

## Learning from PPO Investigations

**Why do women and young people in custody not make formal complaints?**



## Contents

Foreword	3
Executive summary	4
1. Introduction	6
1.1. Project aim	6
1.2. Methodology	6
1.3. Case studies	7
1.4. Analysis	7
2. How do participants currently resolve their complaints?	8
2.1. Taking action	8
2.2. Talking to staff	8
2.3. Using Solicitors	9
2.4. Internal complaints system	9
2.5. Other organisations	10
3. Are the current methods used for resolving complaints adequate?	11
3.1. Previous experience	11
3.2. External pressures	12
3.3. Restrictions in a secure environment	12
4. What barriers, if any, are stopping participants from coming to the PPO?	14
4.1. Fear of reprisal	14
4.2. Deserve to be ill-treated	14
4.3. Lack of knowledge of internal complaints system	15
4.4. Knowledge of the PPO	15
4.5. Experience of using the PPO	16
5. Is there anything that would encourage participants to come to the PPO in the future?	17
5.1. Training and problem solving for prison staff	17
5.2. Improvements to the internal complaints system	17
5.3. Visibility of the PPO	17
5.4. Remit of the PPO	18
6. Learning and action points	19
Annex - Case study scenarios	21
Endnotes	23



## Foreword



As would be expected from the make up of the prison population, the majority of complaints to my office come from adult male prisoners. However, the number we receive from women's prisons, young offender institutions (YOIs) and secure training centres (STCs) is even lower than would be expected from their proportions in the prison population.

The aim of this research was to find out why these groups are under-represented in the complaints we receive and to identify any relevant learning. The issues raised in this report are not unique to women and young people, but may affect them disproportionately and influence their decision about whether to use my office.

I would add that this is definitely not an exercise designed to drum up more business. Instead, it is intended to ensure that the low levels of complaints from these groups are for legitimate reasons and not because of inappropriate barriers to accessing our services.

Many prisoners will never need to access our complaints system, but for those who do, I want to ensure that they are able to do so as and when they need to.

I am grateful to all the women and young people who took part in the focus groups for this project and to the staff in the prisons, STCs and YOIs for arranging them. The contribution made by the User Voice facilitators was extremely valuable and is much appreciated. Finally, I would like to thank my colleague Sarah Colover, for coordinating this project and running the focus groups.

A handwritten signature in black ink, appearing to read 'Nigel Newcomen'.

**Nigel Newcomen CBE**  
**Prisons and Probation Ombudsman**

## Executive summary

This report sets out the findings of a project carried out to establish whether groups under-represented in the Prisons and Probation Ombudsman (PPO) complaint caseload are sufficiently able to access the service we provide. Focus groups were held in secure training centres (STCs), young offender institutions (YOIs) and women's prisons to understand how participants dealt with any problems or complaints they had with their establishment.

Participants were asked about how they resolve complaints, what they think of the complaints process in general and their understanding and experiences of the PPO. They were also asked if there are any barriers stopping them from coming to the Ombudsman and how they thought the system could be improved. The group discussions lasted around an hour and were as informal as possible to create an atmosphere of trust and openness. No staff were present during any of the groups.

Very few participants had made a complaint to the PPO. Some participants had made a complaint to the prison, but very few had appealed against the decision or used the second stage of the process. Many participants had made verbal complaints, or dealt with the issue on their own. Some had taken their problem to the Independent Monitoring Board (IMB) or Barnardo's advocates.

The reasons participants did not use the internal complaint system were mainly to do with fear of reprisal and a lack of confidence in the system. There was widespread mistrust of the internal complaints system and a belief that formal complaints were a waste of time as they would not be dealt with, or would be tampered with by staff.

Some participants did have good support from prison staff and were able to turn to them when problems arose. They were, therefore, less likely to need the Ombudsman if their complaints were being resolved.

Participants discussed ways to improve the internal complaints system and access to the PPO; these are included in the report along with recommendations for the Prison Service and the Ombudsman.

### **Actions already taken or planned by the PPO:**

- Adverts explaining what the PPO does and how to make an eligible complaint are running on National Prison Radio (NPR) in 2015 to publicise the PPO in establishments.**

The adverts aim to dispel myths about complaints not getting to the PPO and to counter fear of reprisals. They explain the need to go through the internal complaints system first and stress the PPO's independence from the Prison Service.

- Postcard with prisoners' canteen.**

Following the launch of the NPR adverts, a postcard explaining how to complain to the PPO will be included in prisoners' canteen delivery for one week in May 2015.

- An advert about the PPO has been included on the 2015 year planner wall chart in the prisoners' newspaper, Inside Time.**

Prisoners can display the wall chart in their cell throughout the year showing details about the PPO, including eligibility and contact details.

- New PPO leaflets and posters.**

New designs will make them more eye-catching and simple to understand. Different formats will be considered and tested with young people.

- Work with the IMB to ensure prisoners are better informed about how they can access the PPO.**

### **Other learning points for the PPO:**

- **Provide more information about making complaints to the PPO to anyone who has regular contact with prisoners, including staff in prisons, YOIs and STCs.**
- **Work with advocates to improve their understanding of the PPO's role.**

This would help advocates and other information providers to advise people how to use the internal complaints system and about the role of the PPO.

