

SHRC

Scottish
Human Rights
Commission



Access to Justice for Prisoners: The Complaints System

EXECUTIVE SUMMARY

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Access to justice is a cornerstone of the human rights legal system for everyone. Once a person has been deprived of their liberty by the State, the State has sole responsibility for ensuring that rights are upheld. This includes the ability to make complaints. Prison complaints cover a variety of issues. They may be about a person's access to food and property, or about their correspondence. The same complaints system would also deal with allegations of mistreatment by staff or complaints about living conditions.

We have undertaken this research under sections 3 and 4 of our founding legislation, which empowers us to conduct research and to monitor laws, policies and practices in any area.¹ We have found that the prison complaints system is not effective, with processes which are complex and hard to follow. A key concern for the SHRC as Scotland's National Human Rights Institution is that a flawed complaints system in prisons makes it extremely difficult to identify and investigate serious human rights breaches and to make systemic change needed to make Scotland's prisons safer for those who live and work there.

The SHRC is concerned that there is a real risk that a prisoner in Scotland will experience a situation that may amount to a human rights violation, and it is highly unlikely that a prisoner would be able to easily pursue justice.

This report illustrates what navigating the prison complaints processes looks and feels like from the perspective of prisoners. We focus on the complaint journey, through the Scottish Prison Service ("SPS") and National Health Service ("NHS") published complaints processes and then to the Scottish Public Services Ombudsman ("SPSO"). The report examines the ability of these processes to identify and remedy human rights concerns, both on an individual and systemic level. To do so, we carried out desk-based research on prison complaints processes, both in general and specific to Scotland. We also spoke to a small sample of professionals from a mix of backgrounds, all with in-depth experience of Scottish prison complaints. Finally, we structured our analysis through the relevant human rights framework to arrive at key recommendations and a set of findings.

¹ We carried out this research in the course of 2024. To the best of our knowledge, data and literature is up to date as of January 2025.

What we found

Our assessment indicates that the prison complaints system in Scotland does not meet human rights standards on Access to Justice and practice in relation to the specific Committee for the Prevention of Torture (“CPT”) standards on complaints could be significantly improved.²

Our evidence suggests that the prison complaints system is not consistently accessible or transparent. It is not set up in a way that ensures continuous learning and improvement and so it does not inspire confidence. Our research also suggests that some prisoners may fear that their circumstances in prison will worsen if they pursue a complaint. Crucially, the system is not centred around human rights, which is problematic when so many of the complaints being considered could have significant consequences for people’s human rights.

Our main findings on the gaps in the prison complaints system are presented against the five basic principles that all prison complaints processes should comply with as outlined by the CPT.



Available and Accessible

The complaints system is not accessible in its current form. People with lower literacy skills, certain physical disabilities, those with learning disabilities or learning difficulties and those for whom English is not their first or preferred language may struggle or be unable to complete complaint forms. In addition, prisoners generally contact SPSO by phone or post, which causes similar barriers.

The SPS system for Equality & Diversity complaints requires improvement. This has been repeatedly pointed out by inspectors for a number of years.

The provision of independent advocacy in prisons is inconsistent and there is much unmet need.

It can be difficult to access independent advice (including legal advice) and information in prison, including on how to complain. There are examples of good practice, which could be replicated across the prison estate.

Families report feeling “brushed off” or a “nuisance”. They can also fear negative repercussions for the person in prison if they complain.

² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2018) ‘Complaints Mechanisms’. Extract from the 27th General Report of the CPT



Confidential

Some prisoners fear that complaining will worsen their situation or lead to some form of reprisal. Linked to fear is a general mistrust in the system, or lack of confidence that making a complaint will lead to improved outcomes.

The SPS system as a whole is not confidential.



Effective

There does not appear to be an effective system of triaging complaints in a way that prioritises more serious complaints where there is a risk of a human rights violation having occurred.

Those considering complaints do not do so with a consistent knowledge of the human rights that may be engaged.

There are a number of barriers for those wishing to pursue court remedies for human rights violations. Those include strict time limits, rules on standing (the legal right to bring a case in court), lack of access to specialist legal advice, and an inadequate legal aid system.



Traceable

There is no traceable system in place to allow prisoners to monitor the status of their complaints.

There does not appear to be a consistent mechanism for the complaints system to contribute to learning and improvement of treatment and conditions of prisoners.

Publicly available and transparent data on SPS complaints, appropriately disaggregated, is lacking. This makes it very difficult to properly hold duty bearers to account.

In conducting this research, two things in particular stood out to us. The first is the complexity of the system. As a team of legal, policy and research professionals, we found it challenging to understand and illustrate what the current complaints process for both SPS and NHS complaints is. This left us with the impression that it would be almost impossible for some prisoners, particularly those with certain disabilities or those for whom English is not their first or preferred language, to successfully engage with the complaints processes. The second is that the data on prison complaints is so deficient that it is not possible to understand the full picture, and therefore extremely difficult to effectively hold those with responsibilities to protect human rights, such as the SPS, to account.

Key Recommendations

First and foremost, we recommend that the prison complaints system as it stands is in need of urgent review and reform. It cannot and should not continue unchanged. It is not for the National Human Rights Institution to provide detailed recommendations on the development of a system that works for Scotland's prisons; it is for those with experience of the prison and complaint handling systems to do so. However, in the development of this report we have reflected a number of practical suggestions for short and long-term improvements.

We therefore recommend that:

- The Scottish Government should take action to review and reform the way complaints in Scottish prisons operate. Any reformed system should be grounded in human rights standards and be informed by the experiences of people in prison and their families. This work should be done in collaboration with key stakeholders, with a clear and transparent timescale for delivery.
- The Scottish Government and/or SPS should commit to distributing the guide [Your Rights Under the Scottish Prison Rules](#), drafted by SHRC and the Parkhead Citizens Advice Bureau and published in July 2025. The Scottish Government and/or the SPS should keep this document up to date and should ensure translation into other languages as required and publication in formats such as Easy Read.
- The transparency and accessibility of data on prison complaints should be improved to ensure more robust scrutiny is possible and to promote continuous learning and improvement at a national level.

What will happen next

We will share this report and the guide [Your Rights Under the Scottish Prison Rules](#) with the Scottish Government, the Scottish Prison Service and other key stakeholders, including those who advise and advocate for prisoners and their families. We are committed to follow up work to ensure our concerns are acknowledged and acted upon.

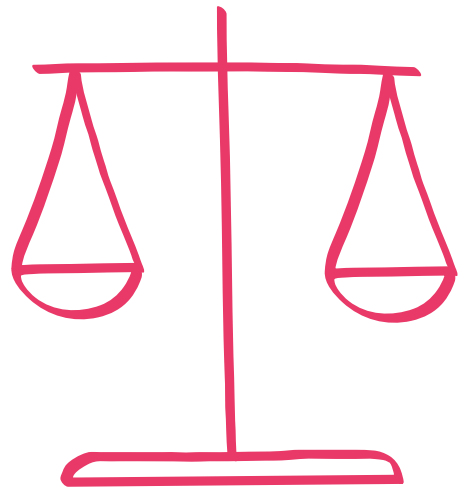
We will also share our findings with relevant Committees of the Scottish Parliament, including the Criminal Justice Committee and the Equalities, Human Rights and Civil Justice Committee.

We will distribute this report among our own domestic and international human rights networks, including through our membership of the NPM and to bodies such as the CPT.

Finally, we will reflect our findings in our future international treaty monitoring and reporting work, for example in relation to the upcoming review of the UK's compliance with Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Find out more

For more information, read the full report on our website at www.scottishhumanrights.com





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