

SPSO decision report

Case: 201405223, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: removal from association/segregation
Outcome: upheld, recommendations

Summary

Mr C complained that the prison inappropriately failed to give him the opportunity to make representations prior to seeking to extend his removal from association. A prison can seek approval from Scottish Ministers to stop a prisoner from associating with others to maintain good order and discipline. The prison said Mr C had been unable and unwilling to make representations and it was unlikely that his representations would have been any different from the previous extension request. They also suggested that he was only entitled to make representations if the prison governor felt it was practicable to do so. Mr C disputed that he had been unable and unwilling to make representations and he also said he was entitled to make representations in line with prison rules.

The prison rules confirmed that Mr C was entitled to make representations prior to the request being submitted to Scottish Ministers for approval. The rules say that representations should be made in writing by the prisoner or transcribed by an officer or other official on the prisoner's behalf. We obtained a copy of the relevant paperwork and in the section that should be completed by the prisoner, it noted that Mr C was unable and unwilling to complete representations. However, instructions on the paperwork confirm that a witness should sign the form, and give reasons, if the prisoner refuses to complete representations. In Mr C's case, an officer signed the form but failed to note why he was unable and unwilling to give representations.

Based on the evidence available, we were unable to establish whether Mr C was unable or unwilling, or both, to give representations because the relevant paperwork was incomplete in important aspects. We concluded that the Scottish Prison Service could not adequately evidence that they had given Mr C the opportunity to make representations, or having given him the opportunity, he refused, when seeking to extend his removal from association. In addition, we felt the fact that Mr C had been given opportunities in the past to make representations was irrelevant and the issue was that the proper process had to be followed and the relevant paperwork completed correctly. Therefore, we upheld Mr C's complaint.

Recommendations

We recommended that Scottish Prison Service:

- reflect on Mr C's case and consider how errors can be avoided in the future;
- feed back any learning to us; and
- apologise to Mr C for the failures our investigation identified.