

## Scottish Parliament Region: Mid Scotland and Fife

### Case 201202918: Scottish Prison Service

#### Summary of Investigation

##### **Category**

Prisons: Security; control and progression; behaviour related programmes

##### **Overview**

Mr C, who was a prisoner, complained to HMP Glenochil (the Prison) about the unreasonable delay in finalising his post programme report for the Core Sex Offender Treatment Programme. In addition, Mr C complained that the Prison failed to take appropriate steps to resolve his complaint.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) there was an unreasonable delay in completing Mr C's post programme report (*upheld*); and
- (b) the Prison failed to take appropriate steps to resolve Mr C's complaint (*not upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that the Scottish Prison Service (SPS):

- (i) review the current resourcing and management of Sex Offender Treatment Programmes to ensure appropriate steps can be taken to avoid unnecessary delays in completing post programme reports.

*Completion date*

30 March 2014

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

## **Main Investigation Report**

### **Introduction**

1. Mr C, who was a prisoner, began the Core Sex Offender Treatment Programme (SOTP) in October 2011. The Core SOTP is an offending behaviour programme delivered by the Scottish Prison Service (SPS) designed to provide treatment of specific risk factors in men who commit sexual offences. Mr C participated in the programme at HMP Glenochil (the Prison) and completed it in March 2012.

2. The complaints from Mr C which I have investigated are that:

- (a) there was an unreasonable delay in completing Mr C's post programme report; and
- (b) the Prison failed to take appropriate steps to resolve Mr C's complaint.

### **Investigation**

3. In investigating Mr C's complaint, my complaints reviewer considered all of the information he submitted to my office. She also obtained more information from the SPS.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. The SPS were given an opportunity to comment on a draft of this report. Normally, Mr C would also have been given an opportunity to comment but he was liberated and did not provide contact details to my office.

#### **(a) There was an unreasonable delay in completing Mr C's post programme report**

5. In his complaint to the Prison, Mr C said he completed the Core SOTP in March 2012 but his post programme report was still outstanding. Mr C said his parole dossier contained a document which noted his post programme report would be issued in June 2012. Mr C also noted he had been advised by the Prison's psychology department that there was a 16 week timescale for his report to be issued which meant it should have been completed by July 2012. Mr C said his parole was refused with the instruction that he should be tested in open conditions. He said the failure to complete his post programme report was hindering his rehabilitation and progression to less secure conditions and he asked the Prison to issue his report.

6. In responding to Mr C's complaint, the residential first line manager (RFLM) said he contacted the psychology department and they confirmed that they were working to finalise reports from the Core SOTP.

7. Mr C progressed his complaint to the internal complaints committee (ICC). He said there had been two previous dates provided by the Prison for when his post programme report would be completed but neither had happened. Mr C complained that it was nearing five months since he completed the Core SOTP and he asked for the finalised report to be issued.

8. The ICC said they made further enquiries with the psychology department who confirmed they were aware of the timescales. In addition, the ICC explained that staff shortages had contributed to the delay in finalising the report but they were hopeful Mr C's report would be issued by the end of September 2012.

9. Several weeks later, Mr C submitted a further complaint to the Prison governor. He repeated his concerns about his post programme report not being finalised and he noted that despite involvement from staff, the report had not been issued. Mr C said that his report not being finalised was hindering the parole board's recommendation on his case.

10. The governor advised Mr C he was aware of the backlog of post programme reports. He confirmed that an action plan was in place to deal with it. The governor told Mr C he could not provide a specific date for when his report would be completed but confirmed it was a priority for the psychology team.

11. In bringing his complaint to my office, Mr C said he completed the Core SOTP in March 2012 and a social worker was advised by the psychology department that his post programme report was scheduled to be completed by end of June 2012. Mr C said that did not happen even though the Core SOTP manual indicated there was 16 week timescale for the completion of a post programme report. Mr C said that despite complaining, his post programme report had still not been finalised and in addition, he said the Prison failed to complete it within the required timescale.

12. When the parole board reviewed Mr C's case in June 2012, they decided not to recommend his release because it noted he was likely to require further

offence focused work due to his on-going risk. In addition, the parole board felt Mr C should be tested in respect of what he may have learned from his participation in Core SOTP by spending a sustained period in open conditions with access to the community by way of home leaves or work placements.

13. In response to my office's enquiries, the SPS confirmed that Mr C was one of the first prisoners to participate in the Core SOTP at the Prison. The SPS explained that previously, the programme was not facilitated because the Prison did not hold sex offenders. They advised that when the programme was introduced at the Prison, the level of output required from the psychology department increased significantly and considerable investment was made in terms of resourcing the programme. The SPS said the time taken to train staff to meet the requirement of facilitating the Core SOTP and the increased level of supervision impacted on the Prison's ability to issue post programme reports.

14. The SPS acknowledged the timescale for completion of a post programme report for Core SOTP was 16 weeks from the date the prisoner finished the programme. In addition, in relation to the governor's comments that there was an action plan in place to deal with the backlog of post programme reports, the SPS advised my office that the Prison's psychology department had agreed to prioritise their workload to address the backlog. The SPS said it had been agreed to prioritise reports based on individual prisoners' critical dates. The SPS said Mr C's post programme report was finalised in November 2012 and it recommended that he complete further offence focused work.

