

**news feature****Wakefield prison forced to issue LAG prison law book**

Nicki Rensten, a caseworker at the Prisoners' Advice Service (PAS), writes:

In February 2011 David Wardenier, who was a prisoner in HMP Wakefield, ordered the current leading prison law textbook *Prisoners: law and practice* by Simon Creighton and Hamish Arnott, which is published by LAG. Although the book was dispatched to him immediately, it took over eight months, numerous complaints and a Prisons and Probation Ombudsman's investigation before he was issued with it.

**Prisoners' rights under article 10**

Prisoners and their legal representatives have waged a long-standing war of attrition against attempts to prevent them from receiving books and publications, with cases almost never coming to court and nearly always being settled favourably as, ultimately, the provisions of article 10 (freedom of expression) of the European Convention on Human Rights clearly protect prisoners' rights to receive literature unless a restriction is necessary to protect national security or similar concerns.

In recent years, while the majority of the prison estate in England and Wales has accepted this position, increasingly, HMP Wakefield has become insistent on preventing prisoners from receiving magazines and books, usually using procedural reasons to do so. Examples of publications refused include:

- a large-print dictionary supplied by Haven Distribution, where the prisoner was told that he could go to the library if he needed to look up a word;
- a standard English dictionary supplied by Haven Distribution to a prisoner who works as a Toe-By-Toe mentor, helping

other prisoners to read;

- an issue of left-wing newspaper *Fight Racism! Fight Imperialism!* on the ground that an article about the Wakefield Close Supervision Centre undermined staff morale, where the same article had also appeared in *Inside Time*, a national newspaper for prisoners, and had been distributed widely without problem; and
- *Prison Law Index*, published by Prisons Org UK, which like *Prisoners: law and practice* was available in the prison library. The publishers are on the National Offender Management Service's list of Prison Service 'approved suppliers'.

*Prisoners: law and practice* was published in September 2009. The book was advertised in publications read by prisoners, including *Inside Time* and another prisoners' newspaper *Converse*, where they were encouraged to order the book directly from LAG at a 'special inmate price' of £35 including postage and packing.

**Wakefield Prison's stance**

On 28 February 2011, Mr Wardenier sent a cheque to LAG ordering a copy of *Prisoners: law and practice*. Twelve days later, he was handed a memo informing him that as LAG was not on Wakefield's approved suppliers' list, he could not have the book. Repeated attempts by Mr Wardenier, LAG and PAS failed to persuade the prison that, whatever its general policy, it would be sensible simply to issue the book to Mr Wardenier, as the book had been paid for and was in the prison, and clearly Wakefield had no objection to the title per se as it was available in the prison's library.

The prison's stance was entirely intransigent, with governor Susan Howard continuing to insist that Mr Wardenier must obtain a refund from

LAG, and then repurchase the title from the 'approved supplier', DHL. However, even Mr Wardenier's offer to co-operate with this cumbersome and farcical process did not result in the prison doing anything actually to facilitate it. PAS then referred the matter to the Prisons and Probation Ombudsman, making it clear that other avenues of legal challenge remained under consideration.

**Ombudsman's investigation and recommendation**

In August, the case was referred to the Ombudsman's office. Initially, it appeared that the investigation would be cursory, with no guarantee that there would be an inquiry into anything other than the prison's side of the story. However, because of increasing pressure, both on Wakefield and the Ombudsman, mainly as a result of the parallel case regarding the withholding of *Prison Law Index* as described above, Mr Wardenier's complaint was referred up to Deputy Ombudsman Elizabeth Moody, who eventually ruled in our favour. The deputy ombudsman's draft report dated 25 November 2011 stated that although it was reasonable that prison governors should exercise controls over what items prisoners can hold in their possession, as *Prisoners: law and practice* itself was not considered to be a problem and as Mr Wardenier had ordered and paid for a copy already, it would be 'unnecessarily bureaucratic' to expect him to send back the book to LAG and reorder it from elsewhere (para 10).

- The Ombudsman's final report will shortly be available on the PAS website: [www.prisonersadvice.org.uk](http://www.prisonersadvice.org.uk).

**Caravan Sites Bill receives HL first reading**

In an attempt to bring back the statutory obligation on local councils to provide caravan sites for Gypsies and Travellers, Lord Avebury introduced the Caravan Sites Bill in the House of Lords last month. He said: 'Gypsies and Travellers are still the most deprived of all

communities in the UK, and this is partly because one in five of those who live in caravans are homeless. The formula that worked after 1968, reinforced by an obligation to grant enough planning permissions to eliminate the deficit, could make a big contribution towards their security and stability.'

Chris Johnson, a solicitor and partner of the Community Law Partnership in Birmingham, told *Legal Action*: 'The Caravan Sites Act 1968, which contained a

duty on local authorities to provide sites, led to the creation of the 350 local authority Gypsy/Traveller sites that now exist in England, but since the repeal of the duty to provide sites this figure has remained static.' Chris Johnson believes that the reintroduction of the statutory obligation to build sites is 'the obvious answer to the "problem" of unauthorised encampments and sites owned by Gypsies and Travellers where they do not have the necessary planning permission'.