- **Improve the way that complainants are told that their complaint is ineligible.**

### **Learning points for the Prison Service:**

- **Redesign the prison complaint forms to make the process clearer and include a receipt section that is given to the prisoner when their complaint has been submitted.**
- **Prison staff should deal with problems when they arise, to ensure a quick and efficient resolution that avoids the need for a complaint.**
- **Ensure that all prison staff understand the internal complaint system and at what stage complaints can be sent to the PPO and inform prisoners of it.**
- **Governors/directors should monitor the timeliness and quality of replies to internal complaints to ensure the requirements of PSI 02/2012 are met.**

This would improve confidence and usage of the internal complaints system.

### **Learning points for Advocate Services:**

- **Promote their role in helping young people from YOIs and STCs with complaints to the Prison Service and PPO.**

# 1. Introduction

## 1.1. Project aim

The vast majority of complaints made to the PPO are from adult male prisoners. In 2013/14, 95% of all complaints were from male prisoners aged over 21 years old. In the same period, young people aged 18 and under made up 0.1% of all complaints received, yet accounted for 1%<sup>1</sup> of the population. Female prisoners made up 5%<sup>2</sup> of the total prison population, but accounted for only 2% of all complaints received. In the interest of equity and fairness, we felt there was a need to find out why we receive so few complaints from young people and female prisoners. The project was designed to address the following questions:

- 1. How do participants currently resolve their complaints?**
- 2. Are these methods sufficient? Is it OK that they are under-represented in PPO caseload because they resolve their problems in different ways?**
- 3. What barriers, if any, are stopping them from coming to the PPO?**
- 4. Is there anything that would encourage them to come to the PPO in the future?**

## 1.2. Methodology

We invited 14 establishments to take part, of those, 13 accepted. The project included female prisoners and children and young people aged 15-21 years old<sup>3</sup>. The young people were held in the following types of establishment:

- dedicated site – boys only (15 -18 years old)
- split site\* – boys and young adults (18-21 years old)
- mixed site\* – boys, young adults and adults (over 21 years old)
- secure training centre\* – boys and girls (12-17 years old)
- secure training centre – boys only (12-17 years old)

\* These establishments hold different groups separately but on the same site.

The establishments taking part in the project included six young offender institutions (YOIs), four female prisons and two secure training centres (STCs). These are set out in Table 1.

Table 1: Focus groups held

Date	Type	Age Range	Gender	Size	Ethnicity
08.09.14	Female prison	Wide	Female	9	White
11.09.14	Female prison	Wide	Female	8	Mixed
12.09.14	YOI	18-21	Male	8	Mixed
15.09.14	YOI	18-21	Male	4	Mixed
17.09.14	STC	15-17	Male	6	Mixed
19.09.14	YOI	15-17	Male	5	Mixed
19.09.14	YOI	18-21	Male	8	Mixed
22.09.14	YOI	15-17	Male	7	Mixed
23.09.14	Female prison	Wide	Female	5	Mixed
25.09.14	STC	15-17	5 males, 2 female	7	Mixed
26.09.14	YOI	15-17	Male	6	Mixed
29.09.14	Female prison	Wide	Female	5	Mixed

Prospective establishments were contacted via the Governor, inviting them to take part in the project. Prior to the focus groups, the establishments were sent an information leaflet (in Easy Read format) to distribute to participants. Prisons were asked to identify people who had used the internal complaints system and invite them to take part in the focus group. Participation was voluntary and we explicitly stated to establishments that people should not be penalised if they did not want to take part.

A PPO Research Officer led all the focus groups and a representative from the charity User Voice co-facilitated. No staff members were present in any of the groups and each lasted between 40 minutes and an hour. Participants were not given a list of questions before or during the sessions.

All groups were voice recorded and then transcribed. Participants were told that all recordings would be treated as confidential and no individuals or establishments would be identified in this report. Participants in all groups were encouraged to join in an open and honest discussion. We made it clear at

the start of each group that we would not deal with individual complaints during the session.

### 1.3. Case studies

The focus group structure was loosely based on a 'deliberative event' method, in which participants are given one or two different case study scenarios and then go through a number of questions in discussion with the group. The case studies used in the focus groups were based on real complaints received by the PPO. The case studies were taken from the five most frequently received complaint categories from the adult male estate:

- property
- administration
- adjudications
- staff behaviour
- letters

Each group discussed at least one case study, and some groups considered up to four. Participants found it easy to relate to most of the cases, but some participants had difficulty with the case about staff behaviour (see Annex for case studies). The staff behaviour case proved divisive among some female participants, as they struggled to accept staff would behave in a racist way towards a prisoner (in their establishment). This meant it took longer for them to view the case as a hypothetical situation. This was a reflection of the good relations between the prisoners and the staff in this particular prison. In contrast, other participants claimed they had witnessed staff behave in a racist manner in their prison and saw the case study as something that could happen to them:

"You face racism daily... You face all of it"

The case study discussions provided an insight into how women and young people dealt with the most common problems that prisoners raise with the PPO. Section 2 looks at how participants would resolve the problems in the case studies (which are problems some of them have faced themselves) and how they would deal with other issues.

