

Case: 201104061, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: access to medical care/treatment
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, injured his hand and was advised by a prison doctor that he would need to attend hospital. He was unhappy that he was not taken to hospital until the next day and he complained about this to the prison. The prison told him that the doctor said that they could wait until the following day to take Mr C to hospital, and so their actions were appropriate. Mr C then complained to us that the prison had failed to properly and fairly investigate his complaint.

Mr C said that he called four witnesses to the complaint hearing: the doctor, an officer, and two senior members of staff. The chair of the complaints committee spoke to the doctor and one of the senior members of staff in advance of the hearing and decided that the presence of the witnesses would not be necessary. We found that the prison rules say that he was entitled to do this, but also that this decision should have been taken in discussion with Mr C and he should have been notified in advance. We were satisfied that the chair spoke with the two most relevant individuals when investigating the complaint. However, in responding, the chair stated that he had also spoken to the other senior member of staff which subsequently proved to be untrue. Finally, he did not address the request to call the officer as a witness. In the circumstances, we upheld Mr C's complaint and made recommendations to address the failings we found.

Recommendations

We recommended that the Scottish Prison Service:

- carry out an investigation of the prison's handling of Mr C's complaint and report back to the Ombudsman with their findings; and
- remind those staff acting as ICC chairpersons of their duties under Rule 123(7) to discuss with prisoners, and inform them in advance of, any decisions surrounding the refusal to allow them to call witnesses to hearings.