

SPSO decision report

Case: 201508815, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: removal from association/segregation
Outcome: upheld, recommendations

Summary

Mr C, a solicitor, complained on behalf of his client (Mr A) that prison staff repeatedly ordered Mr A to return to mainstream accommodation despite being a protection prisoner, and then punished Mr A for refusing.

The Scottish Prison Service (SPS) said that Mr A had to be removed from the protection hall as he had threatened other prisoners. They said he was not ordered to return to mainstream accommodation, rather he was offered a protection place within a mainstream hall as a short-term option while they arranged a transfer to another prison. However, there was no evidence to show that the offer of a protection place was explained to Mr A until about three months after he was removed from the protection hall. Instead, the charge sheets, orderly room records and internal complaints committee (ICC) records within this period repeatedly referred to Mr A being ordered to return to mainstream. We upheld Mr C's complaint about this. During our investigation we also found that prison staff did not appear to be familiar with the guidance on protection prisoners, specifically GMA 22A/12, and there was no record of the appropriate forms being completed for Mr A.

We also upheld Mr C's complaint about the way the SPS handled Mr A's complaint during two ICC hearings. We found Mr A was not given the chance to attend one of the ICC hearings, and we were critical that both ICC hearings gave inadequate reasons for their decisions. It was not clear from the records whether either ICC understood the basis for Mr A's concerns (that he was a protection prisoner being ordered back to mainstream) or the SPS's position (that the space allocated was in fact a protection space rather than mainstream) and both decisions appeared to be based on assurances or assumptions without detailing any supporting evidence.

Recommendations

We recommended that SPS:

- feed back the findings of this investigation to relevant staff;
- take steps to ensure GMA 22A/12 is being followed at the prison;
- apologise to Mr A for the failings our investigation found; and
- identify and address ICC training needs at the prison to ensure staff give clear reasons for their decisions, including the evidence on which the decision is based.