

SPSO decision report

Case: 201400593, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: disciplinary charges - orderly room proceedings
Outcome: some upheld, recommendations

Summary

Mr C was suspected of assaulting another prisoner (Mr B). A disciplinary hearing was held and Mr C was found guilty. Mr C appealed this finding on the basis that the adjudicator had accepted verbal evidence from two prison officers, which Mr C said had been fabricated. Mr C was also dissatisfied that his request to have Mr B present as a witness at the appeal hearing was rejected, and that his complaint was not properly dealt with by prison staff.

We did not uphold Mr C's complaints about evidence and the witness. We found that it was reasonable and in accordance with the prison rules for the adjudicator to accept the verbal evidence from the two prison officers, given that their recollection of events was provided within 24 hours of the assault allegations having been raised and investigated. We also considered that the adjudicator had taken into account additional evidence from CCTV footage and from Mr C's response at the disciplinary hearing. In relation to Mr C's request to have Mr B attend the appeal hearing, we considered it was reasonable for Mr B not to have attended for his personal safety. The chair took steps to find out from Mr C what he wanted to ask Mr B, and shared this information with Mr C at the disciplinary hearing.

We concluded that the appeals form provided misleading information to Mr C that he could also complain about the finding of guilt through the Scottish Prison Service's complaints procedure. This is contrary to the prison rules and Scottish Ministers' Directions which set out that a prisoner must be signposted to us if they remain unhappy with the outcome of the appeal hearing. We upheld this complaint and made a recommendation.

Recommendations

We recommended that Scottish Prison Service:

- ensure the wording set out in the appeals paperwork is amended to take into account the relevant prison rules and Scottish Ministers' Directions.