

SPSO decision report

Case: 201403945, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: disciplinary charges - orderly room proceedings
Outcome: not upheld, recommendations

Summary

Mr C was placed on report for breaching prison rules, for which he was found guilty at a disciplinary hearing. Mr C complained that he did not think the prison followed the correct process because the officer that placed him on report was not called to the hearing.

We obtained a copy of the record taken at Mr C's hearing which confirmed that prior to the proceeding starting, he was asked if he was prepared to accept the written evidence presented without requiring the reporting officer to appear in person. Mr C confirmed that he was, however, the record noted that he asked for the reporting officer to attend once the hearing had started. In addition, the record also confirmed Mr C said he understood the charge and the purpose of the hearing.

The prison rules say a prisoner can request that a witness be called and the request must be granted when the prison is reasonably satisfied that the evidence the witness is likely to give will be relevant to the determination of the charge. In addition, the relevant staff guidance says that the reporting officer must be present should the prisoner or the adjudicator consider it necessary. The Scottish Prison Service (SPS) also advised us that a prisoner could request for the reporting officer to be present at any time during the process but if they had already indicated that they were prepared to accept the evidence presented without the need for the reporting officer to be present then the decision on whether to agree to a later request to call the reporting officer was at the discretion of the adjudicator.

We were satisfied that Mr C was given the opportunity to call the reporting officer and because of that we did not uphold his complaint. However, we did ask the SPS to review the guidance to ensure it clearly reflected the position.

Recommendations

We recommended that the SPS:

- review the wording of the relevant paragraph within the disciplinary hearings guide to ensure it clearly reflects the SPS' position in relation to the attendance of the reporting officer at disciplinary hearings.