### 1.4. Analysis

All focus groups were recorded and then transcribed. The transcriptions, along with field notes, were analysed using a coding framework based on the four research questions. The coding framework evolved as new themes emerged during the analysis.

The report findings are split into the four research questions, with sub-headings for themes within each section. Quotes from focus group participants are used to illustrate the issues being raised. In order to protect the identity of the participants, the quotes are not attributable to individuals or establishments, but are all taken from the focus groups conducted for the project. The views expressed in this report are those of the focus group participants and no attempt was made to check the accuracy of anything which they reported.

## 2. How do participants currently resolve their complaints?

### 2.1. Taking action

The most common initial response to the case studies from most participants was to resolve matters on their own, by taking it into their own hands. If they had lost property, participants said that they would go through other prisoners' cells until they found it. Others talked about 'kicking off' by shouting and screaming to vent their anger at the loss of their possessions.

"First I'd go mad. I wouldn't calm down until I got them back"

Participants also spoke about asking around the wing/unit if any other prisoners had seen the missing property and would try to resolve it collectively.

"A wing is a tight knit community. If you want to find out who's done something it will take a few days"

Participants acknowledged that 'kicking off' and causing disruptive behaviour may not resolve the problem. They discussed how disruptive behaviour could cause the opposite effect and result in getting them into trouble and not receiving their property.

"When you're kicking and screaming, it's pointless"

For other participants, dealing with the problem on their own was the only solution they saw, as they did not trust prison staff to help them resolve the issue.

"She would rather deal with it herself rather than go to the officers because we would go to the officers now and we would tell them and they would just tell us, "What do you want us to do?"

### 2.2. Talking to staff

Due to the nature and age of the young people held in secure training centres (STCs), these facilities are run very differently to

prisons. The higher staff to trainee ratio and the smaller living units appeared to have a positive impact on the trainees. Participants in STCs spoke about a number of different staff members who worked in the centre and who they went to when they had a problem. These included Residential Service Managers (RSMs) who work directly with the young people on their residential units. RSM teams work on a specific unit and the stability this provided helped young people to trust their RSMs and form strong relationships on the units. The RSM was likely to be the first place the participants in STCs would go to when they had a problem.

"I would probably speak to my RSM and see what he could do for me and see if they could find out who took them"

Good relationships with staff were also key for women and in one establishment, most participants resolved their complaints informally and rarely used the complaints system. For example, a woman who had been sent a card from a relative but had not received it, said she didn't put in a complaint, she just spoke to an officer and he got the card for her.

"Staff say... before you put a complaint in, see them and see if they can solve it, or go to somebody else"

Good communication between the prison and the women meant participants were more willing to accept decisions by prison staff, as they understood the reasoning behind them. As the women were often more accepting of a decision, they were also less likely to complain about it.

"Because you do get good officers in here"

"So, people know what they can do and what the limits are"

Participants in YOIs talked about their key worker as a person who they would go to if they had a problem. Key workers are from the individual's youth offending team (YOT) and will visit them as frequently as is appropriate to their level of need and vulnerability. Young

people viewed key workers as being separate from the prison system, and therefore an impartial person to talk to about their problems. They saw their key worker as someone who could give them their full attention, which they did not think prison staff did.

“Your key worker’s onto all this stuff, innit. Yes, she’ll go out the way like to find out where your stuff is. So that’s probably who I would talk to”

Young people who had been in YOIs for under-18s reflected on the differences there were to the YOIs which are combined with prisons for 18-21 year olds. Young people were mostly positive about the different practices in the YOIs for under-18s only, such as staff wearing a more casual uniform, prisoner forums and the availability of Barnardo’s for confidential advocacy services.

Barnardo’s is the current contractor for independent advocacy services for children and young people in STCs and under-18 YOIs. Barnardo’s role is to provide children and young people with a free and confidential service where they can ask for help if they feel they can’t speak for themselves, don’t understand something or can’t make themselves understood. They can help young people to write a complaint or appeal to resolve issues relating to welfare, care and treatment in custody but they cannot resolve the complaint itself.

When asked what they would do after an unfair adjudication hearing (as in the scenario), a young person said,

“I wouldn’t have gone guilty in the first place. I would have went not guilty and adjourned it and rung Barnardo’s”

Some participants specified that they would try to talk to a governor if they had gone to an officer and the problem had not been resolved. Participants assumed that because they were more senior, they would have more power to resolve the problem, or deal with it quicker. Participants spoke about approaching governors on the wings, and if they had an

opportunity to speak to them, then they would often raise issues they were having.

“Because you always see governors and that walking up and down, so I’d just pull someone who was there”

### 2.3. Using Solicitors

Participants discussed the use of solicitors for a few of the case studies; they were most frequently mentioned in the adjudications case. Participants said they would call their solicitor for advice, or to ask them to contact the prison governor.

“I know I would call my solicitor, 100 per cent”

The independence a solicitor had from the prison was the main reason participants would contact them if they felt they had been mistreated by prison staff.

When asked what they would do for the case study on staff behaviour, a participant said,

“If something like that happened to me, I’d speak to my solicitor as well. I wouldn’t just speak to like normal staff”

### 2.4. Internal complaints system

Participants only mentioned using the internal complaints system in response to two of the scenarios – the racist staff behaviour and lost property case studies.

