

SPSO decision report

Case: 201405121, Scottish Prison Service
Sector: Scottish Government and devolved administration
Subject: accuracy of prisoner record
Outcome: upheld, recommendations

Summary

Mr C raised a number of complaints with the prison about disciplinary reports that were noted on his computerised record. Mr C asked the prison to provide copies of the relevant paperwork in relation to each report or remove them from his record. The prison confirmed that there was no paperwork available to support the particular entries Mr C had complained about. However, the prison said although the paperwork could not be located that, in itself, was not reason to doubt that the reports existed. The complaint we investigated was that the Scottish Prison Service (SPS) unreasonably refused to remove disciplinary reports from Mr C's record.

The SPS disciplinary hearings guide says that the disciplinary paperwork should be retained for the period the prisoner remains in custody or three years after the outcome of the hearing, in case of a subsequent complaint or legal action. In addition, the SPS prisoner records retention schedule confirms that disciplinary paperwork should be retained for five years after the date of the hearing. In relation to Mr C's complaint, the SPS told us the paperwork relating to one of the reports was in storage but they were unable to access it at the time of responding to our enquiries. In addition, they were able to locate some of the disciplinary paperwork in relation to another report but they could not locate other paperwork and were unable to explain why. The SPS told us Mr C had accumulated over 140 disciplinary reports whilst in custody and, because of that, he was more susceptible to administrative errors.

It was clear that the disciplinary paperwork for each of the reports in question should have been retained by the SPS given that the timing of them fell within that outlined by both the disciplinary hearings guide and the records retention schedule. In relation to the paperwork that could not be located, the SPS were unable to provide evidence to support their position that the breaches of discipline occurred because they had been unable to provide copies of the relevant paperwork to substantiate the information recorded on the computer record. Therefore, we considered that their refusal to remove those particular reports from Mr C's record was unreasonable.

Recommendations

We recommended that the SPS:

- remove the reports in question (for which there was no paperwork available) from Mr C's record on their computerised prisoner records system;
- remove a report from Mr C's record on their computerised prisoner records system if the associated disciplinary paperwork cannot be retrieved from the storage facility; and
- remind relevant staff of the terms of the disciplinary hearings guide and the prisoner records retention schedule and how they relate to retaining disciplinary paperwork.