

Independent investigation in custody in England and Wales

An introduction for delegates from Ukraine's Ministry of Justice

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25th November, 2015

History of PPO

- An inquiry following 1990 prison riots suggested one cause was lack of prisoner confidence in prison internal complaints processes
- PPO established 1994
 - Complaints from probationers and immigration detainees added 2006
- Fatal incident investigations added 2004
 - to comply with Article 2 European Convention on Human Rights (obligation on state to ensure independent investigation of deaths in custody)

The PPO's roles

- Two main roles:
 - Independent investigation of complaints from prisoners, immigration detainees and those on probation
 - Independent investigation of deaths in prison and immigration custody and approved premises
- New emphasis on learning wider lessons from individual investigations

Why are complaints mechanisms in custody important?

- To be legitimate and effective, custody should be managed in a fair and just way
- Fair and just custody includes mechanisms to complain about actual or perceived unfairness or abuse
- Effective internal complaint mechanisms:
 - demonstrate appropriate behaviour to offenders
 - allow detainees to vent frustrations\ease institutional tensions
 - allow resolution at the lowest level but with confidential and appeal routes to higher authorities
- Good, confident custodial administrations allow appeals to an independent body

Why is an independent element in complaints important?

- Article 3 ECHR
- Protects detainees from hidden state abuse and protects staff from malicious allegations
- Give credibility to system\confidence to detainees
- Helps staff who want to confront abuse
- Informs civil society about what is happening in custody in their name (and with their money)
- Encourages learning of lessons – avoid future complaints

Complaints: issues

- Apex of system
 - PPO deals with only about 1% of complaints in prison
- 5000 complaints received in 2014-5 (up 2%)
- About 50% eligible for investigation
 - Must exhaust internal complaint system
 - Must complain within 3 months of end of internal process
 - Must be within remit
- 2400 investigations (up 13%)

Complaints: issues

- Most complaints (97%) from prisoners
 - 27% from long term high security prisoners
 - Small numbers of complaints from probation (2%) and immigration detainees (1%)
- Juveniles, women and those on short-sentences rarely complain
- Huge range of complaints from assaults by staff, administration (9%), adjudications (7%) and property (28%)

Complaints: outcomes

- 39% upheld (up 4%)
 - Of which 13% mediated
- Local and national recommendations
- Almost all accepted
- Action plans for improvement

Why independent investigations of fatal incidents?

- Article 2 ECHR
- Gives answers to bereaved families
- Gives credibility to system
- Ensures accountability but also protects custodial staff from malicious allegations
- Informs civil society about what is happening in custody in their name
- Improves safety in custody by encouraging learning of lessons

Fatal incidents: issues

250 deaths investigated 2014-15

- 62% natural causes
- 30% self-inflicted
- 2% homicide
- 6% other

5% increase

- 15% increase in natural causes (average age 58)
- 16% reduction in self-inflicted

Fatal incidents: outcomes

- Bereaved families central to investigation
 - consulted and involved
 - supported by Family Liaison Officers
- Local and national recommendations
- Almost always accepted
- Action plans
- Recommendations followed up by HMI Prisons

Learning lessons

- New emphasis on encouraging services to learn lessons from investigations to avoid preventable deaths and the next complaint
- Thematic studies 2014-15
 - Risk factors in suicide
 - Suicide monitoring
 - Self-inflicted deaths 2014-15
 - Deaths of young adults
 - Deaths of Travellers
 - Deaths in segregation
 - Deaths related to NPS
 - Complaints about maintaining family ties
 - Complaints from women and young people
 - Complaints about Rule39 mail

The future

Growing demand

- Highest prison population per head in European Union (88,000)
- Large numbers of complaints
 - More long-term prisoners
 - Reductions in regime
 - Reductions in legal aid
- Deaths increasing
 - More older prisoners
 - Sharp and unexplained increase in suicide

The future

No foreseeable reduction in demand for an independent Prisons and Probation Ombudsman.