



House of Commons
Justice Committee

Appointment of the Prisons and Probation Ombudsman for England and Wales

Fourth Report of Session 2010–12

*Report, together with formal minutes, oral
evidence and appendices*

*Ordered by the House of Commons
to be printed 17 May 2011*

Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

Current membership

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Elizabeth Truss (Conservative, South West Norfolk)
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The following Members were also members of the Committee during the Parliament:

Jessica Lee (Conservative, Erewash); Anna Soubry (Conservative, Broxtowe); and Mrs Siân James (Labour, Swansea East)

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at <http://www.parliament.uk/justicecttee>. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Tom Goldsmith (Clerk), Emma Graham (Second Clerk), Hannah Stewart (Committee Legal Specialist), Gemma Buckland (Committee Specialist), Ana Ferreira (Senior Committee Assistant), Henry Ayi-Hyde (Committee Support Assistant), and Nick Davies (Committee Media Officer)

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1 Introduction

1. This Report follows the Committee's third opportunity in this Parliament to conduct a pre-appointment hearing with the Government's preferred candidate for an important post; in this case, that of the Prisons and Probation Ombudsman for England and Wales. In 2008, the then Government produced a list of posts which it identified as being suitable for pre-appointment scrutiny. Those posts which fall within the remit of this Committee are set out as Appendix A.

Prisons and Probation Ombudsman for England and Wales

The role and function of the Prisons and Probation Ombudsman

2. The Prisons and Probation Ombudsman (PPO) investigates:

- complaints from prisoners, people on probation and immigration detainees held at immigration removal centres; and
- deaths of prisoners, residents of probation service Approved Premises, and those held in immigration removal centres.

3. Although appointed by the Secretary of State for Justice, and sponsored by the Ministry of Justice (MoJ), the PPO is operationally independent of the MoJ and of NOMS. The post was established in 1994, following a recommendation of the Woolf inquiry into prison riots at Strangeways and other establishments in 1990. Its initial remit concerned complaints from prisoners only, although this was widened in 2001 to include probation complaints, and again in 2004, to include investigation of deaths in prisons, Approved Premises and immigration custody. In 2006 complaints from immigration detainees were added to the remit. Jane Webb has been Acting PPO since April 2010 when Stephen Shaw, who had held the position since 1999, stepped down to become Chief Executive of the Health Professions Adjudicator.

4. The statement of purpose of the PPO is “to carry out independent investigations into deaths and complaints. Our service is in respect of prisoners, those supervised by probation and immigration detainees. The purpose of our investigations is to understand what has happened, to correct injustices and to identify learning for the organisations whose actions we oversee.”¹

5. The Ombudsman’s office has a staff of 117 (including deputies, assistants, investigators and administrative staff). In 2009-10, its expenditure was £6.035 million. In that year it issued 205 draft reports and 214 final reports relating to fatal incidents, and completed investigations into 2,083 complaints.²

The post

6. The Ministry of Justice described the Ombudsman’s responsibilities as follows:

- Providing independent and effective investigation of complaints falling with the Ombudsman’s Terms of Reference;
- Investigating all fatal incidents occurring in the services in remit, and producing a written report of every investigation;

¹ Prisons and Probation Ombudsman for England and Wales, *Annual Report 2009-10*, Cm 7878

² *Ibid*

- Making recommendations to the services in remit and the appropriate Secretary of State;
- Providing more general findings to the services in remit and the public at large;
- Building effective working partnerships with other complaint-handling bodies and other relevant agencies;
- Leadership and management of the Ombudsman's Office;
- Producing an annual report, to be laid before Parliament by the Secretary of State for Justice.³

7. The advertisement for the post is published as Appendix B, and the Person Specification as Appendix C. The closing date for applications was 13 December 2010.

The candidate

8. The Secretary of State informed us on 5 April that his preferred candidate for Prisons and Probation Ombudsman for England and Wales was Nigel Newcomen CBE, currently HM Deputy Chief Inspector of Prisons. His curriculum vitae is published as Appendix D.

