

SPSO decision report

Case: 201201008, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: disciplinary charges - orderly room proceedings
Outcome: some upheld, action taken by body to remedy, no recommendations

Summary

Mr C, who is a prisoner, was on a placement outwith the prison. Staff conducted a search at his placement and Mr C was found with items that he was not authorised to have. Mr C was reported on suspicion of breaching prison rules. He was found guilty at an orderly room hearing (an internal hearing held to determine whether a prisoner has broken prison rules and to impose an appropriate punishment if proven).

Mr C complained to the prison about several administrative aspects of the hearing. The prison did not uphold his complaint. Mr C then complained to us that the orderly room hearing was held outwith the appropriate timescale.

When we investigated this, the Scottish Prison Service (SPS) reviewed Mr C's complaint. They found that he should not have been placed on report for a suspected breach of prison rules for an incident that occurred outwith the prison environment. The SPS told us that the orderly room process existed to investigate suspected breaches of discipline within the prison environment. Because of this, the SPS confirmed that the orderly room decision to find Mr C guilty could not stand. They quashed Mr C's orderly room finding and withdrew the punishment.

Because the SPS acknowledged that the orderly room process was not appropriate in Mr C's case, we upheld his complaint. However, as the SPS also took action to sort this out, we did not make any recommendation. The SPS also reminded the staff involved in Mr C's case that the orderly room process can only be used when a prisoner is suspected of breaching prison rules within the prison environment.

Clarification

Since we published this finding, the SPS have provided further clarification. Our decision letter said that the decision taken by the SPS to quash Mr C's guilty finding was taken because he could not be placed on report for a suspected breach of prison rules when the incident that led to the suspected breach took place out with the prison environment. That was not the case. The correct position is that while a prisoner is on temporary release (in the community on a work placement), he is subject to his license conditions but this does not include the rule that Mr C was suspected of breaching – being found with items that he was not authorised to have in his possession. The SPS clarified that items can only be authorised or unauthorised within the prison and Mr C's license conditions did not specify about the possession of such items. That is why the decision was taken by the SPS to quash Mr C's orderly room finding. However, this clarification does not affect the outcome of this case, which we upheld because the SPS in this instance nevertheless incorrectly applied the orderly room process. The complainant has been informed of this clarification.