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PRISONERS'
ADVICE
SERVICE

Annual Review 2012–2013



2012 Longford
Prize winners



LOTTERY FUNDED

Trustees

The Trustees who served during the year and since the year-end are as follows:

Rikki Garg	(Chair)
Bipasha Raha	(Treasurer)
	(joined November 2012)
Diane Gault	
Neil Churchill	
Martine Lignon	
Selina Haines	
Lucy Rhodes	
Stephanie Harvey	(resigned September 2013)
Simon Creighton	(resigned July 2013)
Alan Booth	(resigned July 2013)

Staff Members

Matthew Evans	Managing Solicitor (until leaving PAS in October 2013)
Lubia Begum-Rob	Race Discrimination Caseworker (then Joint Managing Solicitor from October 2013)
Deborah Russo	Women Prisoners' Caseworker (then Joint Managing Solicitor from October 2013)
Nicki Rensten	Legal Outreach Caseworker
Naomi Lumsdaine	Women Prisoners' Caseworker
Laura Orger	Community Care Caseworker (returned from maternity leave August 2013)
Nicola Gregory	Locum Community Care Caseworker (June 2012-August 2013)
Ben Blackwell	Administrator / Telephone Worker
Hywel Probert	Development Manager (until April 2013, again from October 2013)
Swazi Rodgers	Development Manager (April 2013 – September 2013)

Volunteers

PAS would like to thank all the volunteers who have given up their time to assist PAS over the past year. As has always been true, this year's volunteers have provided a vital service in supporting the legal advice and representation work of our caseworkers, and they are an integral part of the organisation.

Bookkeeper

Anne Craig

Auditor

Michael Jellicoe
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West Midlands B93 8JP

Bankers

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Kent ME19 4JQ

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London EC1M 4XA

Registered charity 1054495
Registered company 3180659

Chair's Report Rikki Garg

The Prisoners' Advice Service is used to facing and overcoming tough challenges. PAS was founded in 1991 to fill a huge lacuna in the provision of legal advice, assistance and representation to prisoners, and it has succeeded for over 20 years in meeting the huge demand for its services, delivering a consistently high quality service to prisoners. However, recent events may pose the biggest challenge that PAS has yet faced.

Over the years since PAS's inception, funding for prison law had developed so that prisoners had a greater choice in accessing legal advice. However, the latest Legal Aid cuts that came into force in December 2013 take around 80% of prison law work out of the scope of the Legal Aid system. This has the stark consequence that prisoners can no longer access free legal advice and assistance on most prison law matters, except where their liberty is directly at stake. In none of these excluded matters can prisoners now seek advice from high street solicitors, so the uniqueness of PAS is thrown into even sharper relief. No other organisation gives free, expert legal advice and representation to adult prisoners.

This has two main consequences for the Prisoners' Advice Service. Firstly, we will see a significant increase in the demand for our organisation's pro bono services. Secondly, PAS in turn will be faced with the additional challenge of compensating for the sharp decrease in Legal Aid funding that is available for its work.

However, the scale of the issues that PAS attempts to tackle is certainly not decreasing. We continue to receive around 15,000 phone calls and 4,000 letters each year. At the time of writing, more than 84,000 people are in prison in England and Wales. Many of these people are offered little to no explanation of their rights in prison, or their broader human rights; PAS aims to educate prisoners about their rights, and then to defend them.

I would like again to thank PAS's staff and volunteers for their hard work in enabling the organisation to carry out these key objectives, and also the loyal donors who provide the funding that makes this possible.



Managing Solicitor



The Managing Solicitor at the Prisoners' Advice Service, Matthew Evans, is responsible for the day-to-day running of the organisation on behalf of the Management Committee, and for supervising the work of PAS's staff members. He also takes on his own caseload, and manages PAS's relationship and contract with the Legal Aid Agency (LAA).

The Managing Solicitor is also responsible for guiding the production of longer-term organisational plans for approval by the board of trustees. During 2012-13, Matthew undertook further work with a consultant from Cass Business School to establish a medium-term strategy for PAS. This work was kindly funded by the Pilgrim Trust.

Matthew continued to work through the year to support the growth of PAS's profile in the media. He gave an acceptance speech in November 2012 at the Longford Lecture, as PAS was awarded the prestigious Longford Prize. He has responded to a variety of government consultations on behalf of PAS, for example a consultation on community

sentencing. He has written letters and articles that have found publication in the Guardian, the Criminal Law and Justice Weekly, the Law Society Gazette and the Legal Action group magazine. These pieces have covered the cuts to Legal Aid, and the protection afforded to prisoners with mental health and disability issues under domestic and European legislation, among many other issues. Matthew also continued to blog for the Justice Gap website, which presents key legal concerns in easily accessible terms.

