

SPSO decision report

Case: 201303377, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: legal correspondence
Outcome: some upheld, recommendations

Summary

Mr C, who is a prisoner, complained that he was issued with mail on a Sunday, when it should have been issued on a Saturday. He also complained that the prison failed to ensure that staff adhered to the procedures regarding cell searches, as well as those for handling and responding to his complaints.

We asked the prison about mail deliveries, and it was clear that mail should not be delivered on a Sunday, unless there are exceptional circumstances. As Mr C had clearly received mail on some Sundays, which was evidenced by more than one complaint to the prison about this and by the prison's responses, we upheld this complaint.

On the matter of the cell search, our investigation found that the Prisons and Young Offenders Institutions (Scotland) Rules 2011 give the SPS the right to search a prisoner's cell, and any items of property in their possession, at any time. Although the SPS has this right, it is moderated by the requirement to carry out a search quickly and decently and with proper regard for a prisoner's dignity. There were, however, no records of the search that Mr C complained about and in the absence of such evidence, we could not uphold this complaint.

The prison staff dealing with Mr C's initial complaints did not offer to speak to him within 48 hours of receiving the complaints, as required. In dealing with his complaint about mail delivery, the prison also did not provide an explanation for the delay at any stage of the complaints process. As we would expect this to be provided, and the complaints process to be followed, we upheld this complaint.

Recommendations

We recommended that Scottish Prison Service:

- provide the Ombudsman with evidence that mail delivery is now part of the weekend duty manager's checks;
- provide the Ombudsman with records to demonstrate that mail delivery has taken place on Saturdays; and
- remind residential first line managers of the need to provide a summary of their investigation and the evidence to support their decision, as stated on the prisoner complaints form.