

SPSO decision report

Case: 201300992, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, was assaulted and injured on three separate occasions. As the third assault was serious, he was placed in a protected section of the prison. Mr C complained about being held in protected conditions over the period of a year. In response to the complaint, the Scottish Prison Service (SPS) advised Mr C that he was separated from his known enemies for his own safety. Mr C then complained to us because he had not agreed to be placed in protected conditions.

We acknowledged that the SPS had a duty of care to Mr C in terms of ensuring his safety from potential harm. Although they told us that Mr C had requested protection on a number of occasions after being assaulted, they were unable to provide documentary evidence to support this. Written guidance about the protection assessment process in place at the time said that a prisoner's written agreement should be obtained when placing them in protected conditions. We were critical of the fact that there was no evidence to show that Mr C went through the proper assessment process and his consent was obtained, either when he was placed in protected conditions after the assaults or when he remained in protected conditions at a later date. We also found no evidence to show that his protection status was regularly reviewed in line with the guidance. We upheld the complaint as we concluded that there was no evidence to support the SPS's account that Mr C had requested protection or that they had sought his agreement when placing him under protection.

Recommendations

We recommended that the SPS:

- conduct an audit of prisoners' files held in the prison to ensure that protection agreement forms have been completed and six monthly reviews conducted; and
- ensure that relevant prison staff are fully aware of the guidance about this that was issued to all prisons on 3 May 2012.