



2016 CHAPTER 21

PART 2

The Prison Ombudsman For Northern Ireland

Deaths in custody

Investigations into deaths in custody

37.—(1) The Ombudsman shall carry out an investigation into the death of a person—

- (a) at any prison while the person is being held there;
- (b) while that person is in the custody of a prison officer at a place outside a prison; or
- (c) which the Ombudsman is satisfied should be investigated because it is or may be linked to events which have occurred—
 - (i) at any prison while that person was being held there; or
 - (ii) while that person was in the custody of a prison officer at a place outside a prison.

(2) In carrying out the investigation, the Ombudsman must aim—

- (a) to establish the circumstances surrounding the death;
- (b) to address any concerns of the family of the deceased;
- (c) to determine whether any changes in operational arrangements at a prison would prevent or reduce the risk of deaths occurring under the same or similar circumstances; and
- (d) to discover any facts likely to assist a coroner's inquest into the death.

(3) Subject to subsection (2), it is for the Ombudsman to determine the scope of, and the procedure to be applied to, an investigation under this section.

(4) The Ombudsman may defer an investigation under this section at any time if it appears to the Ombudsman that—

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

(5) The Ombudsman may at any time re-open a deferred investigation.

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

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

Report on investigation into death

38.—(1) Where the Ombudsman has carried out an investigation into a death under section 37, the Ombudsman shall report in writing on the outcome of the investigation to—

- (a) the Department;
- (b) the coroner who is holding or who is to hold an inquest into the death;
- (c) the health and social care trust responsible for providing healthcare to the deceased while held in prison; and
- (d) at least one person who is a personal representative of the deceased or a relative of the deceased at the time of death.

(2) The Ombudsman may also report on that outcome to any other person the Ombudsman considers should receive the report.

(3) In a report to the Department or a health and social care trust the Ombudsman may make recommendations about any matter arising from the investigation.

(4) Where such recommendations are made in a report, the Department or trust must, within the required period, respond in writing to the Ombudsman setting out (with reasons) what it proposes to do about the recommendations.

(5) The required period is the period of 28 days commencing with the day on which the Department or trust receives the report or such longer period as the Ombudsman may in the case of any report allow.

(6) The Ombudsman may report on that response to such persons as the Ombudsman may think fit.

(7) Regulations may make provision as to the procedures to be followed in relation to reports under this section and may in particular include provision—

- (a) enabling the Ombudsman to show any person a draft of the whole or any part of a report;
- (b) enabling the Ombudsman to publish the whole or any part of a report;
- (c) restricting or prohibiting the identification of prescribed persons or persons of a prescribed description in a report or the inclusion of information of a prescribed description.