The Managing Solicitor of PAS continues to hold a place on the board of the Criminal Justice Alliance (CJA). During the year, the CJA has submitted briefings/responses on such issues as restorative justice, reducing the use of imprisonment, and the lessons that might be learned from the experience of other European criminal justice systems. The Managing Solicitor also sits on the Parole Board User's Group, and in 2012 he was appointed for a four-year term as a member of the Criminal Rule Procedure Committee, responsible for modernising court procedure and practice, and for making the Criminal Procedure Rules. Finally, the Managing Solicitor continues to be a member of Public Lawyers in Non-Government Organisations, which responds to issues within the NGO legal sector, such as the consultation on Alternative Business Structures.

The Managing Solicitor's own prison law caseload has seen him successfully represent a number of prisoners at parole and disciplinary hearings, categorisation appeals, and resettlement/rehabilitation issues connected with licence conditions and community care services. For example, he successfully challenged through Judicial Review the refusal of a prison to take into consideration either a prisoner's right to family life under Article 8 of the European Convention on Human Rights, or his children's rights under the UN Convention, when considering a transfer request. In this case the government agreed to pay PAS's legal costs.

Following the year-end, in October 2013, Matthew Evans left his position as Managing Solicitor after five successful years at PAS. His replacements are Deborah Russo and Lubia Begum-Rob, who have taken on the role of Managing Solicitor as a jobshare. Both Lubia and Deborah have worked at PAS for almost ten years, and so could not be better qualified for the position.



Race and Religious Discrimination Caseworker

Lubia Begum-Rob is the Race and Religious Discrimination Caseworker at PAS, providing free specialist legal advice and representation to prisoners in matters of racial and religious discrimination. Anti-discrimination regulation exists within prisons, but, as prison rules are opaque and over-complicated, and the prison environment features basic inequality of power between staff and prisoners, abuse of the rules is frequent.

25% of prisoners in England and Wales are non-white, compared to 10% of the general population. The disparity is particularly stark for black people, who make up 10% of the prison population but 2.8% of the general population, a greater disproportionality than in the United States. Non-white prisoners are more likely to be found guilty of disciplinary offences and less likely to have access to constructive activities. Of non-white prisoners, 30% are also foreign nationals, facing extra levels of discrimination. In recent years, there has been a large increase in Muslim prisoners approaching PAS with complaints of discrimination on the basis of their religion.

Lubia's role focuses upon civil litigation and non-litigious complaints regarding racial and religious discrimination – she works for the establishment of racial and religious harmony and equality within prisons. She also adds to this general prison law work, responding to general queries from prisoners and prison law practitioners, and helping to run the Prisoners' Advice Service advice line.

On a formal level, the Prison Service policy on race discrimination is comprehensive - PSI (Prison Service Instruction) 32/2011 entitled 'Ensuring Equality' replaced the old policy of 'Race Equality' in order to harmonise policies within the Prison Service in line with the Equality Act 2010. Prisons are under a positive duty to take steps to actively eliminate discrimination. However, there is a significant gap between theory and practice. The most common complaints that PAS receives from prisoners around racial and/or religious discrimination are the following:

- Direct racial abuse with or without physical violence, by prison staff or other prisoners.
- Ill treatment by prison staff because a prisoner has submitted a complaint regarding racial or religious discrimination, or is a witness to someone else's complaint.
- Discriminatory provision of facilities and services between different racial or religious groups.

- Differential unfavourable treatment of prisoners by staff.
- Insufficient action by staff to address complaints of racism and/or religious discrimination.

The immediate consequences of this discrimination against prisoners may include extra time in prison, segregation, lack of contact with family, children, loved ones, lack of access to education and lack of opportunity to progress through the prison system. Longer term consequences are trauma, mental health problems, breakdown of family relationships, and a lower opportunity of eventual rehabilitation.

In total, the Race and Religious Discrimination Caseworker gives advice, assistance and representation to around 200 prisoners each year, through the telephone advice line, by letter, and by taking on legal cases as appropriate. Cases involving racial and religious discrimination tend to be among the longest cases that PAS takes on – they may last up to 18 months.

