

SPSO decision report

Case: 201202477, **Scottish Prison Service**
Sector: Scottish Government and devolved administration
Subject: complaints handling
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, complained to the prison after his study application was refused. In taking his complaint to the internal complaints committee (ICC), he asked to call the chair of the Higher Education Access Board (HEAB) as a witness. The ICC chair refused this request but later appeared to have discussed the complaint with the requested witness.

Mr C complained to us that there was no proper basis for refusing his witness request. He also complained that the reason for doing so was not explained to him. We noted that the prison rules allow the ICC chair to refuse witness requests only where they are satisfied that the evidence the witness is likely to give would be of no relevance or value in considering the complaint. In this instance, as the ICC had later discussed the complaint with the requested witness, we could not agree that they were of no relevance or value. We, therefore, concluded that the refusal of the request was inappropriate. We also considered that it would have been good practice for the ICC chair to have recorded the reason for refusal on the complaint form. In the circumstances, we upheld the complaint.

Recommendations

We recommended that Scottish Prison Service:

- remind staff acting as ICC chairpersons of their duties under Rule 123(7) to refuse witness requests only where they are satisfied that the witness will be of no relevance or value to the consideration of the complaint;
- advise staff acting as ICC chairpersons that, where relevant, it would be good practice for them to record their reasons for refusing requests to call witnesses; and
- apologise to Mr C for the inappropriate handling of his complaint.