

Scottish Parliament Region: South of Scotland

Case 200503484: Scottish Prison Service

Summary of Investigation

Category

Scottish Government and Devolved Administration: Justice

Overview

The aggrieved (Mr A) claimed that Reliance Custodial Services (RCS) used excessive security when his brother (Mr B), a prisoner, visited him in The State Hospital. Mr A's advocate (Ms C) complained on his behalf to the Scottish Prison Service (the Service).

Specific complaint and conclusion

The complaint which has been investigated is that there was excessive security in an already secure environment (The State Hospital) with regard to Mr B's visit to Mr A on 31 January 2006 as supervised by RCS (*partially upheld*).

Redress and recommendations

The Ombudsman recommends that the Service ask RCS to apologise to Mr A for not conducting a risk assessment for the visit on 31 January 2006 which led to an inconvenient visit and caused Mr A to complain.

The Service and RCS have accepted the recommendation and will act on it accordingly.

Main Investigation Report

Introduction

1. On 20 March 2006 the Ombudsman received a complaint from an advocacy worker at The State Hospital (Ms C) on behalf of a patient (Mr A) that Reliance Custodial Services (RCS) used excessive security when his brother (Mr B), a prisoner, visited him. Ms C recently left her post as an advocate and was replaced by another advocacy worker (Ms D).

2. The complaint from Ms C which I have investigated is that there was excessive security in a secure environment (The State Hospital) with regard to Mr B's visit to Mr A on 31 January 2006 as supervised by RCS.

Investigation

3. During the investigation of this complaint, issues arose relating to Mr A and Mr B's rights. It is important to make clear that it is not appropriate for me to make a determination on their rights as that is a matter for determination in a court of law. However, it is appropriate for me to consider whether their rights have been taken into account by the Scottish Prison Service (the Service) and RCS.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Ms D and the Service were given an opportunity to comment on a draft of this report.

Complaint: There was excessive security in an already secure environment (The State Hospital) with regard to Mr B's visit to Mr A on 31 January 2006 as supervised by RCS

5. Mr A was a patient in The State Hospital. His brother was a prisoner in a facility operated by the Service (though at the time of publication of this report Mr A is no longer in custody). On 31 January 2006 Mr B was transported from his prison to The State Hospital to visit Mr A. During the visit, which took place in a visiting room, in which other patients and their visitors were present, Mr B was handcuffed at the wrists and was also handcuffed to a member of RCS staff. Shortly after the visit, Ms C wrote to the Service to complain on Mr A's behalf, saying that:

'Both [Mr A] and [Mr B] felt that their visit was hindered by the wearing of handcuffs and the lack of privacy due to the close proximity of staff ... [Mr A] would like to complain as he feels that the need for handcuffs and

close supervision by [RCS] staff is both excessive and unnecessary. He would like to point out that the State Hospital is a maximum security hospital and therefore the need for further security is inappropriate and unwarranted.'

Ms C noted that Mr A had asked for the handcuffs to be removed, that a member of RCS staff had called the RCS Control to check if this was possible, and had returned saying that it was not and that the visit could not go ahead without handcuffs.

6. The Service passed Ms C's complaint to the External Services Manager (Officer 1) at RCS, who responded directly to Mr A on 1 March 2006. Officer 1 explained the role of RCS in providing the prisoner escort service under contract to the Service. She also explained that normal RCS procedure was that all prisoners being escorted had two sets of handcuffs, as Mr B did, and that:

'... every prisoner is individually risk assessed to take into consideration any security information, special needs or requests. It is also routine procedure that a risk assessment of the visiting area is carried out prior to the start of the visit ... On this particular occasion, the decision was made for [Mr B] to remain handcuffed due to other members of the public also visiting patients in the same area, and there being only one member of staff present from the hospital. This decision was further supported by the fact that the visiting area was not secure due to one of the doors remaining unlocked.'

Officer 1 acknowledged that it was unfortunate that Mr A and Mr B did not feel the visit was as comfortable or private as they would have wished, that there was no intention to inconvenience them, and that a private room for their visit might have avoided the need for handcuffs.

7. In her complaint, on behalf of Mr A to the Ombudsman, Ms C said that Mr A felt RCS were 'passing the buck' to The State Hospital in relation to the number of hospital staff present and the physical situation in the visiting room. She said that Mr A had pointed out that on previous visits Mr B's handcuffs had been removed when:

'... in the same room and environment as that indicated in his complaint and that there seems to be a lack of consistency in [RCS] procedures. In addition ... the State Hospital is a secure area where visitors and staff

have access to personal alarms and therefore should not pose a high risk environment.'

