

## SPSO decision report

**Case:** 201503747, **Scottish Prison Service**  
**Sector:** Scottish Government and devolved administration  
**Subject:** disciplinary charges - orderly room proceedings  
**Outcome:** upheld, recommendations

### Summary

Mr C complained that the adjudicator unreasonably failed to follow the correct process at his disciplinary hearing. In particular, he said that the adjudicator did not give him the chance to cross-examine the witness.

In their response to his complaint, the Scottish Prison Service told Mr C that the adjudicator had concerns about intimidation and that was why he was not allowed to cross-examine the witness. The prison rules say that prisoners must be given the opportunity to call witnesses and to cross-examine them. In addition, the relevant guidance says that a prisoner must be allowed to ask questions of witnesses but if they abuse that right, the adjudicator should require the questions to be put through them. That did not happen in Mr C's case.

We upheld Mr C's complaint because we concluded that he should have been given the opportunity to question the witness by putting his questions through the adjudicator.

### Recommendations

We recommended that Scottish Prison Service:

- apologise to Mr C for the failings identified by our investigation; and
- feed back the findings of our investigation to the adjudicator.