

Interview

HOLLY WELSH

INTERVIEWS

SIR PETER WOODHEAD

(Prison Service Ombudsman)

Holly Welsh: *Can you tell me a little of your background.*

Peter Woodhead: From the age of thirteen to the age of fifty three I was in the navy and I specialised in aviation. I finished off as the Deputy Supreme Allied Commander (Atlantic) based in Norfolk, Virginia. I retired from the navy and then took on this new post.

HW: *Why were you interested in the job, or were you asked to do it?*

PW: It was a bit of both. I have always been interested in the prison culture. Over the years I have looked around a couple of prisons, and of course we do have our prison equivalent in the services, and one of the things I have spent a lot of time doing in the services is the adjudication and grievance procedure. So there is a parallel there. I think there is also quite a parallel (and though one doesn't want to over simplify it) between life in the Navy and life in prisons. We

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are both working within big institutions and yet the individual ship is very much like an individual prison. The governor and the captain have got similarities. There is a loss of liberty on both sides, when you are at sea for a hundred days, okay it is not ten years but nevertheless you are all living in very close proximity. The management side of the Navy are dealing, in that very close community, with a lot of young men within the same age range as the population of most prisons. Though they are not having committed offences to have got in the Navy, nevertheless they are not whiter than white, and there are some good and some not so good. Some of them come from very disadvantaged backgrounds in the navy; some of them have done very bad things; again I don't want to oversimplify it, but there are linkages there. Also, of course, as I went through the navy I have had to deal with senior management, and I have had to deal with Cabinet ministers and the Ministry of Defence at quite high levels. So I do feel as though I have got a background that will enable me to deal with the inmates and hopefully to get their confidence at one end. At the same time to have had the background where I am able to deal

within the Home Office, the Prison Service Headquarters and with the Home Secretary, because I think this job is not going to be one of compulsion. I am going to have to make sure that, as best as we can (and it is not always going

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to happen), we persuade people at all levels of the institution that if a grievance that is made is a legitimate one we do need to make changes. Not only in terms of rectifying an individual wrong, but having a look at trends which might be helpful to the Prison Service Headquarters right across the board.

HW: *The Home Secretary originally rejected the first short list of candidates. What do you think, other than what you have said, that he thought he was going to get.*

PW: Well I don't know, you would have to ask him. I do feel that I have been stitched up to a certain extent. Not by the Home Secretary in any sense but by commentators who have made an assumption that the three people who were turned down a year before I got the job were considered to be too left wing. I mean there is no evidence to support that at all, but what is sad is that when I got the job the inference again was that I was a rabid right winger and I am sure that is not what the Home Secretary wanted. He wanted someone, as I understand it, from a rather broader background than the contenders who came before. And I must say that those contenders are all admirable men, but the Home Secretary was looking for someone with a

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different background; not so narrowed into a prison background.

HW: *Can you describe the set-up you are planning to have here as far as office staff and support.*

PW: I joined in May, with a completely clean sheet of paper. There were one or two objectives that I agreed with the Home Secretary and the first is that I would be separate from the Home Office and the Prison Service Headquarters in

terms of location. So I am in a government building, but it's in the West End and it is separated from them. I think it is very important to put across that we are independent. I have got no executive powers; there has been no binding

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legislation for my post and my powers are restricted to recommending either to the Home Secretary, or, normally to the Director General of the Prison Service. Nevertheless I think that recommendation has got to be made from as independent a view point as we possibly can and I think one of the problems in the past, and why there has been concern about the grievance system, has been that lack of independence. Even the Board of Visitors, who have been involved in this, have been perceived by some to be not independent enough to look at these complaints fairly. Having set up this office I am looking now for three assistant ombudsmen and the supporting staff of five higher executive officers, two AO's and two PS's. What I am intending to do, and I have not come to a definite conclusion, is to use four of the HEO's as case workers tied into the areas that the Prison Service Headquarters is divided into. I think it is rather better to do it on the area line than to do it by specialising the HEO's into areas of complaints. Then two of the assistant ombudsmen will oversee the HEO's within those areas, so some people will become competent in dealing with certain areas as defined by the Prison Service Headquarters and also get to know the individuals involved. Then we must be independent. When we take a case, we have got to look at it divorced from the Prison Service Headquarters if we are going to recommend into the Prison Service Headquarters, and we are going to be reliant on the paperwork that comes from the Prison Service Headquarters in order to investigate it. We have to get to know each other and we have got to learn to work together. We are all on the same side and I think it is very important for all of us to be accountable. We are accountable here if an inmate is not satisfied with