9. We held a pre-appointment hearing with Nigel Newcomen CBE on 17 May. On the basis of his responses and his relevant experience, **we endorse Nigel Newcomen's suitability for the position of Prisons and Probation Ombudsman for England and Wales. We believe his experience as Deputy Chief Inspector of Prisons since 2003 will be relevant and helpful to his future work as Ombudsman and that the post of Prisons and Probation Ombudsman needs to be seen to have the same status and independence as successive Chief Inspectors of Prisons have enjoyed in that role. We hope the Government will proceed to put the Ombudsman on a statutory basis at an early opportunity.**

³ Ministry of Justice's information pack for applicants, p 8

Appendix A

Posts which are subject to pre-appointment hearings before the Justice Committee

Attorney General's Office

HM Chief Inspector of the Crown Prosecution Service (*subject of a pre-appointment hearing, report published as HC 244 of Session 2009-10*)

Ministry of Justice

Chair of the Judicial Appointments Commission (*subject of a pre-appointment hearing, report published as HC 770 of Session 2010-11*)

Chair of the Office for Legal Complaints (*subject of a pre-appointment hearing, report published as HC 1122 of Session 2007-08*)

HM Chief Inspector of Prisons (*subject of a pre-appointment hearing, report published as HC 354 of Session 2009-10*)

HM Chief Inspector of Probation (*subject of a pre-appointment hearing on Wednesday 11 May 2011*)

Information Commissioner (*subject of a pre-appointment hearing, report published as HC 146 of Session 2008-09*)

Prisons and Probation Ombudsman for England and Wales (*the subject of this report*)

Appendix B

Job Advertisement

Prisons and Probation Ombudsman for England and Wales

Salary £100,000

The Prisons and Probation Ombudsman is appointed by the Justice Secretary to provide independent investigation of complaints from prisoners, offenders under probation supervision and immigration detainees. The Ombudsman also investigates fatal incidents occurring in prisons and other places of custody, to establish the circumstances relating to the death and to consider whether changes could be introduced to help prevent a recurrence.

The Ombudsman is independent of the National Offender Management Service and the UK Border Agency, and works with a range of stakeholders in a complex and sensitive environment. The Ombudsman leads a team of deputies, assistants, investigators and administrative staff that currently totals 117.

Candidates will have an appreciation of criminal justice and immigration issues. Independence and excellent judgement are essential. and a demonstrable ability to use evidence to inform logical and sound decisions will be required. Highly developed communication skills will be critical in every aspect of the role, working with the authorities in remit, Ministers, other stakeholders and with the media. In line with Government proposals to increase Parliamentary scrutiny of appointments to key posts, the preferred candidate may be required to appear before a Parliamentary select committee prior to appointment.

For more information about this role, visit <http://recruit.penna.com> or call Aaron Webster on 020 7663 6862 and David Binney on 020 7663 7327 at Penna Executive Search.

Closing date: 9am, 13 December 2010.

Appendix C

Person specification

“The office holder is not required to have a background within the criminal justice or immigration systems but must have an appreciation of the issues affecting those areas.

Core competencies

Candidates will be able to demonstrate:

Leadership and performance

- Ability to develop and maintain demonstrable and perceived independence from the authorities in remit.
- Proven ability to lead effectively a multi-disciplinary team, including experienced professional staff.
- Ability to lead an organisation with robust financial management within the context of challenging demand-led services.

Stakeholder management

- The ability to establish credibility with complainants, the authorities in remit, Ministers, the public and other stakeholders.
- Authority and influence at very senior levels across a broad range of stakeholders.
- Highly developed inter-personal skills and the willingness to work collaboratively with others, with the ability to feel at ease with prisoners, prison staff, senior managers in the criminal justice system and their counterparts in immigration detention.

Strategic thinking

- Proven ability to process and interpret complex information and offer well-developed analytical reasoning skills and judgment based on evidence.
- An incisive and independent mind, with the ability to provide impartial, objective and pragmatic advice with excellent judgment in both operational and political matters.
- High integrity and a genuine commitment to helping raise standards within prisons, probation and immigration detention.

Communication

- Excellent communication skills, both written and oral, and proven ability to handle the media.
- Experience of formulating and presenting technical advice and reports to others at senior levels.”

