

SPSO decision report

Case: 201300592, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: use of restraints
Outcome: some upheld, recommendations

Summary

Mr C, who is a prisoner, complained after the prison took the decision to place him under restraint, using a body belt. He said that the decision was unnecessary and that he was held under restraint for more than 12 hours without approval from Scottish Ministers. He also complained that prison staff failed to appropriately observe him whilst he was under restraint, and that he was unreasonably denied access to toilet and water breaks.

Our investigation found that the prison were authorised by prison rules to place Mr C under restraint. The prison explained that they decided to do that because he was continuously harming himself and refusing medical treatment. We cannot question a decision that the prison were entitled to take, unless there is evidence to show us they failed to do something properly in reaching that decision. Mr C did not agree with the decision, but that was not a reason for us to uphold this complaint.

In looking at the period of time Mr C was held under restraint, the prison rules say a prisoner cannot be placed under restraint for more than 12 hours without Scottish Ministers' authority. The prison held Mr C under restraint for more than 12 hours without seeking that permission. They identified this error before Mr C complained, and took steps to review the process and ensure staff were aware of it. In addition, the prison rules confirm that an officer must monitor a prisoner continuously while they are held under restraint. The prison said that this happened in Mr C's case, but he disputed this. There was no closed-circuit television evidence available for us to see, but documented evidence in the form of log sheets confirmed that staff generally recorded information about Mr C's behaviour at least once every 15 minutes. However, the prison were unable to provide evidence that he was checked between 19:30 and 22:00. Without that, we could not reach a fully formed decision as to whether Mr C was continuously monitored, but it meant that the evidence did not show that he was. Mr C also said he was denied toilet and water breaks whilst wearing the restraint. The documented evidence indicated that he was provided with a drink and access to the toilet only once and in our view, that was unacceptable. In light of our findings, we upheld all of these complaints.

Recommendations

We recommended that the Scottish Prison Service:

- apologise to Mr C for inappropriately failing to seek the required permission to hold him in the restraint for more than 12 hours;
- ensure written records are maintained for the entire time period that a prisoner is kept in restraints; and
- ask the prison to advise staff that when a prisoner is being held in a restraint, they should be offered access to water and the toilet regularly, and this should be appropriately documented.