8. I made enquiries of RCS, via the Service, and received a response from the General Manager (External Services) (Officer 2). Officer 2 explained that Officer 1 had left RCS and, therefore, it was almost impossible to answer for a completely different management team. Officer 2 explained that RCS staff worked to operating procedures that were derived from the contract with the Service, and that any deviation from the procedures could only be authorised by a manager after a risk assessment. Officer 2 reiterated Officer 1's point that Mr B remained handcuffed because other visitors were in the visiting room at the time. Officer 2 also said that:

'The decision to leave the handcuffs on during the visit I presume would be owing to the specific area not being known to RCS and no risk assessment had been previously completed.'

He also said that, in relation to Mr A and Mr B's request to have the handcuffs removed, staff would not react to a prisoner stating he was not a risk and at that time most, if not all, prisoners were treated as 'high risk'. Following discussion with RCS staff who had escorted other prisoners to The State Hospital, Officer 2 said that:

'... the staff at the hospital did not necessarily want handcuffs removed, indeed ... no two escorts were the same.'

Officer 2 explained that since that time RCS had been working with both prisons and hospitals to improve their understanding and practices, and that:

'The practice now in place is that these types of escorts are individually risk assessed taking into consideration all available information relevant to the prisoner and destination, additionally we tend to provide specific instructions for staff particularly if these instructions deviated from the normal.'

9. The response from Officer 2 also included an External Escort Tasking Form dated 31 January 2006 relating to Mr B's visit, as well as a Record of Events and a Personal Escort Record. The External Escort Tasking Form stated that the member of RCS staff escorting a prisoner will:

'Ensure the escort have in their possession a copy of the Risk Assessment for the location to be visited, along with a copy of the Escort Procedures and blank Risk Assessment forms.'

The External Escort Tasking Form also stated, in capital letters and in bold print, that prisoners will remain cuffed at all times and goes on to detail the reason why, if authorised in advance, handcuffs may be removed. The Record of Events shows that just before the visiting hour began in The State Hospital, the RCS escort staff telephoned their control to talk to the manager regarding Mr A and Mr B's request to have the handcuffs removed. The handwritten Record of Events noted that Officer 1:

'... told custody cuffs remain on as to visit room and other visitors.'

In addition, Officer 2 supplied a copy of the Inter-Prison Visits procedure which was in effect for one year from 10 November 2006. The procedure included detailed sections on risk assessment, the escort task, prisoner collection, arrival at the receiving establishment and other relevant information. Section 3.9, on risk assessment, stated that:

'Handcuffs will not be removed until the prisoner is within a secure area of the receiving establishment.'

Section 7.2, on arrival at the receiving establishment, stated that:

'Once in the visit area, prison staff should accept responsibility for the prisoner by signing ... before handcuffs are removed.'

Officer 2 did not supply a copy of the procedure that was in force at the time of the visit.

10. As noted, there was a Contract between The Scottish Ministers and Reliance Secure Task Management Ltd for the Provision of Prisoner Escort and Court Custody Services in Scotland (the Contract), dated 3 November 2003. Schedule 1, paragraph 2.1.1 of the Contract on custody, care and effectiveness stated that:

'The Service Provider shall be responsible for the secure custody and well being of those persons transferred to the care of its staff in pursuance of Prisoner escorting and court custody procedures.'

Schedule 1, paragraph 2.3.1 on personal responsibility of staff stated that:

'The Service Provider shall be responsible for maintaining the secure custody of Prisoners in its care, exercising safe working practices, maintaining standards of prisoner care, confidentiality and impartiality at all times in its operations with Prisoners as detailed in this Contract. All

Service Provider staff must be made aware of, and consistently deliver, these requirements and understand their role in maintaining these aspects of Service delivery under this Contract.'

Schedule 1, paragraph 3.1.1 on rights of prisoners stated that:

'The Service Provider shall ensure that Prisoners' prescribed rights (including the Government's obligations under the European Convention on Human Rights or as are otherwise derived from case law), in Statute and in prison rules are protected and enabled. The Service Provider shall ensure that the Services provided under this Contract reflect the current legal requirements and obligations and will ensure that all future changes in legislation, statute and prison rules are reflected in their operating practices.'

Schedule 1, paragraph 5.1.2 on prisoners escort and custody task stated that:

'The Service Provider shall complete a security risk assessment of each individual Prisoner taking into account the circumstances of the escort, previous Prisoner history, and other relevant information available to the Service Provider to determine and ensure appropriate staffing levels for all types of escort.'