Appendix D

Curriculum vitae

Nigel Newcomen CBE

Career resume

Law degree (Kent), post-graduate law degree (LSE), prison research (Sussex). Extensive work in probation both directly with offenders and then managing an R&D unit to deliver research and IT systems - interspersed with university teaching (London), private business research consultancy and a further masters degree (Surrey).

Entered Prison Service as a direct entrant administrative Grade 7 in 1991. Delivered a range of high profile prison policies. UK representative to Council of Europe Committee (DH-DEV) on the rights of detainees.

Seconded to Home Office to lead on protective security and then Private Secretary to Home Secretary. 1996 promoted to Grade 6 Business Manager, Directorate of Prison Health Care, and delivered a change management remit. 1997 promoted to Senior Civil Service as Head of Prison Service Secretariat, and oversaw delivery of a range of reviews.

1999–2003

Prison Service Assistant Director responsible for 250 staff and a £13m budget. Managed national lifer, parole and recall casework functions. Oversaw expansion of offending behaviour programmes and drug services in prison, and development of a national reducing re-offending strategy. Chaired Council of Europe Committee (PC-LT) on life sentence\long term prisoners.

2003–

Deputy Chief Inspector of Prisons. Responsible for management of the robustly independent Inspectorate of Prisons on behalf of the Chief Inspector. Including: leading inspections; oversight of business planning, programming and methodology; line management of all 9 team leaders; quality assurance of reports and handling relevant media. Led on joint criminal justice inspection and the extension of the Inspectorate's remit to immigration, military and police detention.

Experience

From 2003	HM Inspectorate of Prisons Deputy Chief Inspector of Prisons (SCS)
1999–003	Sentence Management Group, Prison Service Assistant Director and Head of Group (SCS)

1996–1999	Secretariat, Prison Service Head of Secretariat (SCS)
1996	Directorate of Prison Health Care Business Manager (grade 6)
1994–96	Private Office, Home Office Private Secretary to the Home Secretary (grade 7)
1994	F4 (counter-terrorism) Division, Home Office Head of Protective Security (grade 7)
1993–94	Directorate of Services, Prison Service Criminal Justice Bill Team lead (grade 7)
1991–3	Directorate of Inmate Activities, Prison Service Head of Section (grade 7)
1987–91	Action Research, own private consultancy Part-time Management Research Consultant
1985–91	South West London Probation Service Head of Research and Information
1982–85	Chelsea College, University of London Part-time lecturer (law and criminology)
1981–85	South West London Probation Service Senior Community Service Officer
1980–81	University of Sussex Research Officer Penal Study Unit
1978–79	Inner London Probation Service Community Service Officer
1976–78	Inner London Probation Service Sessional Community Service Supervisor

Education

1963–73	St Christopher's School, Letchworth, Hertfordshire
1974–77	University of Kent, Bachelor of Arts (law)
1979–80	London School of Economics, Master of Laws
1988–90	University of Surrey, Master of Science in Research Methods

Training

- 1993 De Montfort University, HMPS Senior Management Programme.
- 1997 Cranfield University, HMPS Programme Management Course
- 1999 Civil Service College, Prince 2 Course
- 2000 Civil Service College, Young Nodes.
- 2002 University of Cambridge, Senior Course in Criminology
- 2003 Prison Service Senior Managers' Financial Management Course
- 2004 Work Foundation, Home Office Leadership Training
- 2005 Rangecroft Communications, Home Office Media Training
- 2006 Home Office Programme and Project Management Course
- 2007 National School for Government (NSG), Communications course
- 2008 NSG, Strategic Management
- 2009 NSG, Programme and Project Management

Personal

Age 55, Married, with 3 sons aged 21–27.

Interests: criminology, music, sport, travel, arts, and vegetable gardening.

Formal Minutes

Tuesday 17 May 2011

Members present:

Rt Hon Sir Alan Beith, in the Chair

Mr Robert Buckland	Ben Gummer
Jeremy Corbyn	Claire Perry
Chris Evans	Elizabeth Truss
Mrs Helen Grant	Karl Turner

Draft Report (*Appointment of the Prisons and Probation Ombudsman for England and Wales*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 9 read and agreed to.

Papers were appended to the report as Appendices A-D.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 18 May at 9.15am.]