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what he gets from us. Then he can go through his MP to the Parliamentary Commissioner, he can seek leave to apply for judicial review, he can go through to Strasburg. So I am open to review and I think the Area Managers (and I have talked to all of them now) are aware that they too are open to review. We are all in life open to review. I have had a very good response from the Area Managers, they have been most helpful as I have gone round. As indeed the governors of the nine establishments that I have been round have been.

I try and go round one establishment a week, just to get a background of how the different prisons work, and looking at the different types of prison, and how we can best help in sorting out these grievances. When an inmate complains to us he has got to have exhausted the internal complaints procedure, so he has got to have complained through the system to the governor and if he is not satisfied with that he has got to complain to the Prison Service Headquarters up to the area manager and it is only then that he comes to us. One of the concerns that I do have on this is the time scale, even though I am tied into pretty tight time targets of eight weeks (and twelve weeks on the outside). Nevertheless from the time that the incident has occurred, that the guy wants to complain about, and has gone through the governor and back, and to the area manager and back and then he has got a month in which he can think about it, then he comes to us. Remembering that all I can do is call on the same paperwork as the area managers had, and if necessary I will go into the establishment and we

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will talk to the complainant, and if possible, we will talk to those who he may be complaining about, it can be the best part of six months before this thing has worked through, it appears to be very bureaucratic but nevertheless at the moment I can't think of another way of doing it, accepting the fact that I have got to wait for redress to be made through the internal system. I imagine we are going to get a lot of complaints especially initially, and the staffing here is predicated on about two thousand complaints a year. It is possible that we are not going to be able to go out to the prisons and investigate on the spot. I have got no powers to re-hear the case but nevertheless we might need to talk to people if there is an impasse that can't be resolved on paper. It would be very helpful to me if the Board of Visitors could be used in this respect, and I do see a much more important role for the BOVs as a result of the setting up of this post and an opportunity for the BOVs to be more independent not to work for me, but perhaps to work more closely with me, and for us to use them as the complaint comes up to me, but particularly in terms of delegated investigative work afterwards. We have to be very careful here because if the BOVs are not seen to be independent enough at the establishment then the inmate may well feel that we have reneged on our independence by using them, so I think we would have to do this very sensitively. I think in many

areas the BOVs can help and I think it will help them to have a more rewarding task.

HW: *What is the scope of what you can look at, are there some subjects that you can't look into, such as medical complaints?*

PW: Yes, I can't look at complaints and decisions and actions of the Parole Board and the LRCs. I can't look at the release date for lifers. As you quite rightly say, at the moment, I am restricted on the clinical judgement of doctors. We are awaiting discussions between the government CMO and the prison service Health Care Directorate, but I am hopeful in the future that we will be able to look at this because I think clinical judgement of doctors is an umbrella judgement that could be made that covers rather wider issues. If it is a professional judgement then I can call for outside specialist advice in looking at this, the same as I may well have to in other areas. There is no reason why I can't do that but I am leaving this with the Prison Service Headquarters, because they are looking at all sorts of other issues that are connected with it so I don't want to push them. The Prison Service Headquarters have been very helpful in dealing with the issue of Cat A's. It was suggested at one stage that I shouldn't be involved with them.

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Now I can have a look at the Cat A's and I think I am going to get a lot of complaints relating to categorisation, allocation, transfer and visitors. I also can't deal with conviction and sentence, or with cases subject to civil litigation or criminal proceedings or the decisions of outside bodies, like the police, CPS, immigration etc. I have got to take complaints from the prisoners themselves, I can't take complaints from families or lobby groups, though I can refer such people to the appropriate groups who can help them.