“I’d file a complaint for it - see what happens then”

Young people from STCs were comfortable with approaching a member of staff if they were unable to write a complaint themselves.

“I’d probably speak to him (Residential Service Manager) and see if they could put a complaint form in for me”

In terms of the staff behaviour case study, a few participants were aware of the discrimination incident reporting form (DIRF) and spoke about putting in a DIRF. The discriminatory nature of the remarks made by the officer in the staff behaviour case was

seen as being more serious than the other cases. Because of this, participants thought they would be more willing to put in a complaint or a DIRF.

“But no, if that was me, I'd put a racist complaint form instead of a normal one, because that is racism, innit”

## 2.5. Other organisations

Young people knew about Barnardo's operating in their establishment and were mainly positive about their experiences.

“Barnardo's. They're the only ones that do things for you”

There was some uncertainty as to whether Barnardo's were an appropriate avenue for complaints.

“I don't think a lot of us see them (Barnardo's) as a complaints forum”

“Sometimes I speak to Barnardo's about my complaints and that. Not all the time”

There was a general feeling among young people that Barnardo's were used for resettlement issues and not for problems that they had in the prison.

“Like more long-term issues, not internal, like...if I want something done”

Although, another young person said that Barnardo's had sorted out a problem they had with visits.

“Barnardo's they can like make phone calls to make sure everything's happened”

The Independent Monitoring Board (IMB) was another organisation that participants knew about in their establishments. Some had approached them for help and support with problems. Participants knew about their work due to their visibility on the wings and hearing about them through word of mouth.

“Well, they always come into the wing. I just see them”

“That's why I think they're used more, because you always see them wandering about”

There were mixed feelings about whether the IMB were able to resolve complaints for participants.

“Yeah, I use them. They tend to get more results”

“I've been thinking about this business of putting a complaint in, because I don't think the IMB can do anything about it”

### 3. Are the current methods used for resolving complaints adequate?

#### 3.1. Previous experience

Across the sample, participants' previous negative experiences of using the internal complaint system resulted in a general lack of confidence in the system. The length of time it took prisons to process complaints was a deterrent to many participants making them.

"I don't really see the point of complaining about that if by the time they're going to even come and say anything about it, it should have been sorted out already"

Participants often did not want to wait for a resolution; they wanted the problem to be sorted out as soon as possible. They saw the complaint system as being a slow and dragged out process, which ultimately would not solve their problem.

"I want my property back, I don't want to be waiting for no complaint"

For young people, the length of time it had taken staff to respond was more likely to affect whether they would complain in the future, compared to other participants. Young people are likely to have shorter sentences than adult male prisoners and may not be in custody by the time a response comes back from the prison. Some young people in the focus groups had been in prison for a relatively short period of time, which may have meant that they had less reason to complain.

Young people seemed less concerned than women about having incidents on their record, which could affect decisions, such as parole. Young people were also more likely than female participants to have a shorter attention span, and they spoke about how they would not be that bothered to go through the complaints system once an incident had blown over.

"Do you know why I never put a complaint on the sheet? Because by the time it probably would have been seen to, I'd have had a duvet cover by then"

"I told them I'd put in a complaint and I ain't heard nothing, and they're, "Oh, you will". That's what they say... And, basically by the end of the month, yeah, you'll probably end up forgetting about what happened by the time the month comes up"

A common concern raised in all the focus groups was the lack of detail in prisons' replies to their complaints. Participants felt their complaints were not taken seriously or were ignored by the prison.

"They just wrote back saying, "Your complaint's been logged. We'll get back to you" and they didn't get back to me"

"Sometimes the complaints don't even come back"

"Well what's the point of writing a complaint form and that, because we're just going to get the same response back. It's like a catch 22 situation, don't win either way"

Participants spoke about being in prison as often feeling like playing a waiting game. Putting in a complaint was seen as another thing they had to wait for and this often added to the anxiety and lack of control participants felt in their life.

"I think that's what a lot of it is, it's about time, and when you're going to get heard... You know, it's just like another thing to wait for"

"I just wish he would just tell me what's happening, do you know what I mean? It just pisses you off"

A few participants who had complained before said prison staff had labelled them as being 'serial complainants'. Participants saw this label as derogatory and felt they were being singled out for putting in legitimate concerns using the correct prison procedure.

One participant claimed to have been limited to one complaint a week (in contravention of the Prison Service Instruction<sup>4</sup> which states that complainants can only be restricted to one complaint per day). They had received a

letter from the governor saying that the restriction was in place due to the number of complaints they had made. Another participant believed he had been labelled 'Mr Complaints' by staff after he started helping new prisoners fill in complaints if they were unsure of the process or had literacy problems.

"I have introduced the complaint procedure to a few prisoners already... All I want to do is help my fellow wing mates who don't know how to do it"

"Do you not realise, a lot of people who come to prison, weren't academic at all. They can't write out complaints, can't do things, they can't read probably"

Neither of these prisoners was deterred from complaining by being labelled or limited to one complaint a week. However, both took offence at the label and felt powerless to challenge it.

