on Tackling Fraud,  
[http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/d/managing\\_the\\_risk\\_fraud\\_guide\\_for\\_managers.pdf.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf);
  - Government Financial Reporting Manual (FReM),  
<https://www.gov.uk/government/publications/government-financial-reportingmanual>;
  - Fees and Charges Guide, Chapter 6 of *Managing Public Money*;
  - Departmental Banking: A Manual for Government Departments, annex 5.6 of *Managing Public Money*;
  - relevant Dear Accounting Officer letters  
<https://www.gov.uk/government/collections/dao-letters>;
  - Regularity, Propriety and Value for Money,  
[http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/psr\\_governance\\_valueformoney.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/psr_governance_valueformoney.htm);
  - The Parliamentary and Health Service Ombudsman's Principles of Good Administration <http://www.ombudsman.org.uk/improving-publicservice/ombudsmansprinciples>;
  - Consolidation Officer Memorandum, and relevant DCO letters;
- A7.2 Drawing up framework documents
- Managing Public Money*
- relevant Freedom of Information Act guidance and instructions (Ministry of Justice);
  - [Model Code for Staff of Executive Non-departmental Public Bodies (Cabinet Office)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/80082/PublicBodiesGuide2006\\_5\\_public\\_body\\_staffv2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80082/PublicBodiesGuide2006_5_public_body_staffv2_0.pdf)];
  - other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;
  - other relevant instructions and guidance issued by the central Departments;
  - specific instructions and guidance issued by the sponsor Department;
  - recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the ALB.