

Property



Monitoring Fairness and Respect
for People in Custody

A Report

REPORT OF THE PROPERTY
INVESTIGATION GROUP
MAY 2015

1 The Problem

- a) Despite clear procedures, especially for prisons, across the custodial estate there are unjustifiably high levels of loss or damage to personal property. When things go wrong there is too often unwillingness for someone to take responsibility, coordinate action and – when necessary – arrange recompense. Prisoners and detainees have few possessions with them. Some of what they have is of immense sentimental value; some property has religious and cultural significance; other items are critical in occupying their time during long periods of isolation.

2 Analysis

- a) On average, 15% of applications to IMBs are about property. There are however wide variations between establishments, the proportions ranging from a handful to well over half. Some prisons and Immigration Removal Centres (IRCs) are getting it right – either by avoiding problems in the first place or, more likely, dealing with them quickly when they arise. Whilst comments in Annual Reports often place greater emphasis on property lost during transfers from one establishment to another, rather more applications are about losses and damage occurring within a prison or IRC.
- b) The Prisons and Probation Ombudsman (PPO) noted that between April 2012 and March 2013 one-fifth of the 3,000 eligible complaints made to him by prisoners concerned property. 57% of those property-related complaints were found in favour of complainants. For IRCs, the typically shorter stays of detainees means they have less chance to complain to the Ombudsman. The PPO undertook 180 investigations between April 2010 and March 2013, upholding 45, 14 of which related to property.
- c) We have been unable to obtain from the National Offender Management Service (NOMS) data on compensation paid in respect of property. From what can be gleaned from PPO reports, establishments and the press, the total cost to the taxpayer is large.
- d) As well as compensation claims there are also other related expenses, for example for staff time and additional carriage costs. More significantly from the IMB's viewpoint, the impact of delays and damage on prison welfare and morale, and in some cases on discipline, is immeasurable.
- e) Prisoners and detainees are safely and successfully moved between and within establishments in accordance with strict procedures. The fact that their property fails to follow with similar degrees of seamlessness suggests that well-established property procedures are not taken as seriously. Property issues are an irritant between prisoners or detainees and staff, between establishments, and between establishments and transport contractors.
- f) For prisons, property matters are guided by Prison Service Instructions (PSI) 12/2011. Their starting point (para 2.1) is that *'Prisoners are allowed to have sufficient property in possession to lead as normal an existence as possible within the constraints of the prison environment.'* It is unclear what that means, or how the attainment of such an output could be measured or verified.

-
- g) The PSI specifies that 'Property held in possession by any prisoner must be limited to that which fits into two standard size volumetric control boxes and an "outsize item" unless the Governor agrees, exceptionally, to a prisoner holding property in excess of that limit or it is an item which is exempt from volumetric exemptions.' The main exemptions are a musical instrument, legal papers, bedding, one set of clothing and items essential for the practice of a prisoner's religion. Property not held in a prisoner's possession should normally be sent outside the prison or disposed of. Only exceptionally should excess property be stored elsewhere in the prison, or centrally at Branston National Distribution Centre. Evidence would suggest either that Governors have granted many exemptions, or that the rules are often ignored.
- h) NOMS advise that contractors who move prisoners and detainees from one establishment to another are required to carry property containable within two volumetric control boxes. That excludes the other items prisoners are formally entitled to hold. Our understanding however from comments by some IMBs is that contractors will only take a certain number of bags (usually three), the contents of which do not typically add up to the equivalent of two volumetric boxes. IMBs also say that prisoners are not always given the opportunity to prioritise what baggage should be taken first, so end up waiting for items far more essential than some of what travelled with them.
- i) For IRCs, instructions on property matters are in the IRC Operating Standard on Detainees' Property (2004) and Detention Services Order (DSO) 06-2012. Recording requirements for individual items are less specific than in the prison estate, and there are fewer restrictions on what property detainees can hold in their possession.
- j) The main property problem for IRCs is possessions not arriving with detainees on transfer from prisons or other IRCs and, notably, from police stations. Several IMBs commented on the crucial role played by Welfare Officers in resolving these issues. Some detainees were removed from the country without receiving their property; and there are considerable difficulties in the timely transfer of detainees' money from prisons to IRCs because of different financial systems.
- k) Although there is not a standardised system of recording property for IRCs, some have adopted good practices such as going through individual items, sealing bags with unique numbers in the presence of detainees, and listing ledger numbers for valuables.
- l) Another problem for detainees is when those facing removal are detained away from their UK home address and are prevented from collecting their property before detention and deportation. Friends, relatives and charities collecting possessions on their behalf do not always know where to take the items, or what the weight limits are.

