

Complaints about racist treatment in prison

There are three avenues open to prisoners to challenge racially discriminatory treatment by the Prison Service. The first is the internal complaints system (PSO 2800 and PSO 2510). Since 1 April 2001 claims for damages can be pursued in the county courts under the Race Relations Act 1976 (as amended) (RRAA). Finally the full range of criminal law is still available to deal with racially motivated offences. This information sheet deals with the first two methods of challenging racial discrimination.

PSO 2800

The main purpose of this order is to ensure that decisions made by prisons that affect prisoners are made impartially so as to allow equal access to accommodation, work, training and education.

Whilst religion is not a race relations issue the policy recognises that religion is an important factor. Unlawful discrimination by prison staff on the basis of colour, race, nationality or religion is prohibited, as is any racially abusive or insulting language or behaviour.

PSO 2800 obliges prisons to set up Race Equality Action Teams chaired by a governor or deputy governor which meet regularly to develop and implement race equality policies.

A key member of the REAT is the Race Equality Officer (REO, previously known as the Race Relations Liaison Officer), a trained individual whose duties include maintaining a record of all racist incidents. S/he will commonly be deemed an appropriate officer to investigate racist complaints and log the action to be taken. The REAT must also include prisoner

representatives who can put forward the general concerns of other prisoners about racial discrimination within the prison.

Most common complaints

- 1) Direct racial abuse with or without physical violence, by staff or other prisoners
- 2) ‘Victimisation’ (i.e. harassment by staff because you have submitted, or are a witness to someone else’s racist complaint - it does not matter if the original complaint is not upheld)
- 3) Discriminatory provision of facilities and services between different racial groups
- 4) Differential unfavourable treatment by staff
- 5) Insufficient action by staff to address complaints of racism

What kind of racism can I complain about?

A prisoner can make a complaint about “*any incident which is perceived to be racist by the victim or any other person*” (para 6.16 PSO 2800). A prisoner who wishes to complain of a racist incident must not be prevented from doing so, and should be protected from further harassment.

How do I complain?

If the complaint is minor and you are confident about race relations between staff and prisoners, make a verbal complaint to staff. They should try to deal with your complaint informally, but no less thoroughly than if you had made a written complaint.

If that fails or the complaint is more serious, submit a written complaint on a Racist Incident Report Form (RIRF) which should be readily available on all wings. If not, a standard COMP1 form can be used. Complaints should be addressed to the REO or the governor/director. If you are concerned about confidentiality use the pink confidential access COMP2 form. This might be especially appropriate for complaints of an especially sensitive nature or against senior staff that should be investigated by a governor grade staff.

It is important that specific incidents are described in relevant detail, and not in general terms. Witnesses can be crucial and, whether you have one or more, they should each be interviewed by the investigating officer.

The RIRF may also be used to submit a complaint about an incident of religious discrimination or abuse.

How should the complaint be dealt with?

The investigation should be conducted in a manner that ensures that all parties involved are safeguarded, including the victim and reporter of the incident.

How long will the investigation take?

A complaint should be acknowledged within 3 days and the investigation completed within 28 days of the complaint being made. You should be informed of the outcome within 14 days of the completion of the investigation. The prison must inform you if they are unable to keep to this timetable, and should provide you with reasons why.

What if I don't agree with the prison's finding?

In the same way as with all other complaints you can appeal the final decision to the Ombudsman. If your racial complaint has been about a 'reserved subject' you can refer the decision to PSHQ for review.

RRAA

You do not have to exhaust the internal complaints system to pursue a claim through the County Courts under the RRAA. The RRAA sets out different types of discrimination and you should seek specialist legal advice to help you with a claim. You must be aware that there is a 6 month deadline which starts to run from the date of the last incident complained of.

For further general information on your rights under the RRAA you can write to the Equality and Human Rights Commission (which replaced the Commission for Racial Equality) under Rule 39 at:

Equality & Human Rights Commission
Freepost RRLG-GHUX-CTR
Arndale House,
Arndale Centre
Manchester
M4 3EQ

The 'questionnaire procedure'

If you believe you have been discriminated against you can ask the Prison Service to provide you with information about your complaint using the 'questionnaire procedure' established by the RRAA (s.65). You can ask questions to obtain information about the facts of your complaint and to enquire into the reasons behind the actions taken by the Prison Service.

The purpose of the questionnaire procedure is to help people to bring a claim under the RRAA, but you do not have to be bringing a claim in order to use it. You should contact a solicitor or the Prisoners' Advice Service for assistance if you wish to submit a questionnaire.

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