

SPSO decision report



Case: 201909391, Scottish Prison Service
Sector: Prisons
Subject: Special escorted leave
Decision: upheld, recommendations

Summary

C made an application for escorted day absence (EDA) to visit their father at home on the grounds that he was dangerously ill and had been deemed medically unfit to travel to the prison. The prison refused C's application. They said that due to C's prison status they had been unable to risk assess the potential of a home visit and offered C a contact session with their father at another prison. C said that the prison had failed to give proper consideration to their father's circumstance and raised a formal complaint through the prison complaints process. In response to the complaint, the prison explained that due to reasons pertaining to C's prison status, and also that C's father was not considered dangerously ill, the application could not be approved at that time. C complained the prison had not given clear reasons why their request had been refused or why they did not consider their father to be dangerously ill when they had provided a letter from their father's GP in support of their application.

We found that the prison had followed the correct EDA procedure, criteria and prison rules in exercising their discretion to refuse C's application (Rule 101 The Prisoner and Young Offender Institutions (Scotland) Rules 2011). However, they had failed to clarify on what grounds C's application was being considered and had inaccurately considered C's prison status as an exceptional circumstance. We found the reasons that had been provided to C in both the EDA decision form and the complaint response were confusing and not relevant, and the prison had failed to properly explain or provide evidence in support of their decision. We also found there had been an unreasonable delay in the prison communicating the refusal of the EDA application to C.

Our investigation concluded that the Scottish Prison Service failed to appropriately consider C's EDA application, therefore, we upheld the complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to provide a clear explanation as to the reasons C's application for escorted day absence was refused. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

What we said should change to put things right in future:

- In considering applications for escorted day absence, steps should be taken to clearly establish the legislative grounds/criteria on which the request is being considered.
- In making decisions for escorted day absence, reasons should be clearly explained and well evidenced.

In relation to complaints handling, we recommended:

- In making decisions on prisoner complaints, reasons should be clearly explained and well evidenced.

- Exceptionally sensitive or complaints of a serious nature should be considered and responded to by the Governor. Where this is not possible, clear reasons/explanation should be provided.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.