### 3.2. External pressures

A number of participants mentioned the effect regime changes (brought in by benchmarking<sup>5</sup>) have had on staff morale and their relationships with staff. The re-deployment of staff to different prisons fed into participants' worries around the lack of regime and time prison staff had to resolve their issues.

"They're not supervising and looking out for our wellbeing, our safety"

This was also compounded by the restricted regime some participants were experiencing, which was due to the number of staff being on re-deployment duties. Participants were frustrated at the level and speed of change in some regimes, which left them not knowing what they were doing week to week.

"They'll keep changing it and it'll be Wednesday and Thursday again. The prison is short of staff, they're trying to make more money and to cut the costs down"

"It's the regime as well, how is anyone meant to have structured week that flows when one day you're laying in bed in the morning, the next day

you're up. That's not going to help no one. That's not going to prepare no one for getting released and getting a job"

In other prisons, the lack of resources had meant they could not run the courses and activities they wanted to. Participants thought this was an establishment-wide issue and therefore out of their control, and the complaints system would not be able to help them.

"There's nothing to do here, you know, so I reckon that's a bit of a letdown because people want to do the courses and they can't do them here. Like thinking skills"

"No, I can't do no course here - you just get through and do your sentence here"

Young people were concerned at the lack of induction and handover for participants who were moving from STCs to YOIs when they turned 18 years old. Very little handover work happened, unless the YOI was in the same area as the STC. There did not appear to be an official programme in place from the Youth Justice Board to prepare young people for the transition to a YOI.

### 3.3. Restrictions in a secure environment

Difficulties caused by being imprisoned were highlighted when participants were discussing the property and staff behaviour cases. The issues raised with the property case in comparison with being in the community were around access to clothing and accessibility of purchasing items. If clothing did go missing, then participants pointed out they could not just go to a shop and replace it.

"It's not like I can just pop to Asda and get some more"

Participants spoke about how they were further limited on items they could have - since the national facilities list had been introduced and the ban on parcels had come into force.

In the staff behaviour case study, participants said that they had less access to the police than they had in the community. The PPO considers that current Prison Service guidance on how prisoners can report alleged offences to the police is unclear, and recently recommended that NOMS should require all prisons to put a quick and simple process in place. NOMS has accepted the recommendation and said that it will issue a new protocol on the appropriate handling of crimes in prison.

“No. I didn't know you could speak to the police in here”

## 4. What barriers, if any, are stopping participants from coming to the PPO?

### 4.1. Fear of reprisal

This was a common theme among all the participants. Fear of reprisal, of one kind or another, seemed to be the major reason for not complaining.

"I am extremely fearful because you daren't open your mouth about anything"

There were high levels of mistrust in the complaints system, especially among some of the women. Participants thought prison officers would tamper with their complaints or ignore them, and some thought they would put them in the bin.

"When you fill out a form or something in your cell that's about anything, and you give it to them, there's so many guards, they could put that anywhere"

"The officers and other users, other people have access to it, edit the complaints, change whatever they want to and some of the complaints don't even get sent"

Others alleged officers would treat prisoners who complained differently; this included downgrading their Incentives and Earned Privilege level, sacking them from their job or removing privileges.

"They try to blame everything on you and try to threaten you with things and take things away from you like so they expect you to like suck up"

"I have done putting in complaints because I know the consequences of complaints"

"Well, if you put in a complaint as I said to you, it's only going to get worse and they're not going to do nothing about"

There was a consensus among a group of female participants that they would not complain if they were awaiting a decision for Home Detention Curfew (HDC) or had a

Parole Board hearing coming up. There was a perception that if they made a complaint, this could be viewed as "rocking the boat". The women thought making a complaint would be seen as disruptive and could impact on the decision to grant them HDC or give parole.

All participants spoke about the barrier the internal complaints system created in accessing the PPO. However, for female participants, they felt they would be disadvantaged as their complaint may be tampered with. Although there was no evidence that this was happening, it was a perception held among some of the women.

"But, it has to go through the prison first and their complaints and that means they're going to get it before it gets to you and that bit of system...that's why they're holding back"

"People who take a complaint to the Ombudsman Service, they then get punished for it and actually tampered, there has been a breach of data protection effectively"

### 4.2. Deserve to be ill-treated

Many participants felt because they had broken the law and were in prison, they did not have the right to complain. They viewed the problems they had as part of their punishment and putting up with ill treatment was the only option.

"You're not supposed to get anything... Any complaints, deal with it, you're in jail"

Participants most commonly made such remarks when discussing something they thought was a minor issue, or which was extra to the basic regime the prison provided. Not having their issues resolved, or not being able to have an outlet to resolve their issues was included in this idea.

"There's no point in complaining about just every little thing, just handle it bro, because you're in jail. You're not going to come expecting flowers"

When asked what they would do in response to the adjudications case study, one participant said they would "just get on with it".

Participants also expressed concern about the power imbalance between them and prison officers. Participants did not think prison officers would believe them, as they had proved by being in prison they were untrustworthy.

"It's your word against theirs... we're still criminals isn't it, obviously that's why we're here...they just see us as bad"

There was also a general lack of confidence that their complaints would be dealt with objectively. Participants thought if the prison officer answered a complaint, which was about them or an officer they knew, then they would not receive a fair hearing.

