
Prisoners' Advice Service

Progress Report

Winter 2007/2008

Aims and Objectives of the Prisoners' Advice Service

- To relieve and assist in the rehabilitation of adults held in penal establishments in England and Wales
- To advance education among those in prison in relation to what the law says should be their treatment and the conditions in which they should be held, by the provision of a free service of specialist prison law legal advice
- To educate the public and members of the legal profession in relation to the law concerning the rights of those in prison, their families and dependents
- To hold the Prison Service to account for the way it discharges its duty towards those entrusted to its custody by the Courts

CASE STUDY

Ms E was convicted of importation of Class A drugs, and sentenced to 7 years' imprisonment. She was initially located at HMP Bronzefield. She was pregnant at the time of her imprisonment and she gave birth to her son whilst in prison. Her son lived with her in the Mother & Baby Unit at HMP Bronzefield until the age of six months. He is now living with Ms E's sister. Ms E has been very distressed at the difficulties encountered in maintaining a relationship with him since their separation.

In April 2007 Ms E was transferred to HMP Downview, following an assault in March 2007 from a fellow prisoner. Ms E had been acting in the capacity of a listener in a prisoner's cell when she was grabbed and attacked. She was held hostage for 15 minutes during which time she felt she was going to be hurt or possibly killed. Following the incident she was diagnosed with Post Traumatic Stress Disorder.

In September 2007, Ms E was transferred to HMP Morton Hall following a 'progressive' move from closed to semi-open conditions. She became very distressed about the move, as she knew it would have proven impossible for her to maintain contact with her son due to the distance between HMP Morton Hall and her sister's home.

Ms E felt powerless and depressed following her transfer, and her mental health deteriorated as a result. She is now a regular self-harmer, and has been since the assault at HMP Bronzefield. She is on ACCT (Assessment, Care in Custody and Teamwork), which means she is closely supervised. She has been on ACCT on four occasions since the incident at HMP Bronzefield, and has felt suicidal at times.

Thanks to our intervention we managed to press for Ms E to be transferred back to HMP Downview, in their resettlement wing, where she will be closer to her son, and will get the support she needs to address her mental health needs. She is due to be transferred back next week.

Development

In November 2007 the prison population in England and Wales stands at 81,500 and the demand for PAS's work remain as high as ever. We are currently interviewing for a Managing Solicitor who will be responsible for managing the PAS contract with the Legal Services Commission, for the supervision of all caseworkers and for the overall management of the organisation. Currently these responsibilities have been delegated to our two caseworkers who are practicing solicitors. We are also interviewing for a locum Race Discrimination Caseworker as Lubia Begum-Rob will be going on maternity leave early next year.

PAS has hosted two very successful training courses in the past months. A Risk Assessment seminar run by the Consultant Clinical and Forensic Psychologist Dr Jackie Craissati, and a Sentence Calculation seminar run by Hugh Southey of Toaks Court. We will continue to host more courses in 2008.

We have had over 8,000 unique users to the PAS website www.prisonersadvice.org.uk. The website is updated on a regular basis and is proving to be an invaluable information resource for everyone who has an interest in Prison Law.

Thank you to the following funders who have supported PAS with a grant from June-November 2007. The Hickinbotham Charitable Trust, The Pilgrim Trust, The Rank Foundation, The LankellyChase Foundation, The Nuffield Foundation, The Triangle Trust 1949 Fund, The Marchday Charitable Fund, The J Paul Getty Charitable Trust, Anonymous Trust, The William Allen Young Charitable Trust, The Tudor Trust, The Charles Irving Charitable Trust, The Reuben Foundation, The Lord Faringdon Charitable Trust, The Roger Brooke Charitable Trust, The Denis Buxton Trust, The 29th May 1961 Charitable Trust, The Cole Charitable Trust. Your support means we can continue to provide free specialist Prison Law legal advice and information to all adult prisoners throughout England and Wales.

Caseworker Updates

Deborah Russo. Women Prisoners' Caseworker.

