

SPSO decision report

Case: 201302675, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, complained to the Scottish Prison Service (SPS) about a decision they had taken about a piece of personal property, and then complained to us about their handling of his complaint.

Our investigation revealed shortcomings in the complaints handling. For example, we found that there had not been an appropriate investigation at an early stage in the process. We also found that the investigation at a later stage was inappropriate. That is the stage where the complaint is considered at a hearing of the prison's internal complaints committee (ICC). At that stage, a prisoner may request that specific witnesses are called for the hearing. The prison rules say that an ICC chair can refuse a particular witness if they have discussed this with the prisoner, and are reasonably satisfied that the evidence the witness would be likely to give would be of no relevance or value in considering the complaint. In that case, the chair must tell the prisoner before the hearing. There is, however, no requirement on them to write this down, either to confirm that a discussion took place or to record what was said at it.

We concluded that, in this case, there had not been a pre-ICC hearing and that the ICC chair had not, therefore, complied with the prison rules when refusing Mr C's choice of witness. We made several recommendations, including one related to our concern that a recurring theme in complaints to us about the SPS has been the difficulty in determining complaints where there is a lack of evidence about pre-ICC discussions.

Recommendations

We recommended that the SPS:

- apologise to Mr C for the shortcomings identified in our investigation;
- remind residential front line managers of their duties under prison rule 122(4);
- ensure that an ICC reconsider the complaint at the part five stage of the prisoner complaint form and that the governor then considers whether to endorse or reject the ICC's further decision; and
- tell the Ombudsman what action they will take to address the issue of lack of evidence in complaints that an ICC chair has not complied with prison rule 123(7).