An example case during the year illustrates the complexity of cases involving discrimination – even where a practical victory is achieved, the existence of discrimination is often still denied by the prison in question. This particular case involved a client, D, who had been placed on report for defending himself against an attack by a fellow prisoner, who racially abused him before and during the attack. Representing D in this matter, the Race Discrimination Caseworker managed to annul D's placement on report, which was particularly extraordinary as the reporting officer had witnessed the entire incident from beginning to end.

However, having done this, the prison then failed to take appropriate action against the perpetrator of the attack. It found him guilty of assault, a charge that will now form part of his prison records, but simultaneously dismissed the charge of racist conduct, despite clear evidence to the contrary. In refusing to acknowledge that the attack was racially motivated, the prison indicated that it either did not understand, or did not want to recognise, the severity of incidents involving racial discrimination. By the time the case was concluded, there was then no avenue for the perpetrator to be charged again, although the prison did agree to review its position.

Women Prisoners' Caseworker

During 2012-13, the Women Prisoners' Caseworker role has been a job share between Deborah Russo and Naomi Lumsdaine. Over the past year, both caseworkers have given a huge range of legal advice, information and representation to women prisoners, to uphold and promote their rights.

The major areas that women prisoners seek help with, and which also affect their willingness to seek help, include the following:

- **The effect of receiving short sentences for non-violent offences:** The proportion of women committing violent offences is very small. Sentences have even been based on civil issues, such as non-payment of council tax. Thus many women serve very short sentences in custody – these frequently result in women losing their employment, housing and even partners, while failing to provide substantive rehabilitative work.
- **Children:** A very high proportion of women prisoners are primary carers for young children. Often the Article 8 rights (of the European Convention on Human Rights) of the children are ignored, which protect the right to a "private and family life" for everyone. PAS has recently taken on several cases involving children severely affected by lack of contact with a mother who is in prison. Also, women with children over the age of 16 are frequently being denied Childcare Resettlement Leave, despite the fact that only persons over 18 are able to attend prison visits.
- **Mental health and physical health:** Many women in prison have been the victims of crime, domestic violence and sexual abuse. 30% of women have had previous psychiatric admission before prison – many languish in custody while waiting for beds in psychiatric hospitals. Over 70% of women prisoners suffer from two or more mental disorders. Furthermore, PAS has noticed an increase in the number of women who either know or strongly believe to have been victims of trafficking.
- **Geographical problems:** The low number of women's prisons means that women are frequently in custody many miles from home, further exacerbating problems of family contact and rehabilitation.
- **Reluctance to complain:** PAS's caseworkers have long noticed that, for a variety of complex reasons, women prisoners seem less likely to use telephone or letter to contact PAS. PAS's Women Prisoners' Caseworkers finds that women prisoners

remain conflicted about using the internal complaints procedure, fearing that it may affect their parole.

PAS gives advice and representation to women prisoners on these issues and many others, via the telephone advice line, by letter, and at regular outreach sessions. Deborah and Naomi have organised and run regular outreach sessions at HMP East Sutton Park, HMP Holloway, HMP Send and HMP Downview, with a total of 33 sessions during the year. These clinics are unique within the women's estate - they take place at four- to six- week intervals, and at least ten women can be seen at each session.

At HMP Send and HMP Downview, as part of the outreach programmes at these prisons, a dedicated team of women prisoners has been trained by PAS to provide basic advice and assistance to fellow inmates. Therefore these PAS representatives can run their own clinics at regular times, to give relatively straightforward legal advice to fellow prisoners, such that more complex queries can be dealt with when the PAS Caseworker visits. The representatives can also help to identify prisoners who they feel may benefit from speaking to the PAS Caseworker, and describe the benefits of the outreach service to many of their fellow prisoners. At Send and Downview, this has allowed the clinics to gain an excellent reputation amongst long term prisoners who spread the word making newcomers confident that their problem, whatever it may be, would be treated professionally by PAS.

One of PAS's key cases in 2012 was one in which it successfully brought a challenge in the High Court concerning Childcare Resettlement Leave (CRL). The Court held that the child's best interests should always be taken into account in cases concerning CRL. A great proportion of Deborah and Naomi's cases continue to involve women prisoners' applications for CRL and the two caseworkers continue to ensure the guidelines are regularly applied correctly.

Another recent case involved a female prisoner who upon being released from prison was prohibited from living with her son and husband. Although the female prisoner and her husband had been co-defendants, PAS argued that the circumstances of their offence precluded the possibility of future offending. The argument was successfully won and the two were allowed to live together with their son.

