

SPSO decision report

Case: 201203728, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: work (in prison)
Outcome: not upheld, recommendations

Summary

Mr C, who is a prisoner, complained about a delay of over three months in providing him with work. He believed he should have been paid a working wage for this period, as opposed to a basic cell wage, as he was willing to work. The prison informed us that Mr C's work history had been problematic because of his general behaviour. They provided us with information which satisfied us that efforts had been made to provide Mr C with employment opportunities and that these had been unsuccessful because he did not comply with the regime. In the circumstances, we did not consider that there had been an unreasonable delay in providing Mr C with work and we did not uphold this aspect of his complaint.

Mr C also complained that, during his period of unemployment, he was attending education classes but not receiving appropriate payment for this. The prison had said that he was attending on a trial basis due to previous behaviour issues and that it had been agreed with him in advance that this would not attract an enhanced payment, but Mr C disputed this. The prison told us that Mr C's attendance at education was viewed as a trial to give him the opportunity to improve his behaviour, as agreed after a meeting with Mr C and the education manager. However, we noted that this agreement had not been documented. In addition, we noted that the prison, in responding to Mr C's complaint, concluded that the wages policy had been followed and that Mr C had not been financially disadvantaged. Having discussed this with the Scottish Prison Service (SPS), we noted that this was not correct and that, in line with normal policy, Mr C would have received an enhanced payment for attending part time education. The SPS told us that they were aware of individual prisons potentially misinterpreting the wages policy on such payments and that they planned to issue clear guidance about this.

We did not, however, uphold this complaint. While noting the apparent misinterpretation, we acknowledged the prison's right to deviate from the policy in exceptional circumstances and, in light of Mr C's reported behaviours, and the positive steps taken by the prison to try to reintegrate him.

Finally, Mr C complained that he was held up by a week in starting new employment as a result of a delay by the prison in inducting him for a work party. The prison explained that staff could not induct him due to a lack of materials, and that Mr C was kept informed. They confirmed that Mr C was inducted at the earliest opportunity and placed on the appropriate wage for the work party thereafter. They said it would not have been appropriate for Mr C to have received this wage prior to induction as he was not yet qualified to carry out the role. We considered this reasonable and did not uphold the complaint.

Recommendations

We recommended that Scottish Prison Service:

- advise staff to ensure they document any decisions to deviate from normal policy, clearly recording the rationale for doing so and the steps taken to agree this with the prisoner; and
- notify the Ombudsman when they have issued staff guidance on the interpretation of the wages policy in relation to prisoners attending education on a sessional basis.