

## SPSO decision report

**Case:** 201603667, Scottish Prison Service  
**Sector:** Scottish Government and devolved administration  
**Subject:** complaints handling  
**Outcome:** upheld, recommendations

### Summary

Ms C complained to us that the prison internal complaints committee (ICC) failed to follow the proper process in handling her complaint. In particular, she said the ICC chair failed to follow prison rule 123(7) when handling her complaint, and that the ICC also failed to arrange for an independent prison monitor (IPM) to be present at the hearing to assist her.

Prison rule 123 says that a prisoner may be assisted at the ICC hearing and can call witnesses to give evidence in support of a complaint. Rule 123(7) says the ICC chair may refuse to allow a prisoner to call a witness if, having discussed the matter with the prisoner, the chair is reasonably satisfied the evidence the witness is likely to give will be of no relevance or value in considering the complaint.

The SPS told us that in Ms C's case, in relation to her request to be assisted by an IPM, she had not followed the agreed process to secure their attendance. We felt that was reasonable. The SPS also told us the chair did not call Ms C's witness because they did not see what more could be added to the hearing by having the witness present. However, the ICC's written response did not reflect that. Instead, it said that Ms C's witness was not present because she had not discussed the issue with them nor had she secured their agreement to attend. We did not consider that this was in line with the prison rules and we upheld Ms C's complaint to us.

### Recommendations

We recommended that Scottish Prison Service:

- share the findings of this investigation with relevant staff at the prison to ensure witness requests are appropriately considered in line with prison rule 123(7); and
- remind relevant staff that written responses issued by the ICC should accurately reflect the discussion held in relation to requests for assistance and witnesses.