

MEDIA RELEASE: FOR IMMEDIATE RELEASE IMPORTANT HIGH COURT JUDGMENT ON PRISONER RIGHTS

On 13 February 2012 the High Court handed down judgment in a case concerning female prisoners and their temporary release from prison in order to care for their children.

Judicial Review cases were brought by two women prisoners challenging a refusal to grant them Childcare Resettlement Leave (CRL). Mrs Justice Lang found that the decisions to refuse the women CRL were unlawful.

The decision will have a positive impact on the rights of prisoners with sole carer responsibilities for their children, and confirms that the right to family life is not lost simply by reason of being in prison.

CRL is a form of temporary release on licence (set out in Prison Service Order 6300) that assists prisoners to maintain family ties. It is available to prisoners who can demonstrate they have sole caring responsibility for children under the age of 16, subject to an assessment of risk and suitability.

Both claimants in this case have sole caring responsibility for children under 16 but were refused CRL by the prison service predominantly due to their sentence length and their categorisation.

Mrs Justice Lang found that when considering an application for CRL, the Secretary of State must consider:

- Article 8 Right to Family Life, of the European Convention on Human Rights, and Article 3(1) of the UN Convention on the Rights of the Child; and
- The individual circumstances of a prisoner and her children.

Primary consideration must be given to the best interests of the child when deciding whether to grant Childcare Resettlement Leave to prisoners, and the views of the child should be ascertained.

The 2007 Corston report recognised that the effects on children of having their mother imprisoned were 'often nothing short of catastrophic'. This decision goes some way to recognising this.

The Prisoners' Advice Service act for the women prisoners, who were represented by barristers Alison MacDonald and Quincy Whitaker. Bindmans LLP represented the children of the claimants. The Prisoners' Advice Service is an independent registered charity that provides information and representation to prisoners in England and Wales: www.prisonersadvice.org.uk Please contact Camilla Pandolfini of the Prisoners' Advice Service on 020 7253 3600 for further comment.

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