"But the fact is that when you complain about another officer, because the complaint goes to another officer, they defend each other"

Similarly, it was a commonly held belief among participants that prison officers would always stick up for each other, and never break ranks to tell the truth about an incident.

"It's officers and prisoners isn't it? That's how it is, that is what it's going to be like. So you're with your own people, they are with their own people"

#### **4.3. Lack of knowledge of internal complaints system**

Most participants knew about the internal complaints system – where to find a complaint form, as well as the complaint box to put the form in. What was less clear to participants was the appeal stage once they had received a reply to their initial complaint. Complaints must have gone through both stages of the internal complaint system to be eligible for investigation by the PPO. Some participants were unaware that they could appeal if they were unhappy with the decision and others did not know how to appeal (although this is written on the internal complaint form).

"After you write a complaint then that's it. I didn't know anything about appealing and stuff like that"

There was also some confusion about which form to use, with some participants using

confidential access forms when they should have used a complaint form.

The officers say to you "Oh, you've made this complaint. Although it isn't supposed to have been by the confidential access, it could have been. See, it don't get explained properly, does it?"

Some participants did not know the difference between making a complaint to the prison and making a complaint to the IMB, or another organisation working in the prison.

"What is Stage 1, Stage 2? All I know is complaint form"

Some prisons had recognised prisoners' lack of knowledge about the internal prison complaints system and sought to address this. Prisoner forums had been set up which allowed prisoners to discuss the problems they were having and the prison could work with them to address these. Some initiatives that came out of the forums included having prisoner wing representatives who would share information from the forums with the rest of their wing. Some prisons had also started displaying posters and other materials on the wing to highlight the services on offer.

#### **4.4. Knowledge of the PPO**

Most participants had no recollection of being told about the PPO at their induction. Some participants had either recently been inducted, or been part of the induction process and could not remember hearing about the PPO.

"I've done induction for three years and it was never mentioned"

Some participants had seen the PPO posters or leaflets in their establishment. They did not think the design stood out or was particularly eye catching. They thought a more vibrant design would grab their attention and publicise the work of the PPO better. Young people in YOIs were the least likely to say they had heard about the PPO at induction or had seen a poster or leaflet. Female participants were most likely to have seen the posters and heard about the PPO at induction.

Participants mentioned there were many posters on the units/wings and an information leaflet with the details of the PPO would be helpful. In one prison, the PPO's telephone number was on the back of participants' ID cards, along with other useful numbers.

"It's on the unit, but I never really take notice of it, but yeah it's there"

In discussions about the visibility of the PPO, there was some confusion about the difference between the IMB and the PPO. The two organisations roles did not seem to be clearly understood by all participants.

"It's not like IMB?"

Participants were more likely to have heard of the IMB than the PPO. This seemed to be helped by the visible presence of the IMB in prisons, and prisoners being able to speak to them on the wing, during their rounds or make an application for an appointment with an IMB member.

"I think the IMB, it's more well-known"

#### 4.5. Experience of using the PPO

Very few participants had used the PPO. Most participants who had sent a complaint to the PPO had been told it was not eligible for investigation, or if their complaint was investigated, it was not upheld. It appeared only one person had had their complaint upheld (although this was difficult to verify, as it seemed they had complained on behalf of their partner, who was a prisoner in a different establishment, which sits outside our remit).

The small number of participants, whose complaint was not eligible for investigation, did not have a positive experience. They said they were unlikely to use the PPO again.

"I wouldn't use you again, I thought it was a bit of a waste of time to be honest"

One participant, who had complained to the PPO, said they felt the response from the PPO was similar to the one they received from the prison governor when they

complained internally. They felt the PPO did not explain why they were not investigating their complaint and were frustrated at the lack of information.

One participant said that a relative had written a 20 page letter to the PPO in support of his re-categorisation and the PPO had written a one page letter back to him.

Among female participants especially, there was a lack of trust in the independence of the PPO. Some saw it as part of the Prison Service. This led to scepticism about the value of complaining to the PPO and they considered the PPO to be part of a biased system.

"The Ombudsman just sided with the prison system"

## 5. Is there anything that would encourage participants to come to the PPO in the future?

There were a number of suggestions made by participants to improve the accessibility of the PPO complaint service. Most of them could not be taken forward because they required extra resources or were outside our remit.

The first two sections are not directly about the PPO, but are to do with accessing the internal complaints system. Prisoners must go through the internal system in order to come to the PPO, so it was important to include these points, as if prisoners fall at the first hurdle they will never reach the PPO.

### 5.1. Training and problem solving for prison staff

Participants said that prison staff needed to be more understanding. What might appear to them to be a minor problem could be very important to prisoners. If prison staff are not able to resolve the problem, then they should direct the participant to the internal complaint system, and help them write the complaint if they need assistance. The participants suggested;

"There should be some help, they should change their attitude the officers, they should go on more training courses. So they can understand the problem rather than just fobbing people off"

### 5.2. Improvements to the internal complaints system

Participants proposed a system, which is already in place in STCs, to improve the transparency of the internal complaints system and provide evidence of their complaint if they needed to chase the response. In STCs, young people are given a receipt slip torn off from the bottom of their complaint, within 24 hours of it being received by centre staff. The young person then has proof that the complaint has been received and the time and date it was submitted.