3 Key Observations

-
- a) The Prisons and Probation Ombudsman (PPO) has published Learning Lessons Investigations for both prisons (February 2014) and IRCs (March 2014). It would be helpful if all of the PPO's proposals were implemented.
 - b) For prisons, he made a number of detailed recommendations under the following categories: accept responsibility where processes have not been followed; respond effectively to prisoners' complaints; ensure paperwork is completed correctly; manage prisoners' possessions as required in PSIs; use proportionality when destroying items; follow volumetric instructions for religious items; and wider use of photography.
 - c) For IRCs he recommended: all Centres should develop more detailed and consistent practices for recording detainees' property in storage, in possession and on transfer, and pay particular attention to valuable property; IRCs should ensure that staff follow the correct procedures for property and post; where property is damaged or lost in the care of an IRC, appropriate compensation should be offered promptly.
 - d) On the basis of the IMB Investigations Working Group study the following observations are made:

4 Observations for prisons

- a) A good starting point would be for the National Offender Management Service (NOMS) to set out fair, comprehensible and enforceable volumetric limits demonstrably appropriate to what a prisoner needs *'to lead as normal an existence as possible within the constraints of the prison environment'*. An illustrative narrative would help all parties to understand what that output means. Presumably it would have some reference to Incentives and Earned Privileges (IEP) allowances, including for bulky elements such as books and electrical equipment, and it would take account of the diversity of the prison population.
- b) If limits were to be enforced, Governors granting exemptions would have to take into account who paid for the later movement of those excess items. Whilst enforcement might adversely affect many prisoners in the short term, it would correct massive imbalances across the custodial estate that at present adversely affect the many prisoners and detainees (and their establishments) who abide by the rules. It would also be consistent with changes to the IEP system.
- c) Contractors moving prisoners ought to be required to carry a volume of property that is at least what is specified in the contract with NOMS. NOMS should give guidance on how property that is permitted in possession but is in excess of volumetric entitlements should be handled.
- d) Following from (c), prisoners who are in transit, and the establishments sending and receiving them, would know what proportion of their property might as a right be carried with them. Taking the analogy of airline passengers, they could have clear baggage entitlements, could be allowed to prioritise what goes with them, and could be presented with standard options for the carriage of the rest of their property – as well as formal deadlines for delivery.

-
- e) The allowances proposed in (d), and deviations from them, might be enforced through financial means. Fees could be earned by transporters willing to take additional loads; and financial penalties could be imposed against those failing to meet agreed entitlements. Some at least of the proceeds from the fines might go to the prisoners or detainees who are affected.
 - f) If PPO guidance were followed, when items recorded on prisoners' or detainees' property cards did not arrive with them it would be the responsibility of the receiving prison (not the prisoner) to pursue the matter with the sending establishment, with whom responsibility for further action rests. Prisoners do not have the channels, the resources or the authority to pursue claims with the urgency that they deserve. For the same reason it would be better if a clearly named central unit within the prison (probably Reception) pursued the matter, rather than personal officers. Given the sluggishness of response by too many establishments, it would be appropriate to enforce deadlines with fines.
 - g) Line managers should ensure that property is processed as soon as practicable after its arrival in an establishment, and that stated time limits are treated as deadlines, not as routine targets. Whilst it is acknowledged that in an era of permanent staff shortages priority must be given to security and to maintaining the regime, property should be treated as a priority concern.
 - h) When prisoners are moved around an establishment, including into segregation their property should be protected, so that it is not left exposed to the risk of theft or damage.
 - i) In accordance with existing guidance, IMBs should confine their interventions on property matters to asking nominated departments in their own establishments to pursue problems, rather than directly contacting other prisons (including through other IMBs).
 - j) It would be helpful if prisoners were routinely reminded, including in induction briefings, of the need to adhere to volumetric limits and agreed exemptions. They should not anticipate decisions not in their control – such as whether they can ignore instructions about taking their property with them when they go to court. More generally, as part of a compact on the improved management of property, prisoners should acknowledge their own responsibility for safeguarding and caring for their property.
 - k) NOMS could examine technologies beyond photography – for example, barcoding and ultraviolet-sensitive markings – that can be used to record and trace property.

5 Observations for IRCs

- a) Detainees should be informed on induction about the rules applicable to personal luggage allowance and excess luggage on removal, as specified in DSO 06-2012. The Home Office should issue the leaflet reportedly drafted in 2013, describing these rules.
- b) The Home Office could be asked to develop specific guidance, in consultation with relevant IMBs, on assisting detainees arrested at Home Office Reporting Centres in

the timely collection of their property at home before removal, including considering a provision of escort. The guidance should be included in the leaflet mentioned at (l).

- c) The Home Office could usefully develop specific guidance for IRCs on recording detainees' property, including by using unique codes, building on good practices adopted in the custodial estate.
- d) The central role played by Welfare Officers in pursuing property matters in IRCs is worthy of recognition and supported.
- e) The Home Office might consider creating a mediation unit to resolve longstanding property complaints.

6 The IWG's Approach

- a) The National Council (NC) recruited twelve IMB members to form an Investigations Working Group (IWG), charged with examining subjects identified from IMB Annual Reports as being of wider concern. Four were asked to look at property.
- b) The Group asked all IMBs if they had points they wished to add to their Annual Reports, and were grateful for responses from twenty Boards. The Group also wrote to Boards that seemed to have particular problems, or to a few that seemed to do rather better than the average. In respect of the latter group, IMBs attributed good performance to the enthusiasm of specific officers. There were a few sending establishments very heavily criticised by receiving prisons for being slow to follow up complaints.
- c) Whilst some expected patterns were found with similar types of establishment – for example, local prisons and IRCs with high turnover; training prisons with stable, property-acquiring prisoners – property problems of one sort or another are endemic across the prison and IRC estates. With a couple of notable and positive exceptions, private sector establishments seemed no different from the public sector.

Members of Working Group

Patricia Cave - National Council Lead and IMB HMP Hollesey Bay, Alex Sutherland – IMB HMP Whitemoor (Group Chairman), James Armstrong – IMB HMP Low Newton, John Tainton – IMB HMP Winchester, Yvonne Terlingen - IDE

© IMB NC 2015