Witness

Tuesday 17 May 2011

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Mr Nigel Newcomen CBE, Preferred candidate

Ev 1

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Revised Sentencing Guideline: Assault	HC 637
Second Report	Appointment of the Chair of the Judicial Appointments Commission	HC 770
Third Report	Government's proposed reform of legal aid	HC 681–I

Oral evidence

Taken before the Justice Committee

on Tuesday 17 May 2011

Members present:

Sir Alan Beith (Chair)

Jeremy Corbyn
Christopher Evans
Mrs Helen Grant
Ben Gummer

Claire Perry
Elizabeth Truss
Karl Turner

Examination of Witness

Witness: **Nigel Newcomen CBE**, preferred candidate for Prisons and Probation Ombudsman for England and Wales, gave evidence.

Q1 Chair: Mr Newcomen, welcome to this Committee. You come before us as the preferred candidate for the post of Prisons and Probation Ombudsman. Perhaps I could start by asking you what you think you would bring to this job.

Nigel Newcomen: Thank you, Chairman, and thank you for the invitation to appear before you. I am currently the Deputy Chief Inspector of Prisons and, accordingly, I think I have some appropriate skills that may be of benefit in the post for which I have applied. There is obviously a shared knowledge base in terms of the prisons and the immigration detention context, and slightly less so with regard to probation. I also bring a set of skills which were both advertised for the post and are required, relating to leadership and management over a lengthy period of time in a similar sector, and a range of skills also in terms of change management and indeed in running demand-led casework functions, which again seems to have some application to this role.

I also bring some experience in quite significant stakeholder management and this post requires that sort of expertise as well. But I also come from a background now of eight years in a robustly independent inspectorate, and that, too, is essential in this context, together with a commitment to improving outcomes in the criminal justice system, which again I hope—

Chair: Improving outcomes in?

Nigel Newcomen: In the criminal justice system, and in particular in the prison and detention context.

Chair: I should warn you that the acoustics in this room are very unsatisfactory. There is not a lot of volume.

Nigel Newcomen: I am sorry.

Chair: You have to pronounce things quite clearly for words not to be lost around the echoes of the room.

Nigel Newcomen: Indeed.

Q2 Chair: There are prisons that you will have been involved in inspecting from which you will perhaps receive individual complaints in the future if you take this job. Are there any problems with that?

Nigel Newcomen: I would not say so. Clearly, there is a change of function from the more holistic analysis of prisons that the Inspectorate undertakes—a sort of

proactive search for the adequacy of treatment conditions in prisons—to the more case-by-case reactive approach, which is what is involved with the Prisons and Probation Ombudsman. I would not see any potential conflict. In both contexts there is an independent level of scrutiny that is required and there should be some potential benefit in having had knowledge of independently scrutinising the setting where there have been complainants, or indeed, sadly, where a death, may actually have taken place.

Q3 Elizabeth Truss: In terms of the way that the Ombudsman operates at the moment, what do you think its strengths and weaknesses are?

Nigel Newcomen: As I read the PPO stakeholder survey, I think that most stakeholders regard the Ombudsman's Office as having an important independent scrutiny function. It has achieved that over a relatively short period of time, since 1994, and then subsequently taking on deaths in custody and subsequently taking on different sectors. In a relatively short period of time it has attained credibility and an important function in the sector. There are concerns. Certainly from an Inspectorate perspective, we have had concerns over a period that reports can take a lengthy period of time to arrive and those delays clearly are something that this post holder needs to address.

Also, there is the prospect, hopefully, of improved impact so that the PPO may be able to make slightly more inroads into ensuring its lessons are learned. The Inspectorate, for example, now inspects police custody and I have been very impressed by the Independent Police Complaints Commission's "lessons learned" material which every custody sergeant in the country seems to know about. I do not think that is quite yet what has been attained by the PPO, and that is something which I would think somebody coming into this role ought to be also addressing.

Q4 Elizabeth Truss: You mention that some reports are delayed. How would you prioritise the caseload, because presumably there are minor incidents and serious incidents that take place? How would you make sure all those are dealt with?

