

SPSO decision report

Case: 201203443, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: testing for controlled drugs and alcohol
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, complained that the prison did not properly test a powder found in his cell for the presence of drugs. Mr C said the powder was protein powder that he purchased through the prison. He asked for another sample of the protein powder to be tested, and for a sample of the powder that tested positive for drugs to be provided to his lawyer so that it could be tested independently.

In responding to our investigation, the prison advised us that they tested the powder found in Mr C's cell in line with the Scottish Prison Service's drug testing policy. However, the policy says that the prison is required to complete appropriate paperwork, and in Mr C's case, the prison did not do that. We also found that they failed to action Mr C's request that the positive powder be retained for his lawyer, and misled him by indicating that a sample of the protein powder provided by him had been sent away for testing, when it had not. Because of this, we were unable to determine with certainty whether the powder found in Mr C's cell had been tested properly by the prison and so we upheld his complaint.

Recommendations

We recommended that the Scottish Prison Service:

- in light of the failings identified, review the circumstances of Mr C's case with a view to determining whether appropriate corrective action should be taken;
- consider enhancing the presumptive drug testing policy by considering whether it would be appropriate for a prisoner to be present when the substance found in their possession is being tested for the presence of drugs; and
- issue a reminder to all prison establishments advising them of the obligation to adhere to the requirements of the presumptive drug testing policy.