

SPSO decision report

Case: 201407068, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: visits
Outcome: some upheld, recommendations

Summary

Mr C complained that his partner (Ms A) was banned from visiting him, and that after the ban was lifted Ms A would have to visit him in closed facilities for nine months. Mr C also complained that the prison did not consider his complaint properly, and that prison staff annotated part of the prison complaint form that was for his use.

We found that rule 77 of The Prisons and Young Offenders Institutions (Scotland) Rules 2011 gave the prison governor very broad discretion to ban a visitor, and did not state a time limit for a ban. Given this, we could not uphold this part of Mr C's complaint.

In most other respects, we were concerned about the prison's handling of this matter. Although rule 78 allows a governor to order that visits must be held in closed facilities, it states that such an order must be reviewed by the governor not less than once in every three months. In this case, the prison put the onus on Ms A after a nine month period, rather than on the governor not less than once in every three months as stated in the prison rules. We were of the view that the prison's letter to Ms A about the ban and the closed visits did not provide clear information about these restrictions and how they could be lifted.

Complaints that go to a prison's internal complaints committee (ICC) should be handled in line with rule 123 and the Scottish Prison Service's own complaints handling guidance. We found that the prison did not follow relevant parts of the prison rules and the guidance in relation to assistance for Mr C at the ICC hearing and calling witnesses. We were also concerned about the language used in the ICC's note of the hearing; and about the annotation of the complaint form by prison staff, as the form is the record of the complaint made and responses given at each stage of the process.

Given the process failings and issues we identified, we upheld the remaining aspects of Mr C's complaint and we made nine recommendations.

Recommendations

We recommended that Scottish Prison Service:

- apologise to Mr C in writing for the administrative failings we identified;
- apologise to Ms A in writing for the administrative failings we identified;
- remind relevant staff of the review timescale set out in Rule 78(3);
- review the imposition of closed visits on Ms A to ensure it is in line with Rule 78(3);
- consider the concerns we highlighted arising from the letter sent to Ms A about the ban and closed visits, to ensure that future letters to any person about a ban and/or closed visits are appropriate;
- write to Ms A setting out the terms of any remaining ban, explaining what supporting information she should supply to appeal the ban, setting out the terms of closed visits, explaining whether she needs to provide supporting information when writing to have closed visits lifted, and explaining what this supporting information should be;

- review the handling of the ICC in this case, and reflect on the ICC's approach and language as recorded in their note of the hearing, to ensure that the same failings are not repeated;
- remind relevant staff of Rule 123(7), GMA 36A/14 and the SPS complaints guidance in relation to assistance for prisoners and the attendance of witnesses at an ICC hearing; and
- ensure that staff do not annotate original Prisoner Complaint Forms (PCFs), and that unannotated original forms are returned to prisoners.