 17 May 2011 Nigel Newcomen CBE

Nigel Newcomen: It is a pretty big task. I would not assert any kind of blueprint at this stage and there will be a lot of analysis required. Certainly, there is a difficult situation in that resources are declining and that means less staff, but at the same time demand is increasing. As in other settings in which I have had to undertake work of that kind, I would seek to try and work out where priorities must lie. It may well be that there have to be some fairly difficult decisions relating to eligibility of some complaints so that those that are of less merit or are less substantive issues can be addressed with slightly less resource.

It is more difficult with deaths in custody. Every death is a tragedy. It may well be that there is some capacity to prioritise even some of the deaths investigations, so that, for example, a 70-year-old dying in custody of heart failure, may not merit the sort of investment of scarce resource that, say, a teenager committing suicide or apparently committing suicide in custody might merit. These are very difficult decisions, but I think they are the sorts of things that will need to be explored in a wholesale review of the casework that will need to be undertaken in the PPO's office so that, for example, the limited and declining number of staff can be deployed to the best effect and processes re-engineered to ensure that there is not waste in the system.

Q5 Elizabeth Truss: You mentioned in your earlier responses about overall issues in the criminal justice system. What problems that we have in the overall criminal justice system do you think are going to most impact on this role?

Nigel Newcomen: I think some of the self-same issues that were just touched upon: the squeezing of resource in the entire criminal justice system and the pressures that that brings to bear in an already crowded prison estate, for example. That clearly will continue to provide large numbers of complaints and, it appears, no diminution in the number of the deaths in custody. I would anticipate that some of the pressures that appear to be growing would impact on the caseload of the PPO.

Q6 Elizabeth Truss: You mentioned stakeholders. What about the complainants themselves? How satisfied are they with the current service they get from the Ombudsman?

Nigel Newcomen: I do not have a great deal of knowledge as to the satisfaction of individual complainants. From the stakeholder surveys and from my walking around prison landings, as I said earlier, there is scope for greater profile which might in itself allow complainants to see that appropriate levels of attention have been given to their investigations. But my understanding of what the PPO's office currently does is that they have a pretty rigorous approach to their work and I would hope that levels of satisfaction are relatively high.

Q7 Ben Gummer: Have you been given a brief beyond the job advertisement from the MoJ which is in any way different or more extensive?

Nigel Newcomen: No. Do you mean in terms of a written brief for this appearance?

Ben Gummer: No, sorry, for the actual job description itself.

Nigel Newcomen: I have not been given anything other than the job description. My role, if successful, would be to follow that job description.

Q8 Ben Gummer: They are being consistent at least in that. Could I ask you a hypothetical question, although you might not be able to answer this now? With the changes to the Probation Service, "payment by results" and the rest coming in, many people foresee the place of an economic regulator, rather like Monitor, coming into place. Do you see a changed role for the Ombudsman in that instance?

Nigel Newcomen: As you say, it is a hypothetical question with which I have struggled slightly, I have to admit. There are clearly issues with regard to the deployment of resource in the criminal justice system which will percolate through into all aspects, including the role of the Prisons and Probation Ombudsman. If I understand the question correctly, I would not currently see any diminution of its role. If there was a monitor looking specifically at financial issues, I think the role of the Prisons and Probation Ombudsman to provide independent scrutiny of complaints and investigations of deaths in custody would still be required.

Q9 Ben Gummer: But it could increase.

Nigel Newcomen: It could indeed. There are other potential drivers which may well be issues of finance, for example, in the legal aid context, where prisoners may have less alternative methods of challenge. We have to be aware of those drivers. One of the things that I would seek to put in place would be a slightly better capacity to predict what the sorts of demands are year on year rather than reacting with some difficulty to the demands placed on an institution with declining resource.

Q10 Ben Gummer: That is an interesting point about legal aid. Finally, you had a distinguished career within the Prison Service but you have worked for chief inspectors who have come in from outside the Prison Service. Do you think as a candidate for this you bring certain qualities which people from outside the Prison Service might not have, or do you think that there is a disability in being too attached to the Prison Service?

Nigel Newcomen: Clearly, I would not favour the latter interpretation, but it is a very fair point. If I had come in from a current posting within the prison system—I was latterly Assistant Director in Prison Service headquarters—I think there would be a distinct risk of conflict. However, after eight years of robustly independent inspection, I do not regard my current personal situation as a disability. It is a moot point. There is huge benefit in having outside scrutiny—people that do not come in encumbered by previous perspectives as to how things are or have always been. Equally, I think it helps on occasions to have sufficient knowledge of how things run so that you can make appropriate recommendations for improvement and change.