"So, it's proof. It's proof that you've put in that complaint on that specific day"

"And when I'm not getting my replies I can then complain with evidence as such"

### 5.3. Visibility of the PPO

Participants were concerned about their lack of awareness of the PPO. Often the only time they were told about the PPO was at induction. This is often a stressful time as individuals have just entered prison and are given a lot of information, which they can find overwhelming and difficult to absorb.

"Most people don't really pay attention at induction. So, they might have said it, but I wouldn't know"

Participants suggested that a booklet could be given to prisoners, explaining how to complain to the PPO and the eligibility criteria. The booklet would include the internal complaint process as well, so prisoners have a step-by-step guide to the whole complaints system.

"How about a guidebook. A booklet you can give to women when they come in... when you first arrive so you give a little booklet that says, "These are the ways that you can access support and how to make a complaint", and what the step by step process is"

Another participant suggested they would be more likely to use the internal complaint system if the person who collected the complaints was not a member of discipline staff. Participants were not aware that this is what should currently happen, since a complaints clerk should collect the complaints. Participants said they would trust other staff to deliver the complaint without tampering or reading them.

"Someone from the education department to post it out because you can trust them"

A number of participants said they used the IMB because they were accessible as their members were based in the establishment and they could go up and talk to them. This face-to-face interaction was important for

some participants, as it contrasted with having to send a piece of paper to what they saw as a faceless organisation.

“That's why I think it would be better if there was sort of, like - sort of like your service, as everyone said, like, you lot working in the prison”

Young people who had access to Barnardo's advocates in their establishment suggested the PPO should provide a similar, on-site service. This would eliminate the need to go through the prison staff, whom some of them did not trust. Participants also liked the idea of being able to discuss their complaint with one person, and build a relationship, as they are able to do with an advocate.

“Because then that person would come up and can then speak to you, like, on a long-term basis type of thing, knowing that it's pure confidential”

“I know, you lot should handle that. You could have an office that works like Barnardo's”

A suggestion was made that a prisoner could be a PPO rep. This would involve telling other prisoners about the services the PPO provide and ensure complaints are eligible before prisoners send them to the Ombudsman.

“We need some more information with the correct procedure; do you know what I mean? We need them all over and if somebody could be like a rep for the PPO that would be nice”

To simplify the process for complaining to the PPO, participants thought the PPO could have their own complaint form, like there is for the internal complaint system.

“If there was a complaint form, like a PPO complaint form”

Some participants suggested the PPO should have a complaints box, like the Prison Service and the IMB do, on the wing. They thought the post could be collected by a PPO member of staff as, for those who thought prison staff tampered with complaints, this was suggested as a way to get round this suspicion.

“I think what would be a good solution with the Ombudsman because our mail is being checked and all the rest of it and they don't like if someone from the Ombudsman came in specifically, like collected it”

#### 5.4. Remit of the PPO

A suggestion was made for the PPO to widen its remit so eligibility was not restricted to having to go through the internal complaints system first. Participants liked the fact they could go to the IMB with any problem they may have, and that there were no conditions attached to the help the IMB could give.

“Can't you just make yourselves accessible to any prisoner having a requirement? Like IMB for example”

## 6. Learning and action points

Lack of trust was the main reason many participants did not use the internal complaints system, and in turn would not bring their problem to the PPO. There was also confusion around the eligibility criteria for bringing complaints to the PPO. Some participants were unclear how to contact the PPO and under what circumstances they could make a complaint.

This section outlines the steps currently being taken by the PPO to improve our complaint service and recommendations for the Prison Service, advocate services and the PPO itself.

### **Actions already taken or planned by the PPO:**

- Adverts explaining what the PPO does and how to make an eligible complaint are running on National Prison Radio (NPR) in 2015 to publicise the PPO in establishments.**

The adverts aim to dispel myths about complaints not getting to the PPO and to counter fear of reprisals. They explain the need to go through the internal complaints system first and stress the PPO's independence from the Prison Service.

- Postcard with prisoners' canteen.**

Following the launch of the NPR adverts, a postcard explaining how to complain to the PPO will be included in prisoners' canteen delivery for one week in May 2015.

- An advert about the PPO has been included on the 2015 year planner wall chart in the prisoners' newspaper, Inside Time.**

Prisoners can display the wall chart in their cell throughout the year showing details about the PPO, including eligibility and contact details.

- New PPO leaflets and posters.**

New designs will make them more eye-catching and simple to understand. Different formats will be considered and tested with young people.

- Work with the IMB to ensure prisoners are better informed about how they can access the PPO.**

### **Other learning points for the PPO:**

- Provide more information about making complaints to the PPO to anyone who has regular contact with prisoners, including staff in prisons, YOIs and STCs.**
- Work with advocates to improve their understanding of the PPO's role.**

This would help advocates and other information providers to advise people how to use the internal complaints system and about the role of the PPO.

- Improve the way that complainants are told that their complaint is ineligible.**

### **Learning points for the Prison Service:**

- Redesign the prison complaint forms to make the process clearer and include a receipt section that is given to the prisoner when their complaint has been submitted.**
- Prison staff should deal with problems when they arise, to ensure a quick and efficient resolution that avoids the need for a complaint.**
- Ensure that all prison staff understand the internal complaint system and at what stage complaints can be sent to the PPO and inform prisoners of it.**
- Governors/directors should monitor the timeliness and quality of replies to internal complaints to ensure the requirements of PSI 02/2012 are met.**

This would improve confidence and usage of the internal complaints system.

