

## SPSO decision report

**Case:** 201204818, Scottish Prison Service  
**Sector:** scottish government and devolved administration  
**Subject:** complaints handling  
**Outcome:** upheld, recommendations

### Summary

Mr C, who is a prisoner, submitted a complaint to the prison prior to his transfer to another establishment. He had escalated the complaint to the internal complaints committee (ICC) but they did not convene until the day after Mr C's transfer, so he was not given the opportunity to attend. He felt that the prison had adequate opportunity to convene the ICC before he left and, failing that, he complained that they did not explore the use of video link facilities to allow him to take part remotely. He said that his requested witnesses were not called to the ICC, but that the chairperson had not recorded that he had considered these requests and deemed the witnesses to be of no relevance or value, as he was required to do under the prison rules. Mr C also noted that the ICC appeared to have had only two members rather than the required three and that the governor did not countersign the complaint form within the 20 day target timeframe.

In responding to our investigation, the prison explained that, although they had been aware of Mr C's transfer several days before the ICC, the chairperson had not been personally aware and the need to prioritise the hearing had been overlooked. They confirmed that the video link facilities at the prison were not operational at that time. They also confirmed that the ICC had three members but the third member left before signing the form. The prison acknowledged that they had not adhered to the rules in considering Mr C's witness requests and accepted that the governor did not sign the complaint form in the required timeframe. They told us that they had emailed managers reminding them to ensure that ICCs have three members. They also confirmed that, since Mr C complained, they had begun logging when complaints are passed back for the governor to sign. They said they would apologise to Mr C for these failings.

We considered it reasonable that a member of staff not directly involved in a prisoner's transfer ie the ICC chairperson, might not have been aware of the impending transfer. We, therefore, understood why this might have been overlooked in the context of the complaints process. We also accepted that video link facilities were not available at that time. However, we were critical of the handling of Mr C's request to call witnesses, of the failure to have the complaint signed off by three ICC members and of the delay in the governor signing off the complaint. We upheld his complaint and asked the prison to provide evidence of the actions that had been taken to address these failings.

### Recommendations

We recommended that the Scottish Prison Service:

- apologise to Mr C for the identified failings in the handling of his complaint.