

SPSO decision report

Case: 201302967, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: upheld, recommendations

Summary

Mr C, who is a prisoner, had his cell searched and items of property removed. He was told an investigation would take place but a few weeks later, Mr C was told the items had been destroyed. Mr C complained that the prison had inappropriately removed and destroyed property from his cell. He also complained that the prison failed to appropriately investigate the matter.

The prison told us they suspected Mr C was running an illegal 'shop' by obtaining items in an unauthorised way, which was why his cell was searched. They said the items removed were considered to be excessive for Mr C's own use, and were thought to be from illegal lending, which backed up their suspicions. The prison rules confirm that the prison are entitled to search a prisoner's cell and remove any items of unauthorised property. They are also allowed to destroy unauthorised or prohibited items. However, the prison gave us a copy of the process that should be followed by staff when removing items from a cell. This confirmed that staff should have kept a record of the items of property removed, which did not happen in Mr C's case. Because they did not do this, Mr C was unable to prove that items may have belonged to him. In addition, the prison were unable to provide any evidence to show us that they had investigated whether the items removed actually belonged to him. It was clear the prison were allowed to remove the items from Mr C's cell but they were only entitled to destroy unauthorised property. Mr C maintains the property was authorised but the prison disagreed. Because the prison failed to follow the correct process and retain a record of the items removed, there was no way to determine whether the items destroyed were authorised and we upheld Mr C's complaints.

Recommendations

We recommended that the Scottish Prison Service:

- ensure prison staff are aware of the procedure that should be followed when searching a prisoner's cell; and
- remind prison staff of the requirement to obtain a record of items removed from a prisoner's cell following a search.