

SPSO decision report

Case: 201203348, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: staff treatment
Outcome: upheld, with recommendations

Summary

Mr C complained about the way he was treated by a prison officer in the reception area of a prison he was visiting.

He was unhappy with the prison's complaints handling, and in particular, felt the prison failed to investigate his complaint appropriately. He was also unhappy because the prison had not interviewed independent witnesses that he had identified.

The prison told us that, on receiving Mr C's complaint, a manager had been instructed to carry out enquiries. This involved interviewing the member of staff complained about and viewing closed circuit television footage. The prison said other members of staff were also interviewed. However, the prison could not provide us with evidence to support this. Following our enquiries, the investigating manager provided a statement instead.

We upheld Mr C's complaint, as we were concerned that the prison had not taken steps to interview the independent witnesses that Mr C identified in his complaint. Although the prison has discretion to decide whether or not to interview such witnesses, they should have explained to Mr C why they did not do so.

In addition, the prison told us that it was not normal practice to interview members of the public in relation to incidents. However, in our view, we considered that the prison should consider whether interviewing independent witnesses may or may not bring something new to the investigation, just as they would when deciding whether to interview members of staff who have witnessed an event. Doing so would ensure that investigations are seen to be fair and balanced, and that decisions are based on as much relevant evidence as possible.

Recommendation

We recommended that Scottish Prison Service:

issue a proper apology to Mr C for the failings identified by our investigation.