

SPSO decision report

Case: 201105057, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: disciplinary charges - orderly room proceedings
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, complained because he said he was denied the opportunity to question the witness at his disciplinary hearing. A disciplinary hearing is held to determine whether a prisoner has broken prison rules and to impose an appropriate punishment if proven.

The Scottish Prison Service (SPS) acknowledged that Mr C's hearing was delayed for seven days to allow him to seek legal advice and to enable the reporting officer (who was the witness in Mr C's case) to attend. The SPS told us that the adjudicator who oversees the hearing confirmed that Mr C was given the opportunity to question the reporting officer. SPS guidance on disciplinary hearings states that prisoners must be allowed to ask questions of the reporting officer and witnesses.

In Mr C's case, the evidence confirmed that the hearing was adjourned to enable the reporting officer to attend. The adjudicator said Mr C was given the opportunity to question the reporting officer but there is no record of this in the adjudication paperwork. Mr C disputes that he was given this opportunity. We upheld Mr C's complaint as we considered it reasonable to expect the adjudicator to record whether Mr C was given the opportunity to question the reporting officer. In the face of this dispute, the absence of such evidence means that the SPS cannot demonstrate compliance with SPS guidance. Mr C had also raised other complaints with us, but we could not look at them as at the time he had not taken them through the SPS complaints procedure.

Recommendation

We recommended that the SPS:

- take steps to ensure adjudication paperwork reflects whether the prisoner was given the opportunity to ask questions of the reporting officer or witnesses in line with section 6.13 of the SPS Guidance on Orderly Room Procedures.