HW: *What are your communications with Prison Service Headquarters? Is there a formal system for you to meet Derek Lewis?*

PW: Yes, I think the Director General and I will meet from time to time. Clearly, if I am recommending into him, there will be discussions at all levels on this. I do want to retain, and I know he feels the same, that independence that doesn't suggest we are working too closely together, but there will be many occasions I think where we are going to have to go into the Prison Service Headquarters and discuss issues with them. Technical issues which are going to help us to form the judgement, so that judgement will be reached independently and what we are looking for really, as any ombudsman does, is justice, fairness and openness within the system. This is very much what the Prison Headquarters and the Home Secretary wants and it ties in very much with the Woolf Report recommendations and

with the Citizens Charter. The Prison Service Headquarters are looking at complaints and grievances very seriously. We will look at them and there is a whole gamut of means in order to ensure that we do have justice and fairness within our prison service, I hope that I can resolve some issues which might otherwise have gone up further in the chain, with its concomitant media attention, so we may be able to sort them out at a

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reasonably low level. I also believe that there will be a fair amount of self regulation. All of us, in any walk of life, because we live very busy lives do sometimes take shortcuts and I think it is right and proper that these are looked at: if mistakes have been made then they are rectified. What I am going to be able to do in the main is to recommend quashing of sentencing, remitting, mitigating and deal with compensation claims. I think, in many cases, if the inmates believe that we have looked at their grievances carefully and we have satisfied the concerns they had in raising them, even if the answer is no (and it often will be) then they will be satisfied that someone has looked at it from outside the system. If they are not they have redress opportunities further up.

HW: *Can you imagine recommending that prisoners should take their grievance to the courts, or that perhaps a member of staff should be referred to the police with regard to initiating criminal proceedings?*

PW: If it is outside my remit, I would turn it down in the screening to start off with. When I make a recommendation my terms of reference allow me to actually send that recommendation to the complainant so that the complainant is aware of what I recommended to the system. Then the Director General or the Home Secretary will

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assess my recommendation on its merits. That as far as I am concerned is the end. We can certainly give advice if people want to take it further but that is really not my concern.

HW: *Is it going to be published in that way?*

PW: We have got an annual report rather like the Chief Inspector and this will be a report that is sent to the Home Secretary and it will indicate cases that we have dealt with, the response to them, and our response times. Probably more important than any of those will be the trends that are established through the complaints, because I think a lot of complaints may well hide a deeper concern. To that end I have got to maintain a very close relationship with Judge

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Tumin and the Inspectorate, because I think a lot of the stuff that will come to him will be individual complaints that he can't deal with and he will pass to me. A lot of the stuff that we will get will indicate trends that he may well feel are important and to be used in his report.

HW: *Would you cite specific cases in your report?*

PW: It would cite specific cases but not use specific names.

HW: *I am just thinking for example we have a directory each year of mitigated adjudication awards, and they obviously become a basis for decisions in the next year and obviously there is quite a lot of case law within adjudications that prisoners will use and I wondered if your particular decisions could become something like a different kind of case law?*

PW: I would hope that the Prison Service Headquarters would look very carefully at my recommendations. Which will, of course, be normally backed up by a technical law component, and if they see that there are changes to be made in the disciplinary code in the prison rules, then I am sure they will make those changes and I hope very much that that will happen. I have to say that I have been very pleased with the response that I have had from all parties in setting up this. Clearly, this is a nuisance to a lot of people and everybody within the system, the prison officers, the governors, area managers, the management of the Prison Service Headquarters, the pressure groups. They will all find that life is going to be uncomfortable in certain ways as a result of our presence. I have got to look at each case technically on its merits and that is important to stress. On the other hand I have got to walk a very tight road between credibility with the inmates, because if I have got no credibility with them then there is little point in having this organisation. At the same time I am very much aware (and my background I think helps here) about the morale of the prison officers, of the governor and his staff and the Prison Service Headquarters. I have got to make sure that the relationships in this very complicated culture are not overturned by excessive changes. Any changes that do occur are going to be in an evolutionary way, I don't think we are going to see an enormous changes happening in short order. The Area Manager will have looked at all of these cases. It will not be surprising when quite a lot of his judgements are mirrored by our judgements. On the other hand

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there will be cases, where for a variety of reasons we believe that a different emphasis needs to be laid, or that mistakes have been made and we will say so openly and I am sure it will be received, in the main, by the Prison Service Headquarters in the right light.

