

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 which is held 'in possession' (that is, property which is 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 that is held by the prisoner in possession. This is because of the possibility that some 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 the prisoner has been removed from normal location without any prior warning and therefore without having had time to secure in-possession property
- Where the prisoner has been temporarily transferred
- Where the prisoner has absconded or escaped

Stored property

The storage of prisoners' excess property, either locally or centrally, is, according to PSO 1250, "*in principle an exceptional or temporary measure.*" However the PSO accepts that, "*in practice there is no power to require prisoners to dispose of property which has been accepted, nor to dispose of it without their consent.*" Once the prison has accepted it will store excess property, the governor must decide whether to send it to the property store at

Branston or have it retained in storage locally. Excess property of prisoners with less than six months remaining before discharge, and those held solely under immigration powers while awaiting a decision on deportation or removal, must be held locally rather than in Branston. In most other cases the property will be sent to Branston.

Removal from normal location

When a prisoner is removed from normal location (either on temporary release or to be segregated etc) the prison owes a duty of care to safeguard in-possession property. If the cell was not sealed after the prisoner's removal, if it was unsealed at any point before it was cleared, or if all the property listed in the cell-clearance sheet was not returned to the prisoner, then the Prison Service is liable for the loss. Similarly, once an escape/abscond has been discovered, the cell should be sealed and any property left behind should be placed in storage.

Property cards

If your property cards do not have the relevant signatures or if there is any evidence of the property being recorded erroneously at some stage, then these details must be included in the claim for compensation.

If you have any very valuable items, you should always make staff aware of these. Many prisons will not allow prisoners to retain exceptionally valuable items (either in-possession or in stored property.) If you fail to try to have an expensive item of property recorded on your property sheets, with the value noted, then it can be difficult to prove its value if it is lost. Furthermore, prison staff are instructed to record items 'as seen' not as described by the owner, ie a

gold ring will be recorded as 'yellow metal'.

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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