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Any enquiries regarding this publication should be sent to: Prisons and Probation Ombudsman, Third Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU. 020 7633 4100, mail@ppo.gov.uk

The Ombudsman's Opening

Welcome to the latest issue of The Investigator



This issue brings together articles on work across our complaints and fatal incident functions, and a paper written by one of the academics we are working with to strengthen the impact of our work.

At the time of issuing this newsletter, we are still doing most of our investigations and other work remotely, including carrying out interviews via video and telephone calls. However, in response to the easing of some restrictions, some of our investigators have now gone back into prisons and we will look at how we can do more in person visits as our business recovery plans progress.

Our work to make more people in prison and their families and friends aware of the PPO and our investigations, continues. We write regular articles for Inside Time, advertise on Prison Radio and are updating and reissuing the posters and leaflets provided in establishments that outline who we are and how to contact us. We are using also social media ([@PPOmbudsman](#)) to provide updates for families and those with an interest in our work.

Since the Investigator was last issued, we have published a Learning Lessons Bulletin in which we outline what we found in the first investigations we carried out into deaths attributed to COVID-19. That bulletin is [available on our website](#) and we plan to issue further bulletins into our investigations during the pandemic in the coming months.

I hope you enjoy reading the articles we have included this time and that they give you a sense of the work we are doing to support our complaints and fatal incident investigations, further strengthening the impact we can have and the difference we can make.

Thank you for reading.

Sue McAllister CB

This month's featured articles:

Post-release deaths

For some time, we have recognised that there should be more scrutiny of cases where people die after their release from prison. We have now been given additional spend in our budget to investigate post-release deaths and we are working out how to do that so that we can have the most impact on practice, both in prisons and in the community, leading to fewer avoidable deaths in that post-release period.

In recent weeks, we have spoken to many of the people who have an interest in this work and those responsible for supporting people before, during and after their release from custody. These have included the Directors General for both Prisons and Probation in HMPPS, the Chief Inspector from HMI Probation and the Chair of the Independent Advisory Panel on Deaths in Custody (IAP). We have also had conversations with some of the academics who have long argued that post-release deaths should be subject to independent scrutiny and investigation.

We will need to recruit more investigators and we have launched a campaign to do that, including reaching out to all our external partners to encourage people from all backgrounds, particularly those that are underrepresented at the PPO, to apply.

Our planning is at an early stage and we will not be ready to start investigating post-release deaths until later this year. But we believe this is important new work for the PPO and we will share our plans as they develop in the coming weeks and months.

Author: Sue McAllister

What actually happens when you make a complaint?

This article previously featured in Inside Time's [April edition](#), written by the PPO for prisoners.

The Prisons and Probation Ombudsman (PPO) independently investigates complaints from people in prison, Young Offender Institutions, Secure Training Centres, immigration detention and on probation.

In this article, a complaints investigator explains what happens to your correspondence and complaint paperwork once it reaches the PPO.



Assessment Team

The first letter you receive from us will come from an assessor. They are at the frontline of the PPO, responsible for the initial review of your letters, and for deciding which complaints we can investigate. The assessor needs to see the paperwork to show that you have followed the HMPPS complaints procedure. As we can't return original documents to you, HMPPS will photocopy your complaint paperwork free of charge. The assessor will also make sure that your complaint is about something we are able to investigate. If your complaint is eligible for investigation, an assessor will write and tell you that your complaint will soon be allocated to an investigator. If your complaint is not eligible, they will write and tell you why.

Occasionally, we decide not to accept your complaint for investigation, even if it is eligible. For example, if you have received an apology, or staff have resolved your complaint and we are satisfied that an investigation will achieve nothing further, an assessor will write and tell you.

If you have sent new us information about your complaint, or you want a progress check – our assessors pass all your correspondence and telephone enquiries on to the relevant investigator.

Complaint Investigation

Once the assessor has decided that your complaint is eligible, complaints are allocated to teams of complaint investigators. There are just over 30 complaint investigators at the PPO and in 2019/20 we completed around 2,500 complaint investigations, so we're a very busy team. Each team is responsible for all of the complaints about certain prisons - this makes it easier for us to identify if there is a particular problem at a prison and hopefully resolve it quickly. For example, my team started receiving quite a few complaints about visits at one particular prison, which we were able to sort out.

As an investigator, I know some staff and prisoners think that we don't really understand the realities of living and working in prison. I have (like many of my colleagues) visited a lot of prisons, spent time shadowing the duty governor, been in more property rooms (usually looking for trainers) than I care to admit, sat in adjudications, visited segregation units, and drunk an awful lot of tea while chatting to prisoners about their complaint, the prison or even what the PPO does.