HW: *Do you worry that you won't get any complaints?*

PW: No, I don't worry at all, because I am absolutely certain that we will get an abundance of complaints. Already I am getting something like two or three letters each day from prisoners and even more from prisoners' families and I am able to write back and suggest what they should do with their complaints in the interim until we get going. I have no doubt at all that we will be pretty busy. What we will not be able to deal with, in the main, are old complaints, if someone has got something that is stuck in their gullet from twenty years back: we don't have the time, the investigative powers or indeed the documentation. I would not want to say absolutely that we cannot deal with any grievance that originated before 24 October because clearly

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we have got to look at each one on its merits, and there will be some that have only just gone through the system by then, so there will be quite a few that are three or four months stale anyway.

HW: *I believe that you aren't employing on your staff anybody who has actually worked in an establishment. Does that mean that you are going to have to spend quite a lot of time getting to grips with the language of individual establishments.*

PW: We have not finalised the assistant ombudsmen yet but, of the two that have been selected already, one has been working for sometime with the Prison Reform Trust, so has got an intimate knowledge of the system. One has been working in Prison Service Headquarters on complaints for some considerable time and therefore brings a complaints background and a knowledge of the Home Office and the Prison Service and indeed prisons. On the HEO side I have got people who come from establishments. I have selected people who are currently working in establishments, so I think all of us bring something different to the table, but nevertheless it is absolutely important that in this training period before we start, that those people that haven't got the right background do get around to establishments, do talk to the prisoners, talk to the staff and learn about this very complicated culture which we work in. I don't want us to sit up here in our ivory tower dealing with bits of paper, because if you do that for a protracted period, even though your decision may be logical and rational, sometimes one forgets what it is actually like in the front line. So I think it is very important for us, in the course of our duties, to

get out into establishments to refresh ourselves of how difficult life is within prisons and how difficult it is to manage them, and how difficult it is to actually live within them at both sides of the wall. It is very important to maintain a close relationship with the individual establishments and that will be helped by allocating people to areas so they are able to go to prisons within their own orbit. We looked at all sorts of people. It was a question of looking at people's backgrounds and seeing whether they fitted into the team. One of the people I deal with at the moment in setting up this job is a governor grade who works within the Prison Service Headquarters who has been extremely helpful and will continue to be who I will go to for technical advice once we get going, so what we don't want to get is a them and us syndrome. We have all got something to contribute and we have got to work together. I think it is very important that we are not seen as the opposition, but as helping to do what I am sure all governors in establishments and headquarters want, and that is to have as watertight a system as possible with the adjudications and grievance procedure. So that if there is a legitimate case of complaint, then it is

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properly upheld. Also, I think it helps the individual establishments that if that complaint is not legitimate then it is knocked on the head clearly by an independent organisation.

HW: *Will you have a lawyer on the team?*

PW: I have got two people with law degrees, I very much want to have someone who is a practising lawyer, but if I can't find anyone and it is difficult with the amount of money we are paying on such a short contract (we are all on three year contracts). If we don't have a practising lawyer, it is absolutely essential that anything technical is passed to a lawyer (and I have one or two independent lawyers who I can call on for advice on certain issues), and we use the full panoply of advice that is available to us. I am going to have to go out to lots of people. We talked about doctors earlier, but if the clinical judgement of a doctor is being complained about, we must go out to a specialist, and the same with some of the issues of law. The last thing I want to do is embarrass the Director General or the Home Secretary by coming up with a judgement that does not stand up in law. So I have got to make sure that we do look at these things very seriously in terms of technical purity. I have to say I think a lot of the grievances that we are going to have are not tied in with law.

HW: *What about security? You said that one of the*

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issues you can look at is categorisation. Often quite a lot of our information relating to category comes from the police. Is that going to be a problem?

