

## Case study

# Prisons and Probation Ombudsman: Homophobic bullying in prisons

Mr C complained about the failure of staff at the prison to address or respond appropriately to his allegation of homophobic bullying and assault by another prisoner, Mr D.

Mr C explained in his complaint that he had been subjected to homophobic insults, attempted assaults and actual physical assaults on six separate occasions by Mr D.

On behalf of the Ombudsman, the investigator spoke to a prison officer who told them that on the first occasion he witnessed any untoward behaviour from Mr D towards Mr C, Mr D was challenged about his homophobic comments and was made to understand that they were not appropriate. Mr D was told to apologise for his actions, which he subsequently did and 'both parties agreed to maintain a degree of decorum'. The prison officer noted that numerous strategies were employed (involving rescheduling sessions and coping strategies provided by the in-reach team) in order to keep the two individuals apart. He hoped these would help in the resolution of this matter.

The prison's local Equality and Diversity policy stated the prison's commitment to 'a policy of zero tolerance of discrimination, harassment or bullying on any grounds'. It went on 'All staff are expected to challenge unacceptable behaviour in order to change it'. Sexual orientation was clearly listed in the introduction as being covered by the policy. Under Part 4: Sexual Orientation, the policy clearly stated that the prison 'will not tolerate bullying on the grounds of any individual's sexuality'.

The prison did not record all the incidents that Mr C mentioned in his complaint. The prison failed to keep proper administrative records to document what happened and what action was required. No internal investigation had been carried out at the prison. The evidence appeared to show that the prison failed to implement their zero

tolerance policy on discrimination as set out in their Equality and Discrimination Policy.

The Ombudsman's decision in upholding Mr C's complaint was informed by Article 3 and Article 14 of the ECHR. Article 3 provides a right not to be subjected to torture or other serious ill treatment and Article 14 sets out the prohibition of discrimination in how rights in the ECHR are enjoyed. In this case, there had been discrimination on the grounds of sexual orientation.

The Ombudsman recommended that the Governor of the prison:

1. Ensured staff were properly recording equality and diversity breaches
2. Ensured that staff intervened in a timely manner in situations which required prisoners to be separated for their physical and mental safety, and
3. As recommended by a prison officer, commissioned the Equalities Manager to devise a protocol to prevent this kind of situation from happening again.