

## SPSO decision report

**Case:** 201402245, Scottish Prison Service  
**Sector:** Scottish Government and devolved administration  
**Subject:** disciplinary charges - orderly room proceedings  
**Outcome:** not upheld, no recommendations

### Summary

Mr C complained about the process the prison applied at his disciplinary hearing (a process that looks at whether a prisoner has broken prison rules, and if so, what punishment to award). Our role in looking at this type of complaint is to consider whether the prison followed the correct process before deciding whether the prisoner was guilty of breaking the rules. We are not a further route for prisoners to appeal against that decision and we cannot overturn it.

Mr C complained that the adjudicator of the hearing refused to call witnesses he had identified or to view CCTV footage. Mr C said prison rules said that before finding a prisoner guilty of breaking prison rules, the adjudicator should be satisfied beyond all reasonable doubt. Because the adjudicator refused to call Mr C's witnesses or view the CCTV footage, Mr C questioned how the adjudicator could have been satisfied beyond all reasonable doubt that he was guilty of breaking the rules.

The rules confirm that at the disciplinary hearing, a prisoner may request that a witness be called. This request must be granted where the adjudicator is reasonably satisfied that the evidence the witness is likely to give will be relevant to deciding on the charge. The supporting guidance also says that the adjudicator is responsible for assessing the truth of each statement given in evidence at the hearing and for deciding whether the prisoner is guilty of breaking the rules. In Mr C's case, the adjudicator confirmed that he would call witnesses if he felt it was appropriate to do so. However, after hearing the statement from the officer who witnessed Mr C breaking the rules, the adjudicator confirmed that he did not need to call Mr C's witnesses or view the CCTV footage. We found that the adjudicator had the discretion to refuse to call Mr C's witnesses or to view the CCTV footage, and he was also responsible for assessing the truth of the various statements. We considered that the process applied at Mr C's disciplinary hearing was appropriate and carried out in line with the relevant procedure, so we did not uphold the complaint.