

SPSO decision report

Case: 201406744, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: punishment
Outcome: some upheld, recommendations

Summary

Mr C had several wage deduction punishments imposed by the prison for different offences. Mr C complained that the prison inappropriately applied these punishments consecutively (so that the wage deductions were applied one after the other and continued for several months) instead of concurrently (such that each day of wage deduction counted towards all of the current punishments). He said that the prison guidance required punishments to be applied concurrently, unless they were specifically recorded as consecutive.

An Internal Complaints Committee (ICC) was held, which agreed with Mr C's interpretation of the guidance and ordered a review of Mr C's wage deductions. However, the review did not take place, and Mr C complained about this. A second ICC was held which disagreed with the first decision and found that Mr C's wages deductions were being applied correctly.

After investigating Mr C's complaints we found that the guidance on this issue was unclear, and that the Scottish Prison Service (SPS) was interpreting this differently in relation to wages and other kinds of punishments. Although we considered either interpretation would be reasonable, we were critical that the SPS was using two inconsistent interpretations at the same time. However, in Mr C's case, we found that the approach taken was permitted by the rules and guidance, and Mr C had been treated consistently with other prisoners in a similar situation. Therefore, we found that the application of the wage deduction punishments was reasonable and we did not uphold this aspect of Mr C's complaint.

However, we found that it was unreasonable that the recommendation of the first ICC was not carried out (due to an administrative error), and that Mr C was not given any apology for this. We were also critical that Mr C was given two inconsistent ICC decisions, as the ICC is the final stage for a prison complaint and care should be taken to ensure the decision is robust. Therefore, we upheld this aspect of Mr C's complaint.

Recommendations

We recommended that the SPS:

- apologise to Mr C for the failings our investigation identified;
- review their guidance on consecutive and concurrent punishments to ensure that there is a clear and consistent approach followed by all prisons;
- bring our findings on the two inconsistent ICC decisions to the attention of ICC members to prevent this situation recurring; and
- demonstrate to us that adequate steps have been taken to ensure ICC recommendations are implemented timeously (once they have been endorsed by the Governor).