

SPSO decision report

Case: 201201737, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: complaints handling
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, complained that an officer delivered an item of his mail to another prisoner's cell. In taking his complaint to the prison's internal complaints committee (ICC), Mr C requested to call the prison's data controller as a witness. This request was refused, but the ICC chair then proceeded to speak to the requested witness about the complaint.

Mr C complained to us that his witness request was improperly refused as the data controller had an input into the resolution of the underlying problem. He also complained that, despite the prison having acknowledged the misdelivery of his mail, he had not received an apology.

We found that the prison rules allow the ICC chair to refuse witness requests only where they are satisfied that the evidence the witness is likely to give would be of no relevance or value in considering the complaint. In this instance, as the ICC had later discussed the complaint with the requested witness, we could not agree that they were of no relevance or value. We, therefore, concluded that the refusal of the request was inappropriate. We also considered that the prison should have apologised to Mr C for misdelivering his mail. In the circumstances, we upheld the complaint.

Recommendations

We recommended that Scottish Prison Service:

- remind staff acting as ICC chairpersons of their duties under Rule 123(7) to refuse witness requests only where they are satisfied that the witness will be of no relevance or value to the consideration of the complaint;
- advise staff acting as ICC chairpersons that, where relevant, it would be good practice for them to record their reasons for refusing requests to call witnesses;
- apologise to Mr C for the inappropriate handling of his complaint; and
- apologise to Mr C for delivering his mail to the wrong cell.