17 May 2011 Nigel Newcomen CBE

Q11 Chris Evans: Stephen Shaw said in his last report that the office is to face further resource constraints in future years. We obviously live in a time where we are facing cutbacks in all areas of public life. Are you in a position to assess what the future of financial funding levels will be?

Nigel Newcomen: The Ministry of Justice has made clear what the expected funding for the four-year period of the spending round is. It does not make particularly pleasant reading for those that then have to work with it. I think it amounts to a 14.5% reduction over the four-year period, which, in a largely staff-based organisation, means fewer staff and obviously, as we have already touched on, an increased number of complaints, hopefully not deaths, but certainly there is no diminution in the number of deaths at the moment.

It is a particularly challenging time and, quite clearly, resources will have to be matched against need in a way which can only come from rigorous review, followed by, as I have had to put in place in other settings, quite sophisticated and detailed change programmes to ensure that the resources are best targeted, that processes are engineered to be as efficient as possible and staff supported to work through a pretty challenging time.

Q12 Chris Evans: What specific needs have you prioritised for funding that and what are further down the scale in terms of priorities?

Nigel Newcomen: As I said earlier, I do not have a blueprint as yet. It would ill behove me to have a blueprint at this stage. I need to get in and understand things a lot more than I do already. But, clearly, as I have already alluded to, in a relatively short period of time the Ombudsman has attained quite a good profile for at least the independence and the quality of the investigations, slightly less so on timeliness. I would want to sustain the good, while trying to work at some of the deficits that timeliness statistics seem to reflect. As I also alluded to, I would want to encourage the learning of lessons because I am not really that interested in joining an organisation simply to oversee the casework function. But I want to see a casework function that also contributes to improvement in the services that are being investigated. I think that is possible with relatively small resource but with attention to research and good communications.

Q13 Chris Evans: Have you had any discussions with Ministers or officials about future funding of the office?

Nigel Newcomen: None whatsoever.

Q14 Chris Evans: What are your expectations for future funding levels?

Nigel Newcomen: I have been told what the future funding is for the four-year period so I have got to lump it, to a degree. For the fourth year, the spending round, I gather, is indicative. It is even lower in terms of budget than the previous three years and it is assumed that that is because the prison population is going to reduce as a result of the Government's plans, which is a welcome ambition but quite a heroic one. So I am not clear that that will necessarily help the

fourth year. More to the point, as I understand it, even if the prison population goes down, complaints have been going up faster than the population has. My response, long-winded though it is, to your point is that there needs to be a very great deal of work to try and ensure that the scarce resource is targeted on the priorities that are identified.

Q15 Chris Evans: When do you foresee a point where we cannot cut any more and we have to say, "This is too far"?

Nigel Newcomen: I do not know and I certainly do not begin from a counsel of despair. I do not take this job on thinking that I will spend the next few years rather pitifully seeking more resource as the rest of the public service fails to be able to draw any more resource as well. I aspire to sustain what is good and then to improve what there is. Ultimately, if there is an evidence base which suggests that no more improvement is possible without additional resource, then one would have to return to Ministers and at least ask for a revisiting of the targets. But that is, if you like, the nuclear option. I would want to work hard to get realism out of the almost unrealistic.

Q16 Chris Evans: What is the one thing you think needs improvement and can be done without further funding?

Nigel Newcomen: The one thing that I have already pointed out which can be done with relatively little funding but will need a lot of effort is to try and get those findings that are coming out of investigations fed more robustly and consistently into the investigated bodies so that change and improvement can occur. Obviously, there is a potential for financial benefit if there is a reduction in complaints because reasons for complaints have been stopped or, more particularly, if deaths have been prevented because recommendations have been picked up. That would add benefits in terms of outcomes in custody but also would reduce costs.

Q17 Chair: On targets, the PPO met its target time for reporting on fatal incidents in only 17% of cases in 2009–10 and on complaints in only 47% of cases. That is a pretty low base to start from, is it not?