Schedule 1, paragraph 5.1.7 on prisoners escort and custody task stated that:

'[Prisoner Custody Officers] will remain in charge of the Prisoner at all times.'

Schedule 1, paragraph 5.21.1 on inter-prison visits, from which the procedure mentioned at paragraph 10 was derived, stated:

'The Service Provider shall escort from the holding prison all Prisoners given permission for an inter-prison visit ... The Service Provider shall plan the necessary escort activity ...'

The Contract included as an appendix a table of records and data to be maintained. This stated that the Service Provider had to:

'Maintain records of Risk Assessments for all Prisoners [and] Records of location security Risk Assessment are maintained and updated.'

Conclusion

11. Mr A's strength of feeling about how Mr B's visit was conducted on 31 January 2006 is quite clear from Ms C's complaint. He felt that he and his

brother were subjected to humiliating treatment, that the handcuffs and close supervision were unnecessary in the circumstances of The State Hospital, and that the visit was not consistent with past procedure. In examining this complaint I have borne this in mind along with the balance that RCS need to achieve between respecting Mr B's rights and, where possible, taking his preferences into account, and the needs of security and the safety of prisoners, staff and third parties.

12. RCS have said that two sets of handcuffs are normal procedure, and their documentation stresses that prisoners are to remain handcuffed at all times unless there is good reason not to do so. The Contract also refers on numerous occasions to the need for secure custody. In relation to the visit itself, RCS have said that concerns over the security of the visiting room, not in terms of being within a secure establishment such as The State Hospital, but in terms of the security and safety of other patients and visitors, was the key concern. Therefore, I consider that Officer 1 made a reasonable, real-time operational decision, using her discretion, in this individual case, based on the information provided to her by RCS staff on the scene.

13. However, the RCS response to Ms C, the External Escort Tasking Form, the Inter-Prison Visits Procedure and the Contract all make clear that a risk assessment should have been carried out for the 31 January 2006 visit but was not. RCS have not supplied me with any records to confirm that a risk assessment was carried out, records which are required under the Contract, and Officer 2 advised me that no risk assessment had been previously completed. RCS are obliged to take into account the well-being of prisoners and to maintain standards of prisoner care, and without evidence of a risk assessment these standards were compromised, leading to the complaint from Mr A. I also question whether the Inter-Prison Visits Procedure was appropriate for this particular visit, since Mr B was not, in fact, visiting another prison but was visiting The State Hospital, which is not a prison and does not come under the management of the Service or other similar custodial authority, but is the responsibility of the NHS.

14. Given the need for security and the realities of making a real-time operational decision, balanced against the lack of evidence of a risk assessment being carried out and the question over the appropriateness of the particular procedure that was applied for the visit, I partially uphold Mr A's complaint.

Recommendation

15. The Ombudsman recommends that the Service ask RCS to apologise to Mr A for not conducting a risk assessment for the visit on 31 January 2006 which led to an inconvenient visit and caused Mr A to complain.

16. In the proposed version of the report there was a recommendation that RCS should review their policies to take account of visits such as that which took place on 31 January 2006, within the terms of the current RCS Contract. The Service have informed me that RCS are aware that any escorts to The State Hospital in future need to be risk assessed in line with the contractual requirements.

17. The Service and RCS have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Service notify her when the recommendation has been implemented.

Explanation of abbreviations used

Ms C	The complainant, an advocacy worker at The State Hospital
Mr A	A patient at The State Hospital
RCS	Reliance Custodial Services
Mr B	Mr A's brother, a prisoner
Ms D	An advocacy worker at The State Hospital
The Service	Scottish Prison Service
Officer 1	An External Services Manager, formerly employed by RCS
Officer 2	A General Manager (External Services) employed by RCS
The Contract	Contract between The Scottish Ministers and Reliance Secure Task Management Ltd for the Provision of Prisoner Escort & Court Custody Services in Scotland

Glossary of terms

Reliance Custodial Services	A trading division of Reliance Secure Task Management Limited and a member of Reliance Security PLC
The State Hospital	The State Hospital is one of four high security hospitals in the UK. Located in Lanarkshire in central Scotland, midway between the cities of Edinburgh and Glasgow, it is a national service for both Scotland and Northern Ireland. With around 700 staff, assessment, treatment and care is provided in conditions of special security for individuals with mental disorder who, because of their dangerous, violent or criminal propensities, cannot be cared for in any other setting

List of legislation and policies considered

RCS Inter-Prison Visits Procedure

Contract between The Scottish Ministers and Reliance Secure Task Management Ltd for the Provision of Prisoner Escort & Court Custody Services in Scotland

Scottish Public Services Ombudsman Act 2002

