

SPSO decision report



Case: 201004625, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: not upheld, no recommendations

Summary

Mr C was involved in an altercation with another prisoner and placed on a misconduct report. He was subsequently found guilty of fighting but, as the disciplinary process was not correctly followed, this charge was later overturned.

Mr C was placed on the SPS's anti-bullying strategy as a result of the altercation. He complained that this should not have been the case in light of the fact that the related charge had been overturned. He also complained that, in responding to him, the SPS had referred to the charge as assault when the disciplinary paperwork recorded the charge as fighting. In responding to our enquiries, the SPS said that they felt the evidence suggested Mr C had assaulted the other prisoner. They indicated that they had taken steps to change the charge from fighting to assault but they failed to follow the correct process in doing so. They noted that this was part of the procedural failure which led to the charge being overturned. However, they advised that the anti-bullying strategy is separate from the disciplinary process. They maintained that, in light of the evidence, their decision to place Mr C on the anti-bullying strategy was appropriate. As this was a discretionary decision that the SPS were entitled to take, we did not uphold the complaint. However, we noted that the anti-bullying paperwork indicated that Mr C had been placed on the strategy as a direct result of the disciplinary process. The SPS acknowledged that this was inaccurate and took appropriate steps to bring this to the attention of the relevant staff.