Against this background, the first thing I do with your letter and complaint is read it thoroughly and I then decide what further information I need. If you have complained about something where the circumstances may change quickly, like a Home Detention Curfew decision, I will look at your records to see if you have now been released. In this case, I would write saying that I am satisfied that the situation has been resolved, and I am not investigating your complaint.

More usually, I email staff, and possibly you as well (or write to you), asking for information. What I ask for depends on the complaint you have made. Almost a third of the complaints we received in 2019/20 related to property, so I am always keeping my fingers crossed that the property card is legible, and that staff can find the cell clearance card. Over the years, I have only had one adjudication where I could not read the adjudicator's handwriting. If the complaint is about staff behaviour, usually relating to use of force, I will be asking for all the use of force paperwork, CCTV, witness statements and the local investigation. As part of every investigation, I'll also look at relevant local, and national policy. If I have any more questions for you, I will normally ask to speak to you either by visiting you in prison (we're not going into prisons at the moment because of COVID-19, but hope to again soon) or by telephone.

Eventually, I have the information I need (or that I am realistically going to get), then I have to make a decision. In the broadest terms, if I am satisfied that staff have followed the relevant local and national policy, and have acted reasonably and proportionately, you will receive a letter explaining why we have not upheld your complaint.

Sometimes staff at the prison will suggest how they can resolve your complaint. The best example of this is where a prison decides to offer compensation for your lost property. If this is the case, we will write explaining why your complaint has been resolved by mediation.

If I agree with your complaint and uphold it, and it can't be resolved through mediation, I can make recommendations to the governor, or even to the Director General of Prisons, asking them to take action to put the situation right. In these cases, you and HMPPS will receive a copy of the draft report and have a chance to correct any inaccuracies. Once this has happened, I send a final report to you and HMPPS. In due course, I will also check that recommendations made in the report are implemented.

Now you have had an insight into what a complaint investigator does, if you want to contact us, you can write to: Prisons and Probation Ombudsman, Third Floor, 10 South Colonnade, London, E14 4PU.

Author: Complaints Investigator

How can I contact the Prisons and Probation Ombudsman?



This article previously featured in Inside Time's [May edition](#), written by the PPO for prisoners.

In the April 2021 issue of Inside Time, we gave you an update on 'what actually happens when you make a complaint'.

Since March 2020, Prisons and Probation Ombudsman (PPO) staff have been working from home with limited access to our office in Canary Wharf. This meant that for a while, we were unable to access any of our post, and since May 2020, we have redirected our post to a scanning company. Our new ways of working have meant that we are no longer able to return original documents to you, however HMPPS has agreed to photocopy complaint forms only for free so that you can send them to us.

In June 2020, we began using the 'Email a Prisoner' service so that we could send messages to you quickly due our limited access to our office. Not everything is suitable for 'Email a Prisoner' so we will only email you if we are sure that the content is not confidential or sensitive.

There are two other routes to contact us which are through our voicemail service and our general enquiries email account. We would like to take this opportunity to tell you what we do when we are contacted in these ways.

What we do when we receive messages on our voicemail

Our assessment team monitors all voicemail messages that we receive each day of the working week.

When leaving a message on our voicemail, we ask that you give your name, prison number and the name of the prison you're located at so we can deal with your enquiry. Each message is listened to carefully (more than once if necessary) and we record the information from each message before determining whether further actions are needed. Further action might include; contacting a prison for more information about a complaint e.g. copies of complaint forms or responses to complaints that you have made. If your voicemail message causes us to be worried about you, we might contact the prison to ask staff to check that you're ok.

If we get a message from loved ones or family members, we will contact them if this is appropriate. Very often when we do, it is to advise them about the process that needs to be followed before the PPO can investigate a complaint.

It is important to let you know that the PPO's voicemail is not a shortcut or an alternative to the complaints procedure which must be completed before we can consider accepting a complaint for investigation. In the majority of cases we will contact complainants directly by letter or via 'Email a Prisoner' to request further information or to outline the complaints process so that you are aware of any next steps, which you may need to follow.

What we do when we get emails sent to the PPO mail account

The Ombudsman has a dedicated email inbox for all general enquiries:

mail@ppo.gov.uk

Much like the voicemail system, we monitor and reply to emails every working day. We routinely receive emails from relatives, solicitors and charity organisations acting on behalf of prisoners.

We keep a log of the messages that we receive and detail any actions that we take. We always ensure we have the signed authority from the prisoner or those on probation before sharing any information with a third party to comply with data protection. We do not share information or accept complaints without authority. When safeguarding concerns are raised by a relative, we ensure we pass this information onto the prison so it can be followed up.

