

Mr Colin McConnell
Chief Executive
Scottish Prison Service
Calton House
5 Redheughs Rigg
Edinburgh
EH12 9HW

18 December 2014

Dear Mr McConnell

Annual letter and complaints report 2013/14

I am pleased to be making available our annual complaints report for prisons for 2013/14, which includes statistics about prisons complaints to SPSO in 2013/14. An embargoed electronic copy of the prison report has been sent separately to your office and will be available online from www.spsso.org.uk/statistics-2013-14 from Friday 19th December 2014. Statistics showing the complaints made about prisons to SPSO in 2013/14 are attached to this letter at Appendix 1.

This is our second annual sector report for prisons, covering our third full year of handling prisons complaints, since we took on the jurisdiction in 2010. We are again including some information on prisoner healthcare complaints to provide a fuller analysis of the issues prisoners bring us, although we have reported more extensively on this in our NHS annual report. With over three full years of handling prisons complaints, we are able to reflect further on the volume and types of complaints we receive with analysis of the analysis and learning to help the SPS drive improvement in the service you provide.

Some of the key numbers outlined in the report are as follows:

- We received **311** complaints and dealt with **306**
- The rate of upheld complaints was **32%**, up from 26.5% last year but still well below the year's overall rate of 50%
- The rate of complaints coming to us too early rose slightly, from 19% to **21%**
- People who received advice, support and signposting **152**
- Cases decided after detailed consideration pre-investigation **51**
- Complaints fully investigated **103**, with **98** publicly reported to the parliament during the year, including two detailed investigation reports
- We made **63** recommendations for redress and improvement

You will see from the report that I am reassured to be reporting that prisons complaints remain out of step with the general trend of increasing complaints in other sectors, with the number of complaints received about prisons (excluding healthcare) remaining fairly static in 2013/14.

The complaints statistics that we enclose should form part of a much more detailed and responsive picture of complaints that your organisation reports and publishes. I anticipate

that the statistics we make available here will be useful in helping you demonstrate how you value complaints and use them to drive improvement.

I hope that this report will prove a useful source of information and learning for you and helps your organisation further the goal we all share of improving the quality of the services provided to the public. I look forward to continuing to work with you in this regard.

Yours sincerely

Jim Martin
Ombudsman

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Explanatory note to SPSO statistics

2014

The explanations below are designed to answer the main questions around these statistics. If you have any further queries, please contact our Casework Knowledge Manager, Annie Shanahan, at ashanahan@spsso.org.uk, or by calling 0131 240 8843.

Statistics

The tables show the complaints we handled about your organisation in 2013/14. **Table 1** shows complaints **received** by main subject area, both about your organisation and overall in your sector, for the past two years. **Table 2** shows the **outcomes** of the complaints we handled about your organisation for the same period. It also highlights the rate of premature and fully/partly upheld complaints and overall rates for your sector over the past two years. Complaints received are shown ranked from the most received to the least.

Subjects of complaint and outcomes

Tables 1 and 2 provide statistics for two quite different stages of our work. **Table 1** describes the subjects about which we **received** complaints between 1 April 2013 and 30 March 2014, and shows your organisation's figures beside the figures for the sector as a whole. **Table 2** shows information about the **outcomes** of the complaints that we determined over the same period. The figures of complaints received and determined are unlikely to tally, especially where complaints numbers are relatively large. This is because at the end of each business year we are still working on some of the complaints received during that year.

Frequently asked questions

What are complaints that are 'fit for SPSO'?

These are complaints that were valid for us to investigate. This normally means that they have gone through the complaints process of your organisation, and are about something that the law allows us to look at.

What does 'determined' mean?

Determined complaints are those that we have looked at and for which we have closed our file. We will have given the person a decision by letter or public report, or will have explained why we didn't investigate their complaint.

What are 'upheld' complaints?

Complaints where the outcome was 'upheld' or 'some upheld' are those where we investigated, and found that something went wrong. To recognise the validity of the complainant's experience, we uphold complaints wherever we find fault, even if this has already been recognised by the organisation. People come to us for an external, independent judgement and if we find something went wrong it is important for the complainant that we acknowledge this. We also include how the organisation responded to the complaint and any action that they took to put things right. Where an organisation responded well, we may also commend them for acknowledging the mistakes and the action they took to resolve this for the complainant.

All these complaints were 'fit for SPSO', and we gave a decision on them at the early resolution (ER2) or investigation (INV1 or 2) stages of our process. ER2 and INV1 cases are investigations that ended with us sending you and the complainant a decision letter. We also published a short summary of most of these complaints and their outcomes on our website. INV 2 are cases that meet our public interest criteria and are published in full.

How do you define a premature complaint?

It's a complaint that's been sent to us too early - i.e. before it has completed your complaints process.

Would you ever take a complaint before it completes our process?

Yes, but only where we think the circumstances are appropriate. This only happens in a very small number of cases. The most likely examples would be where we think that you have delayed unreasonably in responding, or where the person who's complained appears to be particularly vulnerable. We normally expect people to complete your complaints process to allow you to respond to the matters raised, and we will normally tell them to contact you if they haven't.

I don't seem to know about all of the complaints that you've counted as premature. Why?