Nigel Newcomen: Indeed. As I said in an earlier response, the Prisons Inspectorate has commented critically on the timeliness. Things are happening. Those figures are, fortunately, a little out of date and there is a very good acting Ombudsman who has been working to put in place some improvements, but it is going to be a very big hurdle to overcome. It is not simply frailties within the PPO's processes; there are also quite significant inhibitors in terms of reliance on partners. For example, deaths in custody require, generally, a clinical review. That is something that is commissioned by an NHS PCT, and, accordingly, there is little control over that. Work must go on to try and manage those stakeholders, those partners, to try and improve their performance, which has a very debilitating effect on achieving the targets within the PPO's office.

17 May 2011 Nigel Newcomen CBE

Q18 Elizabeth Truss: I just wanted to ask you about the numbers of layers in the organisation, how the 117 staff are organised and whether you think there could be a de-layering of management to be able to focus more resource on the investigative teams.

Nigel Newcomen: You will forgive me, as I have said already, if I do not have a blueprint, and certainly I would need to have more knowledge and understanding of the organisation before I could answer that in a worthwhile way. But that must be one of the first starting points: is there an appropriate staffing structure for the job that has to be done? I would see a reform programme which would entail restructuring initially, because there will be fewer jobs and you are going to have to try and ensure that you get the maximum bangs for your bucks, as it were. But I would also want to ensure that, even without changing staffing profiles, the work that was being carried out and the actual processes were as efficient as possible. Both issues have to be addressed: the layering and nature of the work and how it is done.

Q19 Mrs Grant: The job requires a proven ability to handle the media. Do you think you are good at handling the media and do you like the media?

Nigel Newcomen: That is two different questions.

Mrs Grant: Absolutely.

Nigel Newcomen: Basically, in the current role I have undertaken a considerable amount of media work, generally local media. In fact, I was on Radio Stoke this morning. The Chief Inspector has usually undertaken the national media work, as befits the role, but indeed I did all the national media for June to October last year because that was the period in which Anne Owers' last reports were being produced before Nick Hardwick's reports were published. So I have done quite a lot.

Your second point was: do I like it? No, I find it quite intimidating, but it is a necessary and important role. It is particularly important in a context where you are talking about not just simply complaints from prisoners and perhaps the degree to which the public is not persuaded that that is something of which great cognisance should be taken, but more particularly, when you are dealing with tragedies. The sensitivity that is needed in handling issues relating to deaths in

custody is immense. There is a necessary role in putting that sort of issue into the public domain. What has been found? What are the lessons? Has anything been done about it? Maybe repeating the fact that the same thing has happened and nothing has been done about it is an appropriate issue to put in the public domain.

Q20 Mrs Grant: Have you had any media training?

Nigel Newcomen: I have had Home Office media training. I am not sure how well it equipped me. *[Laughter.]*

Chair: Forgive us for the reaction.

Nigel Newcomen: I thought it might not be as positive a credential as it might be.

Q21 Chair: Stephen Shaw and the former Secretary of State agreed a framework document which repeated the commitment to put the Ombudsman on a statutory basis and indicated a wish to have greater administrative independence for the Ombudsman from the MoJ. Do you see these as developments that you would want to encourage if you were in office?

Nigel Newcomen: Absolutely. As I understand it, the Prisons and Probation Ombudsman's job is one of the few that is not on a statutory footing. In terms of visible independence and compliance with at least the spirit if not the actuality of article 2 of the European Convention on Human Rights, that poses significant difficulties. In Stephen's words, it is not sustainable in the long term. So I would want to pursue that. The Government or the previous Government, and it has not been derogated from, have committed, at a point when legislative opportunity arises, to legislate.

I suppose I would balance that slightly. We had a discussion earlier about a lot of other big priorities in the in-tray. I suspect this is not the biggest priority in the in-tray but it is one that needs to be addressed. In positive terms, I do not see at the moment any difficulty, any fettering of access to the institutions concerned. I do not see any obstacles being put in place for the PPO or indeed the Inspectorate. It is an important issue of principle and possibly legality, and it needs to be addressed in due course.

Chair: Thank you very much indeed. If my colleagues do not have any further points they want to raise, we are grateful to you.

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