

Property Claims

Is the Prison Service liable for all my property during my time in prison?

Prison Service policy distinguishes between stored property and property held 'in possession' (that is, property held by you). If stored property is lost either in reception or in transit as a result of a transfer, and this property was on your property record then the Prison Service is liable to pay you compensation. The Prison Service does not normally accept responsibility for property held in possession. This is because of the possibility that prisoners may give their property to other prisoners or exchange it for other items. There are exceptions to this, which are based upon the law of negligence.

What are the exceptions?

- Where a prisoner has been removed from normal location without prior warning and therefore without time to secure in-possession property
- Where the prisoner has been temporarily transferred
- Where the prisoner has absconded or escaped

Stored Property

PSI 12/2011 states that the storage of a prisoner's excess property is considered to be an exceptional or temporary measure. If property is not held 'in-possession', handed out or stored at the prison, it is stored at the National Distribution Centre (NDC) in Branston. The Prison Service should ensure a detailed record is kept of all property held by the prison or sent to Branston.

Property held in possession by a prisoner must be able to fit into two standard size volumetric control boxes.

The governor has to agree to an exemption for items that exceed this size. An inventory of a prisoner's property must be kept and each prisoner is required to certify whether the inventory is correct or not.

Confiscation of unauthorised items

Governors may temporarily confiscate: a) any unauthorised item found in the possession of a prisoner: b) any item that is legitimately held but which has been misused for a purpose that threatens good order, discipline or security. If there is a temporary confiscation of property, the prisoner must be told the reasons for this.

In the case of *Coleman (2009)* the Administrative Court ruled that there is no power to permanently deprive a prisoner of his/her ownership. Confiscated items must therefore be handed back to the prisoner on permanent release. Items in prison may only be permanently confiscated and destroyed where a) their very possession gives rise to a criminal offence (eg controlled drugs) b) they are inherently dangerous (eg primed explosive device) or c) where storage of such items would be a health hazard.

Valuable property

Prisoners are not allowed to retain cash and any existing cash must be paid into an account credited to him/her, but under the Governor's control. The amount must be recorded and the prisoner must be asked to confirm in writing that the record is correct.

Jewellery is recorded as yellow or white metal rather than gold or silver. Passports or other ID belonging to

foreign national prisoners who have been served with notice of intention to deport should be forwarded to the UK Borders Agency.

How do I make a claim?

An initial application should be submitted to the governor with details of how the property came to be lost, a list of what exactly has been lost, where and when the items were purchased and the value of each item (include receipts where possible).

Note: Compensation is based on the value of the property when it was lost, not the replacement value. For example, a five-year-old pair of jeans will be worth less than a new pair.

How do I appeal against a governor's decision?

If the initial claim for compensation is refused, you can appeal via the complaints system. The three stages of the complaints system should take no longer than six weeks to be dealt with.

What if I am still not satisfied?

If you want to take your application further you must refer the matter to the Prisons and Probation Ombudsman for investigation. The address is: Ashley House, 2 Monck Street, London SW1P 2BQ. You can write in confidence and your letter should be sent at public expense. If the Ombudsman makes any recommendations in your favour to the Director of Prisons, the Prison Service still does not have to act on them. However any supportive recommendations will be strong evidence in any legal action which you may pursue (see below).

How are payments of claims made?

If a claim is successful the money will normally be paid into your private cash account.

What about legal action?

In most cases the amount of the claim will fall below the level for which legal aid is normally granted. If legal aid is not available then you can begin your own proceedings in the County Court. You begin these by contacting the Chief Clerk at the County Court local to the prison you are in and asking them to send you a claim form, explanatory leaflet and fee exemption form. You should note the following points when pursuing such an action.

- The proper defendant is the Secretary of State for Justice (SSJ) not the governor of the prison you are in.
- The address of the Prison Service for the purpose of your claim is that of the Treasury Solicitor, Treasury Solicitors One Kemble Street, London, WC2B 4TS.
- You can apply for the court fees to be waived – the County Court will send you a fee exemption form on request.
- The claim is for negligence.
- If you need to attend court for a hearing, you should make an application to the prison governor to be produced at court. You should seek legal advice if the governor will not produce you or if the prison seeks to charge a fee for production that you cannot afford.
- If the Treasury Solicitor does not answer your summons within the correct time limit, you must apply to the court for permission to enter judgment. This normally requires a hearing, which the Treasury Solicitor is notified of.

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