Those making complaints by email still have to provide evidence of going through the full internal complaint procedure. If the correct documents are scanned and sent to us by email, we assess the complaint and provide the email recipient with the decision on eligibility for the Ombudsman's investigation. If you have a complaint against the Prison/Probation Service, you must go through their complaints process before referral to the Ombudsman and we expect that you write a short letter explaining the nature of your complaint and the reasons you remain unhappy with the responses you have received. We will consider investigating a complaint if the complainant has not received a response from the prison within 6 weeks of making the complaint or 45 working days for probation matters.

The most common reason that a complaint is ineligible is because the person complaining has not followed the correct complaints procedure. A complaint is eligible if it is from someone who has been through the relevant internal complaints process and they bring it to us within three months of receiving the final stage reply. The complaint must also be about something which is within our remit. It's best if you use a separate letter for each complaint. That will ensure that we focus on the right thing and don't miss any important information. If you do have more than one complaint, we ask that you write a letter for each one.

You can contact the PPO by calling 0845 010 7938 (voicemail only) or you can write to us at: Prisons and Probation Ombudsman, Third Floor, 10 South Colonnade, London E14 4PU.

Author: Andrew Morris

Prisoner death investigations: a means for improving safety in prisons and societies?

This paper was written by Dr. Philippa Tomczak and Sue McAllister, published [here](#). This is the beginning of a series of outputs, with planned conferences, pilots and sharing across oversight bodies.

Introduction

The investigation of deaths occurring in unnatural, surprising and unclear circumstances is an important area. Death investigation matters for myriad reasons, including: (legal) accountability for risky practices, individuals and institutions; public health and safety; systemic institutional concerns and unaddressed risks; medical care quality; to address community concerns; and for bereaved individuals' understanding (Timmermans 2002, Freckleton 2007, Hanzlick 2016). If deaths are not effectively investigated and suitable remedial action is not taken to respond to findings and recommendation by coroners, 'the adverse consequences for the general community [...] can be disastrous' (Freckleton 2007, p. 1).

Prisoner mortality rates are up to 50% higher than in the wider community (UNOHCHR 2019, p. 9) and prisons are 'uniquely liable to abuses and distortion of power' (Liebling and Crewe 2013, p. 286). Prisoner deaths represent 'the extreme end of a continuum of near deaths and injuries', creating important learning which could avert further deaths, 'risks to custodial health and safety generally' (Coles and Shaw 2012, p. 2), and risks to societies (Link et al. 2019, Auty and Liebling 2019, McLeod et al. 2020). (Inter)national law imposes obligations to investigate prisoner deaths. These investigations deserve further attention in penal scholarship and practice globally. Every prisoner death investigation provides a window to identify, organise and apply learning that could safeguard prisons and societies. At present, an accountability deficit stretches across the criminal justice system and its overseers due to limited efficacy at preventing future deaths. There is an international need to develop best practice for investigating deaths in detention, which should consider how to *stimulate penal change through death investigations*.

To support the UK's compliance with Article 2 of the European Convention on Human Rights (ECHR), which protects the right to life, the Prisons and Probation Ombudsman (PPO) has been investigating prisoner deaths in England and Wales since 2004 (Owen and Macdonald, 2015). Ombud institutions oversee prisons around the world and provide unelected accountability mechanisms, operating at the intersections of public administration and administrative law (Behan and Kirkham 2016, Padfield 2018). Ombud institutions hold substantive potential to shape imprisonment, but have not received commensurate scholarly attention (Carl 2013). Not all Ombud institutions investigate deaths. As 'standard ombudsman territory' (Seneviratne 2010, p. 21) prisoner complaints have generated some limited scholarship (e.g. Sapers and Zinger 2010, Calavita and Jenness 2013).

This paper makes an important contribution, examining the Ombudsman's success at establishing feedback loops through prisoner death investigations. We identify potential to: i) extend self-conscious, confident communication work, early in the investigation, across PPO investigators; ii) communicate praise as well as deficits to prison staff throughout investigations; iii) adjust template PPO recommendations. An

evidence base to inform recommendations is urgently required and holds potential to produce a step change in (inter)national prison oversight practices around the world.

References available via the link provided. To continue reading the rest of the paper, click here:

<https://www.tandfonline.com/doi/full/10.1080/09649069.2021.1917714>

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PPO Communications Team
Prisons and Probation Ombudsman
Third Floor, 10 South Colonnade
Canary Wharf
London
E14 4PU

PPOComms@ppo.gov.uk

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