PW: No, I think I have just got to work very closely with the Cat A Committee I would have thought that is one of the issues where we do need very close cooperation, because there may well be issues here that, from a security point of view, we are not going to be able to have the whole picture. So I have to accept that sometimes in certain issues, and categorisation is one of them, that other voices may prevail. This is the decision of the Director General in the main. We will make our recommendation on the best possible knowledge, and I am sure that most of that information will be shared with me. I have got one of the highest security classifications going in the services, so there is no difficulty for me, but there will be difficulty in publishing some of this information. A lot of the information will have to be confidential and it won't be available in the report. I would have thought at the moment the main areas of complaint are going to be on transfers. There is a lot of sadness at the moment within the system, primarily brought on by the overcrowding at the moment and the necessary transfers that are taking place, and a lot of very unhappy inmates, I think will bring that to our attention. Of course what I have also got to be aware of is what is important to me may not be necessarily important to an inmate I had a letter the other day with twelve complaints on it. I just happened to be going to the establishment anyhow and I discussed it with the inmate and it was quite clear that my perception of what was important within those twelve was not his perception. It may be that someone losing the laces from his trainers may, in certain circumstance, be more important to him than the conditions that he is living in within his establishment. So each complaint has got to be looked at, but if anyone produces a list of twelve complaints quite clearly they are not going to get the same level of attention as a concentrated complaint based on one occurrence.

HW: *What about the professional complainants?*

PW: Yes I am sure there are lots of litigious people especially those who have got time to think about these things. I do think that this is a judgement that I can make whether someone is a professional complainer. There will be plenty of

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those around to tell me that they are. I think that I have got to look at each case individually and if someone has made a complaint, even though we know that he or she may have made the complaint many times in the past, I think we have got to treat it as an individual complaint and treat each person as a human being with the respect that the prison service rules demand.

HW: *Does your three year contract start from when you first got the job. Are you only going to have two and a bit years in the job?*

PW: I think our contracts are for three years and mine started from when I signed it, which was in May, with an extension to five years if parties decide that that is appropriate. I have had a full career; I am doing this job as a public service because I believe there is something that I can contribute to the whole, and I do repeat that I am only part of that whole. There are lots of people who are looking at the complaints and grievance system within the prison service and I hope that, within my small niche, I am able to contribute something towards justice, openness and fairness. There is nothing in it for me here, I have had a full career so I am doing this in order to help people who might otherwise find it difficult to call on that help.

HW: *Are there areas where you might be facing a brick wall: where, for example, staff close ranks?*

PW: Well it is possible in any walk of life and it is the same in the services, where I come from. If somebody does something that is wrong, somebody in authority, someone on the staff, it is possible that sometimes colleagues will close ranks around it. We can only work within the art of the possible, I will certainly be wanting to go and discuss these issues with the staff relating to the individual complaint. The staff may well feel that they want to have a POA Representative there and that is perfectly legitimate. I would very much like to involve the governor or the governors staff. I don't want to be secretive and I don't want to give any indication at all that we are trying to circumvent the normal management of an establishment. We are trying to work within it

to the benefit of everybody within it. Sometimes it will be impossible to get at the truth. We have to look, especially on the disciplinary side, at whether a case has been made beyond reasonable doubt, and we are not talking of laws of probability. Even if we are unable to unearth some of these cases, at least we may be able to help the governor to look at an area that may not be whiter than white so that if it happens again then he has some indication of what might be happening. We are not going to be able to resolve everything but we will do the best we can.

HW: *Has your perception of the service changed since you started looking at it?*

PW: I have always had great admiration for the prison service and for those who work within it but I think I have been really impressed, as I have gone round establishments, by the dedication of the staff in very difficult times, when there are huge changes, especially at the moment with a large number of people coming into the establishment. I have been increasingly impressed with the way in which the staff are trying to deal with a very difficult situation and very impressed with the way the staff in general are committed to helping the inmate lead a useful life within prison and to prepare him or her for a useful life there after. We are only talking of these complaints and grievances against a very small percentage of the people. We have got to make sure that we don't exaggerate the job that I am doing.

HW: *The other thing is you are going to only see the bad side to one degree.*

PW: I hope we will be able to continue to put it into the context of the enormous good that is being done. I am delighted to be able to work within a service which I think is contributing enormously to the wellbeing of society. Both in protecting society from those who need to be locked up and in looking after as best as possible those within its care. It is the hallmark of any society that we look after people who are imprisoned. The ultimate sanction that we have got in this country is a custodial sentence. I am delighted with the way in which the prison service does look after the inmates and I hope that I will be able to contribute in a small way to that end; that people who do get these complaints upheld see that society is fair. For those inmates who have had nothing in their lives but unfairness, it may help them to be able to go outside eventually and to lead a useful life knowing that not everybody is against them.

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