

SPSO decision report



Case: 201809670, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: escorted day absence
Decision: upheld, recommendations

Summary

Mr C submitted an application for escorted day absence from prison to allow him to visit his father who was ill and unable to travel. Mr C understood that the application had been refused on the basis of adverse intelligence so he complained. The prison's internal complaints committee (ICC) said that the application had been rejected because there were no exceptional circumstances. The ICC told Mr C that they did not uphold his complaint because his application for escorted day absence had been denied after fair consideration.

Mr C complained that the Scottish Prison Service (SPS) failed to properly consider his application for escorted day absence. He said that there was no evidence to show that his application was ever properly considered by the prison according to published rules, criteria and procedure. SPS said that Mr C had disengaged from the application process because he was frustrated by the length of time that the paperwork was taking to be completed. The SPS said that they had spoken with Mr C on several occasions to encourage him to resubmit his application but he had repeatedly refused to do so.

In light of the information received from the SPS, we sought further clarification on what happened with Mr C's application for escorted day absence given the ICC indicated in their response to the complaint that the application was rejected because there was no exceptional circumstances and that it was denied after fair consideration. There was no evidence to suggest that the application process was stopped because Mr C refused to engage. The SPS told us there had been some confusion when responding to Mr C's complaint because his application paperwork had been misplaced. SPS acknowledged the ICC's response to Mr C's complaint was inaccurate. In addition, they explained that when Mr C's application form was found, it was incomplete. It was also discovered to contain an internal email exchange between staff discussing intelligence about Mr C. SPS said Mr C had disengaged from the process when he saw that email.

The SPS previously issued a notice to all staff stating that the escorted day absence application form must be used for all requests and must be fully completed to ensure responses were properly recorded. This did not happen in Mr C's case and in our view, it should have. At the very least, once Mr C's paperwork was found, steps should have been taken to complete it even if Mr C was refusing to engage with the process.

In addition, Mr C complained that the SPS failed to appropriately handle his complaint. We were concerned that the ICC had reached a decision on Mr C's complaint without having regarded the relevant information and despite that, they took the decision to conclude that the application had been denied after fair consideration. We felt that was a significant failing given the nature of Mr C's complaint.

Therefore, we upheld Mr C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Take steps to confirm with Mr C whether he can have his application for escorted day absence reconsidered.
- Apologise to Mr C for failing to properly consider his application for escorted day absence. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- Apologise to Mr C for failing to handle his complaint appropriately. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

What we said should change to put things right in future:

- Remind staff that the application form for escorted day absence must be completed in all cases to properly and accurately record the outcome of a request, including instances where an individual may withdraw from the process.

In relation to complaints handling, we recommended:

- Review how the complaint handling failures identified in Mr C's case occurred and identify measures that will be taken to prevent this from happening again.
- Share details of the complaint handling failures identified in Mr C's case with staff involved in complaint handling to encourage learning and to prevent the same thing from happening again.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.