**Learning points for Advocate Services:**

- **Promote their role in helping young people from YOIs and STCs with complaints to the Prison Service and PPO.**

## Annex – Case study scenarios

These scenarios were used to generate discussion about what participants would do in these hypothetical situations. They are based on actual complaints received by the PPO. All names have been changed to protect the complainants' identities.

### Property (Alex)

When Alex returned from work, his trainers were missing from the cupboard in his cell. He said he was not on the wing at the time his trainers went missing and he could not afford to replace them.

Alex complained to the prison and received a reply saying the cell doors were opened when movement for work started and that, with over 100 prisoners, staff could not unlock individual cells on request. Alex was told he had signed a disclaimer that his in possession property was his responsibility, and compensation was denied.

The Ombudsman's investigation found prison staff were unlocking cells once movement for work had started. This meant cells were potentially accessible to other prisoners while unoccupied. In this situation, prisoners were not able to secure their property and so liability for the items passed to the prison. In light of this, the prisoner's complaint was upheld and compensation recommended. Subsequently, following other complaints at the prison, changes were introduced to ensure staff wait until all prisoners return to the wing before cell doors are opened, reducing the risk of theft.

### Administration (Jo)

Jo was upset about inappropriate and personal comments which were written on her file by a prison officer. Jo was not satisfied with the prison's response to her complaint and so wrote to the Ombudsman.

The Ombudsman investigated and found the comments made by the prison officer were inappropriate and should not have been written.

The Ombudsman also found the Governor would be monitoring the entries made by the

prison officer and if there was not an improvement, then they may discipline the officer. The Governor had also amended the training session as a result of Jo's complaint, to ensure staff are careful and think through the entries they make on prisoners' files.

The Ombudsman upheld Jo's complaint and the prison officer apologised to Jo for the comments they had made on her file.

### Adjudication (Sam)

Sam was charged with fighting with another prisoner and had an adjudication. He did not have legal advice or anyone with him at the adjudication. At the adjudication he wanted to say he had only hit the other prisoner because he had hit him first, but he felt the adjudicator had not given him the chance to tell his side of the story. He was found guilty. Sam felt this was unfair and was worried it might affect his chances of parole.

The Ombudsman found the adjudication was badly conducted. The adjudicator did not enquire enough into Sam's defence - or if he did, he did not record it. This was a particularly significant failing given the seriousness of the charge and Sam's inexperience, vulnerability and lack of legal advice. The Ombudsman thought the adjudication finding was unsafe and recommended that it be quashed, any loss of earnings restored and the Governor remind staff who conduct adjudications they must consider whether to encourage prisoners to seek help from an advocate; enquire fully into the prisoners defence; and make a complete record of the hearing.

### Staff behaviour (Danny)

A prison officer made offensive remarks to Danny. He said racist things about the community Danny came from and insulted his mother and sister. The prison carried out an investigation after he had submitted an internal complaint to them, but Danny was unhappy with the investigation and contacted the Ombudsman.

The Ombudsman found the prison had investigated Danny's complaint and the officer undertook equality training. But the prison did not tell Danny that they were investigating and it took them five months to tell him the

outcome of their investigation. The Ombudsman thought the delay was unacceptable. Danny should have been informed of the investigation and outcome much sooner, given the distress that the prison officer's comments had caused.

The Ombudsman recommended Danny get a letter of apology from the prison. He also recommended the Governor remind staff it is very important to respond to discrimination claims in the timescales given in prison rules, and to keep the prisoner informed when an investigation into discrimination claims is carried out.

#### **Letters (Terry)**

Terry's relatives sent him birthday cards and the prison did not allow him to have them. The prison also did not allow him to send a letter he had written to his relative. The prison said Terry's birthday cards were in his stored property, but when Terry asked to have them, the prison said they could not find them.

The Ombudsman investigated and found Terry had been given conflicting information from the prison, and although the prison said the cards were in his stored property, the prison could not find them. The Ombudsman also found the prison did not follow prison rules when they refused to send the letter Terry had written to his relative. The Ombudsman found Terry's letter to his relative should have been sent by the prison.

The Ombudsman recommended that the prison pay Terry a small amount of compensation, as they were unable to find his cards. The Ombudsman also recommended the letter the prison had refused to send to his relative should be sent immediately.

## Endnotes

- <sup>1</sup> Population bulletin: weekly 28 November 2014, Ministry of Justice. and Youth Custody report: November 2014, Ministry of Justice.
- <sup>2</sup> Population bulletin: weekly 28 November 2014, Ministry of Justice.
- <sup>3</sup> For ease of reference in this report, we refer to all participants aged 15-21 as young people.
- <sup>4</sup> Prison Service Instruction 02/2012 Prisoner Complaints.
- <sup>5</sup> Benchmarking is a process where public sector prisons, which are similar in build and service delivery are matched to private sector prisons. They then undergo an exercise to identify their differences and make adjustments to meet the private sector benchmark.

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