

SPSO decision report

Case: 201300729, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: complaints handling
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, complained to us about the prison's handling of his requests to call witnesses to complaint hearings for four separate complaints. On each occasion, the chair of the hearing refused his requests. Seven of the eight requested witnesses were said to be unavailable to attend, and the eighth witness was recorded as not having wished to attend. Mr C complained that these reasons were not in line with the prison rule that allows the chair to refuse requests where they consider that the witness will be of no relevance or value in considering the complaint. He also said that the chair did not discuss his witness requests with him and inform him of the decision in advance of the hearings, as required under the prison rules, and that the prison delayed in responding to his complaints.

In responding to our enquiries, the prison said that the requests were considered in accordance with the prison rules. They said that, had the chair considered that the requested witnesses would have provided evidence of relevance or value, the hearings would have been rescheduled to appropriate dates when they could attend. We noted that the prison said that Mr C's requests had been assessed for relevance and value. However, we did not consider that the reasons they gave for refusing the requests reflected this, as relevance and value should have provided the sole basis for refusal, rather than reasons that are not catered for under the prison rules.

With regards to advance discussions of the requests with Mr C, and prior notification of the decision, the prison said that they had altered their process in response to Mr C's concerns. They acknowledged that there were no discussions with him on three complaints but said they have since introduced a process to ensure that a manager discusses witness requests with prisoners and issues a decision in advance of complaint hearings. We noted that an advance discussion did take place on the fourth complaint.

The prison also said that they responded within the timescales in the prison rules. We noted that there was a slight discrepancy between the date of submission on Mr C's complaint forms and the date the prison said they received the complaints. This seemed to account for the difference in opinion as to whether the complaints were responded to in time. However, even if timed from the date of submission recorded on the forms, we noted that we were only talking of delays of one or two days. We did not consider this unreasonably excessive and were not critical of the prison in this regard. However, we considered their handling of Mr C's witness requests to have been unreasonable and, on that basis, we upheld his complaint.

Recommendations

We recommended that the Scottish Prison Service:

- brief staff members who act as complaints committee chair on the terms of the relevant prison rule, ensuring that any decision to refuse a prisoner's request to call witnesses is taken and communicated to the prisoner in accordance with this rule; and
- apologise to Mr C for the identified failings.