There are several possible reasons. We don't write to you about all the premature cases we receive (see the next question for more information about this). When we refer someone back to the complaints process, you may then resolve the problem to the person's satisfaction without knowing that it came to us first.

Or the person may, after we've told them they need to go through your process, decide not to take it further. People often bring us issues that are premature, but that are also outwith our jurisdiction, or where they're asking for an outcome we can't achieve. When we reply, we'll tell them that we're not looking at it because it's premature, but we also explain that even if they go back through your process, it's unlikely we'd take the complaint up for another reason. For example, if they're asking us to change a planning decision or if it's a personnel-related matter we'd explain that we couldn't do that at all, whether or not they went through your process. It's then for the complainant to decide what to do next.

When do you tell us about premature complaints?

We determine many of these very quickly (within one or two days of receiving them). This normally happens where the complaint has clearly come to us too early and there's little or no information with it. We record these on our computer system, but don't open a file. In most cases we simply return the letter explaining that they've sent us the complaint too soon and that they need to complain to you. We don't normally tell you about these, and we usually have only minimal information about the complaint ourselves.

In cases where the person has sent us information, but the complainant doesn't appear to have completed your complaints process, we'll open a paper file. We'd normally then write to you explaining that the matter has come to us too soon, and we've told the person to take the complaint back to you. We then close our file, which we can reopen if the person completes your process and brings the complaint back to us.

Can you provide a more detailed breakdown of the premature complaints for my organisation?

We can provide numbers and general categories of complaints received prematurely. These are broken down into two areas – complaints that do not appear to have been made to you at all, and those that have started but not completed your process. (We don't record which point in your process they've reached, as usually we don't know this.) We can usually identify the department and the subject matter involved, but at this early stage categorisation may not be accurate because of the lack of detailed information.

The categories of complaints on your letter don't match those in our records - does this mean that our statistics are wrong?

We have our own method of categorising the complaints we receive, which is not based on those of any particular organisation. If you would like an explanation of a particular category, please contact us.

Scottish Prison Service Complaints Received

Subject Group	2013-14	rank
Communication and Records	57	1
Security, Control and Progression	55	2
Privileges and Prisoners Property	51	3
Health, Welfare and Religion	33	4
Physical and Personal Environment	26	5
Discipline	25	6=
Work, Education, Earnings and Recreation	25	6=
Admission, Transfers and Discharge	15	8
Leave from Prison (Including Home Detention Leave)	11	9
Supervision Levels	4	10
Subject Unknown or Out Of Jurisdiction	9	-
Total	311	

Subject Group	2012-13	rank
Security, Control and Progression	59	1
Privileges and Prisoners Property	51	2
Communication and Records	38	3
Work, Education, Earnings and Recreation	25	4
Health, Welfare and Religion	22	5
Leave from Prison (Including Home Detention Leave)	21	6=
Physical and Personal Environment	21	6=
Discipline	11	8
Admission, Transfers and Discharge	9	9
Out Of Jurisdiction	6	-
Subject Unknown	55	-
Total	318	

Scottish Prison Service Complaints Determined

Stage	Outcome Group	2013-14
Advice	Not duly made or withdrawn	55
	Out of jurisdiction (discretionary)	8
	Out of jurisdiction (non-discretionary)	8
	Outcome not achievable	18
	Premature	59
	Resolved	4
	Total	152
Early Resolution 1	Not duly made or withdrawn	10
	Out of jurisdiction (discretionary)	3
	Out of jurisdiction (non-discretionary)	16
	Outcome not achievable	8
	Premature	6
	Resolved	8
	Total	51
Early Resolution 2	Fully upheld	21
	Some upheld	4
	Not upheld	60
	Not duly made or withdrawn	2
	Resolved	0
Total	87	
Investigation 1	Fully upheld	4
	Some upheld	2
	Not upheld	6
	Not duly made or withdrawn	1
	Resolved	1
Total	14	
Investigation 2	Fully upheld	1
	Some upheld	1
	Not upheld	0
	Total	2
Total Complaints		306

Total Premature Complaints	65
Premature Rate	21.2%

Fit for SPSO Total (ER2, Inv 1 & 2)	103
Total uphold/partly upholds	33
Uphold Rate	32.0%

Stage	Outcome Group	2012-13
Advice	Matter out of jurisdiction (discretionary)	1
	Matter out of jurisdiction (non-discretionary)	10
	No decision reached	67
	Outcome not achievable	3
	Premature	46
	Total	127
Early Resolution 1	Matter out of jurisdiction (discretionary)	4
	Matter out of jurisdiction (non-discretionary)	25
	No decision reached	29
	Outcome not achievable	5
	Premature	16
	Total	79
Early Resolution 2	Fully Upheld	12
	Partly Upheld	10
	Not upheld	72
	No decision reached	2
	Total	96
Investigation 1	Fully Upheld	3
	Partly Upheld	3
	Not upheld	6
	No decision reached	3
	Total	15
Investigation 2	Fully Upheld	2
	Partly Upheld	0
	Not Upheld	0
	No decision reached	0
	Total	2
Total Complaints		319

Total Premature Complaints	62
Premature Rate	19.4%

Fit for SPSO Total (ER2, Inv 1 & 2)	113
Total uphold/partly upholds	30
Uphold Rate	26.5%