Most women contact us in writing rather than by telephone. Over the past six months the number of letters received from women prisoners requesting general advice and information has further increased. We now regularly write general advice letters to women prisoners requesting advice and information. Approximately 40% of these general queries eventually develop into actual cases. Casework has further broadened to include cases concerning healthcare and disability issues, adjudications, lifer panels, categorisation, ROTL and parole. The main issues of concern for women prisoners at present are ROTL and contact with children.

In July 2007, we received a large number of letters from women at HMP Send complaining of the contact facilities and arrangements between mothers and their children in the establishment.

On this occasion we dealt with their complaints in a different way, by making contact with a number of MPs and other individuals in the prison service. Legal action would not have been appropriate as contact facilities are very much a matter of local policy and therefore not easily challengeable by way of judicial review.

Thanks to our intervention, we have received a full response from the Minister of State for Justice, David Hanson MP, which we have now forwarded to all the complainants at HMP Send. We are now looking at whether improvements have been made, but if not, we will be in correspondence with the Minister again to have the women's contact needs adequately addressed.

Lubia Begum-Rob. Race Discrimination Caseworker.

I have settled three claims for damages under the Race Relations Act (RRA) to date (direct verbal abuse, indirect discrimination and victimisation). I currently have a group claim representing three Claimants under Art 9 of the Human Rights Act. There is a related case to the group claim with a separate litigant whose claim extends beyond the facts of the group claim, and incorporates claims under the RRA and the tort of misfeasance. I have recently issued a new claim for damages under the RRA for a new prisoner.

The group claim relates to a dog search of Muslim prisoners before prayers thus rendering them unable to pray. The claim consisted of 4 clients to begin with- one of them dropped out a couple of weeks ago: we are at the stage to exchange witness statements. The challenging feature of the group claim has been the quantity of work involved, but as this is a single issue claim involving equable clients and witnesses, this has not posed any real difficulties. For this reason, the case has been one that could unusually be looked after in my absence by a colleague for substantial periods of time, unlike any other damages claim I have undertaken to date.

The single claimant begins with the dog search above, and goes on to claim victimisation he suffered for pursuing the complaint (a year earlier than the group claimants) for nine months thereafter. The claim is detailed and lengthy, and the client is tenacious in his involvement with the case. This is further exacerbated by an unusually difficult solicitor representing the Defendant: one of the results of which is that frequent intervention from the Courts has to be sought. For these reasons, this particular case has highlighted some specific challenges arising from such cases, discussed below.

Nicki Rensten – Legal Caseworker. Outreach sessions June–November 2007.

9 July 2007 – HMP Chelmsford

Chelmsford is one of the newer prisons for St Giles and although I was warned the day would be chaotic (both the Inspectorate and Ofsted were visiting and it is a very busy local), the session was fine.

10 September 2007 – HMP Lowdham Grange

Very successful. Organised with the Education department. I did an initial group talk with 12 prisoners, which covered sentencing, recalls, recategorisation and healthcare. I then did private one-to-one discussions with some of the 12 and others on their individual cases, including queries about deportation, correspondence, categorisation and parole.

As follow-up, I sent information regarding moves from Category C to D to three prisoners, contacted a criminal/immigration specialist for one and am going to write to two others about recall and freedom of expression (Article 10).

4 October 2007 – HMP Highdown

Session with St Giles trainees. 14 prisoners attended plus 2 members of St Giles staff. Follow-up material sent to participants re extension of early removal scheme for foreign nationals to British citizens who wish to live abroad and handcuffing in court.

5 November 2007 – HMP Lowdham Grange

Again done through Education and very well attended, following discussion in prison of previous session. Open session with around 25 participants, followed by individual discussions with 10. Agreed to take up one case re Category D application and send info re clinical negligence solicitors, confiscation orders, early removal scheme for foreign nationals.

Hannah Stewart. Legal Caseworker.

Having moved into a general caseworker role from being the Women Prisoners' Caseworker I am now focusing on cases that require advocacy assistance. These include lifer and recall hearings in front of the Parole Board and disciplinary hearings in front of the external judge. I am also specialising in prisoners with the new indeterminate sentences for public protection (IPP), particularly those with short tariffs, who are not progressing through their sentences due to the miscalculation in the impact of IPP sentences on the prison system. Recent case law states that the failure to provide such prisoners with offending behaviour work may render their continued detention unlawful.

