

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

JUSTICE BEHIND BARS

PAS Newsletter March 2019

Welcome to PAS' bumper, springtime newsletter. In a month that sees PAS once again receive National Lottery Community Funding, we hope that all of our friends and supporters are looking forward to the longer days that are just around the corner!

News

Pas Director Spots Televised Unlawful Prison Adjudication

Further to a letter, dated 17 January 2019, sent to Michael Spurr, Chief Executive of HM Prison and Probation Service, from PAS Director, Lubia Begum-Rob, a governor at HMP Durham was ordered to undergo training after delivering two unlawful verdicts in adjudications that were spotted by members of PAS staff when they were broadcast on Paddy Wivell's Channel 4 documentary 'Prison' on Monday 14 January 2019.

The episode – third in a series of three – focussed on violence between prisoners and staff at Durham, and included the details of an incident in which a prisoner, named as Tommy Calder, was found guilty of an alleged assault on a staff member, who had come to his cell to take away his TV after Tommy was put on the Basic regime of the privilege system.

The documentary shows a governor, who is not named, conducting two adjudications against the prisoner; the first for possession of a weapon and the second for the above-mentioned assault. In the episode, the governor found Mr Calder guilty on both counts. In relation to the first, she stated: 'You have given me no reason to doubt the statement of the officer, so I find the charge proven' and on the second, that: 'On the balance of probabilities, I find the charge proven'.

The letter from PAS noted that the standard of proof applied in the first adjudication was questionable and in the second clearly unlawful. All guidance on prison adjudications very clearly states that the appropriate test is 'beyond reasonable doubt', and not the 'balance of probabilities'. PAS cited Prison Service Instruction 47/2011, which was in force at the time the documentary was filmed.

In his response, dated 1 February, Michael Spurr stated, "You are correct that the third episode of Prison did show a member of staff improperly conduct two adjudications, in contravention of Prison Service Instruction 47/2011 (which was in effect at the time)... I can confirm that as soon as we found out about this issue, we quashed the findings of the two adjudications completed for Mr Calder. The

adjudicating Governor in this instance will also receive additional training, and has not undertaken any adjudications since. We are currently in the process of reviewing other adjudications which have been conducted by this member of staff.”

In its coverage of the incident, [The Guardian](#) quoted Lubia, who said that she was, “pleased that the prison service had faced up to its responsibilities in the matter, but concerned that what the documentary showed could be the tip of the iceberg”.

PAS to Launch New Resource for LGBT+ Prisoners

In a new, frontline project for PAS, the charity is working in partnership with Lesbian, Gay, Bisexual and Trans+ (LGBT+) organisations Bent Bars (BB) and Trans Equality Legal Initiative (TELI), to create two new additions to our Self-Help Toolkits series, which will explain Prison Law as it affects LGBT+ inmates, and guide them and their peers through simpler legal concepts and processes in defence of their human rights while incarcerated.

There is currently a massive dearth of information for, or about, LGBT+ prisoners. Even The Prison Reform Trust’s Bromley Briefings, in their regular, otherwise rigorous, updates on British prison statistics, do not mention LGBT+ prisoners, who constitute, as a consequence, the most marginalised of an already overlooked community.

Garden Court Chambers Barrister, Michelle Brewer, is overseeing the writing of the transgender toolkit.

Brewer is a co-founder of TELI, set up in response to the 2016 Women and Equalities Select Committee Report on Transgender Equality. Dr Sarah Lamble, Reader in Criminology and Queer Theory at Birkbeck School of Law at the University of London, is overseeing the LGBT+ toolkit. Dr Lamble is a founding member of the Bent Bars Collective, which coordinates a letter writing programme for LGBT+ prisoners in Britain. Both toolkits are being written by pupil barrister, Stuart Withers. Withers is also a member of TELI and has previously worked with Liberty on its Advice & Information Service.

Having also recently introduced LGBT+ monitoring of PAS’ services, we are striving to address LGBT+ issues behind bars. Contents of the toolkits will include advice and information about: sexual exploitation and abuse, segregation, discrimination, deaths in custody and access to healthcare. We will especially strive to ensure that LGBT+ prisoners have access to the treatments and/or medication to which they are entitled and receive appropriate support within the prison.

The toolkits – made possible through the support of The Tudor Trust and The Paul Cottingham Trust – will be made available in prison libraries in due course.

Law Graduate to Run London Marathon for PAS



Monique Marino, otherwise known as Kiki, has most courageously agreed to run the London Marathon – which, this year, takes place on Sunday, 28 April – on behalf of PAS.

Kiki is a graduate of the University of Exeter, currently working at Fieldfisher LLP in the Medical Negligence department. Although she loves competitive sport (particularly football), Kiki has never run more than a few miles before. She assures us, however, that she is really looking forward to the challenge!

We all at PAS wish Kiki the very best with her training and with the event itself. If you would like to sponsor Kiki, please have a look at her Virgin Money Giving page [here](#).

And finally...

...last month saw PAS again take part in [The London Legal Support Trust's](#) Great Legal Bake fundraising initiative.

Amidst great temptation in the PAS office, our Caseworkers and volunteers went to work in the kitchen and eventually raised the sum of £764 for the charity. Thank you to all of you who ordered cakes from us – and thank you, too, to Fundraising and Communications volunteer, Francesca Dale, who ran the project for PAS and delivered some of the sweetest treats herself!



Success Story

Two Women Prisoners Granted Childcare Resettlement Leave

Two female prisoners had been refused Childcare Resettlement Leave (CRL). CRL is a form of temporary release available to low risk prisoners who can demonstrate that they have sole caring responsibility for a child under 16. Both of the women were able to demonstrate that they did have children under 16, but were refused CRL because of the length of time still remaining on their sentences.

At that time, CRL was only available for prisoners in open prisons; to those who have only two years or less left until their release. The two women both had more than two years left to serve. However, separation from their mothers was having a deleterious impact on the mental health of the children involved: one was undergoing counselling and another being treated for depression.

PAS acted on the case, supporting the women in taking a Judicial Review of the prison's response to their plight. The judge found the prison's decision to be unlawful and stated that, when considering CRL applications, the Article 8 Right to a Family Life of the European Convention on Human Rights, and Article 3(1) of the UN Convention on the Rights of the Child, should be taken into account.

In this case, our intervention and the consequent ruling righted an unjust policy, thus protecting the rights of the children and their sole carers. Considering the best interests of any children involved in a case is now a legal prerequisite in decisions by prisons on CRL applications. The ruling also changed the law such that all prisoners can now apply for CRL at any point in their sentence, not just during the last two years.



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