

SPSO decision report

Case: 201401184, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: complaints handling
Outcome: upheld, recommendations

Summary

Mr C complained that the governor at his prison did not investigate his confidential complaint, which included an allegation Mr C made about the actions of a member of prison staff.

Prisoners can make complaints about routine matters. They can also make complaints about exceptionally sensitive or serious matters, which are treated as confidential complaints that go directly to the prison governor. We found there was no guidance for governors on what matters could be considered exceptionally sensitive or serious and thus appropriate to be dealt with under the confidential process. There was also a lack of clarity about which process should be used to deal with prisoners' allegations against prison staff. We found that the governor failed to provide Mr C with reasons for deciding that his complaint was not about a confidential matter; and that the prison did not keep a proper record of his confidential complaint, as they were supposed to.

We took the view that an allegation made by a prisoner about a member of staff would appear to be a matter of serious concern for a governor, even if such an allegation later proved to be unfounded. In addition, we did not think it was reasonable for a member of staff's peers to investigate, consider the evidence, and reach a conclusion about an allegation against that member of staff. We decided that the governor should have either given Mr C reasons for not investigating his complaint, or should have investigated it. We upheld Mr C's complaint.

Recommendations

We recommended that Scottish Prison Service:

- remind relevant prison staff of the need to record and file a copy of confidential complaints, as well as providing reasons for the governor's decision when a confidential complaint is considered not to be of an exceptionally sensitive or serious nature;
- provide guidance to governors on the types of complaint which might be considered to be of an exceptionally sensitive or serious nature and, therefore, should be dealt with under the confidential process; and
- amend the complaints guidance so it is clear which process should be used to deal with allegations against staff that are made by prisoners.