This issue is currently under appeal but, regardless of which side wins, will be vital to the government's sentencing policy over the next few years.

I have also represented a client at a hearing for a Sexual Offences Prevention Order which makes it a criminal offence for the client to act in maner that may bring him into contact with prostitution.

CASE STUDY Mr J had made a formal complaint that an officer had exposed himself to him. Following that complaint Mr J was assaulted by an officer who then charged him with assault. Mr J made a confidential complaint direct to the Governing Governor. In direct contravention of Prison Service policy the Governor refused to consider Mr J's complaint until the disciplinary process had been concluded. Mr J was left on the wing where the officer worked and suffered a further assault, for which he was also charged. He was also left in the exercise yard with a mentally disturbed prisoner who had an extensive record of assaulting other prisoners and staff. Mr J's jaw was broken by this prisoner who was sectioned later that week following police intervention.

I wrote repeatedly to both the Governor and the Area Manager requesting that they re-open the investigation into Mr J's complaint. I attended the relevant prison on two occasions to represent Mr J in front of the external adjudicator. On the second occasion the adjudicator ruled that the failure of the prison to investigate the complaint rendered the proceedings unlawful and dismissed the assault charges. I am now assisting Mr J with the complaint against the officer.

Volunteers

"I wanted to direct my legal studies towards areas of law, in which I am genuinely interested. To this extent, the PAS has given me the opportunity to develop my knowledge with regard to penal law, criminal law, and human rights law. The work done for the PAS has provided me with a high level of responsibility. It has given me the chance to think about and provide solutions to many varied legal problems." Adam

"I am currently doing the Bar Vocational Course at the Inns of Court School of Law and applied to PAS to be a volunteer for one day a week. I applied to PAS as I have a keen interest in Criminal Law and Prison Law with an eventual aim of practicing within these areas. I hope that I can further this interest by becoming involved in advising prisoners and becoming more familiar with the prison environment. This is only my first day, but thus far I have responded to several enquiries from prisoners and researched aspects of Prison Law involving punishments, complaints procedure and the Prison Rules. PAS offers a supportive and accommodating environment to work in which makes it a very enjoyable volunteer position." Sara

	Jan-Nov 2007	Jan-Dec 2006	Jan-Dec 2005
New cases	204	216	219
Written advice	1,684	1,881	1,445
General info	1,080	1,009	432
Existing casework letters	1,460	1,495	905
Telephone advice	12,080	11,679	11,102
Total sum	16,100	15,761	14,103

(Table Showing enquiries received and dealt with by PAS caseworkers 2005-2007)

“Of all the organisations connected to, what I call, the prison industry- that I deal with on a regular basis, PAS stands very tall indeed. Not least because they do exactly what they purport to do; advise prisoners. Prisons are very complex institutions, with a multitude of rules that are not always clear to so-called experts, like myself, let alone prisoners and their families. There cannot be many weeks that pass without my referring a prisoner, or a prisoner’s relative, to PAS. I do so in absolute confidence that their problems will be dealt with efficiently by caring people who know the penal system inside out. Before the advent of PAS, many prisoners who had been wronged by the system, would often take the law into their own hands and protest by way of disobedience. That would result in further sanctions and develop into a highly depressing cycle that benefited nobody. Through PAS-and especially the workshops they hold in prisons-inmates are now more likely to settle their disputes in a more positive way.

Importantly, after initially being treated with suspicion by sections of prison staff and management, PAS are now made welcome in the vast majority of the establishments they visit. Because of course, it benefits both the institution and its inmates when disputes are settled in a civilised manner. In that respect, I personally know many Governors who hold PAS in the highest regard, even though they may have been on the 'losing end' of some dispute where PAS has intervened. PAS has also been influential in altering, often outdated, penal policy after intervening on behalf of prisoners; again something that progressive staff and management approve of.”

Eric Allinson. Guardian Prison Correspondent.