15. When the Prison's programme case management board (PCMB) considered Mr C's post programme report in December 2012, they agreed he should participate in the Good Lives programme. However, the PCMB noted that due to Mr C's critical dates – in particular, his liberation date – he would be unable to complete the programme within custody. Because of that, the SPS said Mr C could not be considered for progression because he had not addressed his identified risks.

16. The SPS Risk Management and Progression guidance confirms that a long term prisoner - which Mr C was - may be eligible for consideration for transfer to open conditions from up to two years prior to their parole qualifying date providing that:

- they are low supervision;

- have no identified offence related needs that cannot be met in less secure conditions;
- have served a minimum period of six months in closed conditions to allow sufficient time for proper assessment to be carried out; and
- the Risk Management Team (RMT) at the closed establishment has approved progression to less secure conditions.

17. In Mr C's case, he did not meet the requirements for progression to less secure conditions because he had an outstanding offence related need - requirement to participate in the Good Lives programme - and his progression had not been approved by the RMT.

18. In addition, because Mr C's liberation date was less than 16 months from the date the parole board considered his case, there was no further review. Mr C was released from custody after serving two thirds of his sentence, known as his earliest date of liberation, which was August 2013. Mr C was released from closed conditions into the community to serve the remainder of his sentence on licence without having the opportunity to be tested in less secure open conditions.

19. In relation to the provision of SOTPs, the SPS provided my office with additional information. They explained that in advance of HMP Low Moss opening, HMP Peterhead was changed from the national facility managing long term sex offenders to a local facility managing short term prisoners. This meant male adult sex offenders were transferred to the Prison, normally used to house long term male prisoners. The movement of prisoners from HMP Peterhead took place in October 2010. Consideration was given to whether sex offenders would return to HMP Peterhead to participate in identified programmes or be transferred to HMP Edinburgh to do that. However, in June 2011, the SPS decided that the Prison would become the national sex offender facility and following that, the Prison was resourced to deliver the Core SOTP from October 2011.

20. In the chief inspector of prisons' annual report for 2011-12, he commented that access to activities – including programmes – was a vital part of the rehabilitation process. The chief inspector said he continued to recommend that rehabilitation and improvement be given a higher priority. He noted it would be correct to state that the SPS have insufficient resources to cope with the number of prisoners.

*(a) Conclusion*

21. The Prison were not resourced to deliver the Core SOTP until October 2011 - Mr C began participating at that time. He completed the Core SOTP, a little over five months later, in March 2012. Mr C's post programme report was finalised in November 2012, eight months after he completed the programme. The SPS advised that the timescale for completion of a prisoner's post programme report was 16 weeks - four months - from the date the prisoner finished the programme. In Mr C's case, there was a four month delay in completing his post programme report.

22. When a prisoner completes a programme, their post programme report will be reviewed by the Prison's PCMB who will decide whether the prisoner requires any further intervention. It is often the case that prisoners are keen to participate in any identified programmes within a reasonable time so that they can then progress to less secure conditions prior to their case being reviewed by the parole board. This increases their chance of being released and the SPS' Risk Management and Progression guidance supports that process.

23. Mr C's parole qualifying date (PQD) – the date he would be considered by the parole board – was August 2012. The parole board did not recommend his release at that time because it was likely that he required further intervention. Mr C's post programme report confirmed that. The parole board also recommended that Mr C be tested in less secure conditions.

24. In considering Mr C's complaint, I have taken account of what impact the delay in finalising his post programme report had on his progression. In particular, I am left questioning whether if the post programme report had been completed within the relevant timescale, the circumstances, in that Mr C was released into the community from closed conditions without being given the opportunity to address his identified needs, might have been avoided.

25. In addition, I also question the explanation provided by the SPS in relation to why there was a delay in completing Mr C's post programme report. In particular, the impact changing the regime of the Prison had on its psychology resources. It is concerning that sex offenders were transferred to the Prison in October 2010 but they were not adequately resourced to facilitate SOTPs for several months. In my opinion, this impacted negatively upon Mr C's potential to progress.

26. In light of these findings, I uphold Mr C's complaint and make the following recommendation.

*(a) Recommendation*

27. I recommend that the SPS: *Completion date*

- (i) review the current resourcing and management of SOTPs to ensure appropriate steps can be taken to avoid unnecessary delays in completing post programme reports. 30 March 2014

**(b) The Prison failed to take appropriate steps to resolve Mr C's complaint**

28. Mr C complained that the Prison continually failed to resolve his complaint. In response to his complaint, the ICC advised Mr C that the psychology department hoped to complete his post programme report by the end of September 2012. However, that did not happen and Mr C then complained to the governor. The governor said he was aware of the backlog and explained to Mr C there was an action plan in place to conclude them.

*(b) Conclusion*

29. It is unfortunate the timescale quoted by the ICC in response to Mr C's complaint was not achieved. However, the evidence available confirms the Prison took steps to check the position with the psychology department and provided Mr C with a date of when they hoped to finalise his report. The Prison also accepted there had been a delay in finalising Mr C's report.

30. The fact the Prison did not finalise Mr C's report by September 2012 does not mean they failed to take appropriate steps to try to resolve his complaint. Because of that, I did not uphold this part of Mr C's complaint.

31. The SPS have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the SPS notify him when the recommendation has been implemented.

**Explanation of abbreviations used**

Mr C	the complainant
SOTP	Sex Offender Treatment Programme
SPS	Scottish Prison Service
The Prison	HMP Glenochil
RFLM	Residential first line manager
ICC	Internal complaints committee
PCMB	Programmes Case Management Board
RMT	Risk Management Team