Outreach Caseworker

PAS's Outreach Caseworker, Nicki Rensten, delivers regular legal education and outreach sessions to male prisoners at a number of prisons across England and Wales. She also takes on a full caseload, and provides legal advice and assistance to prisoners via PAS's telephone advice line and by letter.

The outreach sessions proceed according to one of two models. In the first model, a small group of prisoners spends two hours learning about the legal framework for prison law, followed by a discussion on how it applies to them and other prisoners, as well as to their queries and complaints about prison life. These sessions are usually, although not always, organised via a partner agency, such as the St Giles Trust, which delivers an NVQ course in advice and guidance to prisoners who are employed as peer advisers and other advice related roles within the establishment. The participants are consequently often those who are the most likely to be approached by other prisoners regarding legal queries, and so the outreach sessions have an effect far beyond just those who attend the session in person.

In the other model, general advice is provided to prisoners on a one-on-one basis, often in the prison library and with the assistance of the library staff in organisation. Any prisoner is able to sign up to attend the session. These sessions allow prisoners to obtain expert advice on a vast range of issues, from simple but vital questions about missing items

of property to complex questions relating to recall procedures and sentence calculation. This advice simply is rarely forthcoming from other sources. The success of PAS's outreach programme is reflected in the positive feedback given by prisoners who attend the sessions; several prisons have also asked directly for outreach sessions to be set up at their particular establishments.

Nicki takes on a wide variety of cases, which often have significant impact. For example, in 2012, she took the case of a previous client of PAS, B. B was serving a mandatory life sentence, had been waiting for a transfer to open conditions since his approval for this transfer in mid-2011. PAS represented him in the matter of his application for Release on Temporary Licence (ROTL), while he awaited the transfer.

This application was denied by the prison, and so PAS sought to judicially review this decision, arguing that B should either not suffer a delay in moving to open conditions, or that he should be considered for ROTL immediately. Permission was granted to go to a full hearing.

Following this full hearing, government ministers agreed that the ROTL policy in this situation could be relaxed, to allow prison governors in the closed estate to assess and, where appropriate, release on temporary licence, those Indeterminate Sentence Prisoners whom they had approved transfer to open conditions.

PAS helped us so much at a crucial time, and a different outcome would have been absolutely heartbreaking for our family.

I have been so impressed with, and deeply appreciative of your fantastic service. For me, PAS has been an absolute lifeline, without which I would have been so much more isolated, uninformed and desperate for legal information. From the bottom of my heart, thank you.

Community Care Caseworker

The Community Care Caseworker, Laura Orger, gives legal advice and representation to vulnerable adult prisoners (those with physical or mental disabilities), who repeatedly find difficulty in obtaining community care services. Discharged prisoners suffering from mental and/or physical disabilities have the same rights to free-of-charge health, housing and community care services as anyone else, but often the prison, probation services and local councils dispute their obligations in these areas, or else simply fail to carry them out.

Laura therefore takes legal action against prison/probation services and local authorities where they refuse to meet their legal duties towards vulnerable adult prisoners. As the absence of basic community care services such as suitable accommodation makes rehabilitation well-nigh impossible for vulnerable prisoners, this work is vital.

Laura also supports clients with disabilities within prison. This is typically achieved by suggesting and ensuring the prison makes specific 'reasonable adjustments' for the prisoner's disability. These adjustments, as well as potentially improving the prisoner's day to day life and access to justice, can act as a precursor to ensuring comprehensive support or treatment is secured for these prisoners upon their release. Apart from the improvements to these prisoners' conditions, this is a major factor in reducing the feeling of exclusion and the deterioration of their physical and mental health that such prisoners often experience in custody.

No prison I've ever been in has communicated my legal rights to me. Without PAS's advice, I would have believed I had no right to respond to or challenge decisions made by the prison.

As well as advising clients through the PAS telephone advice and by written correspondence, the Community Care Caseworker conducts regular outreach legal advice sessions at HMP Pentonville and at HMP Wandsworth. Expansion of this outreach service is planned (outreach sessions to HMP Thameside are being arranged for early 2014).

The Caseworker's successes over the past year include representation of a client who was initially refused for release on parole after 33 years in and out of prison. Every professional involved had recommended his release, but probation failed to put in place either the necessary Risk Management Plan (RMP), or a supportive hostel place. Laura appealed the decision, reminding probation and the panel of their legal duties. She requested new directions from the panel ordering probation to produce a risk management plan and a supportive hostel place. As a result, probation put in place a robust RMP and a supportive hostel place, leading to a fresh decision whereby the panel directed the client's release.

Laura also represented a wheelchair user in custody who was not provided with a disabled cell. As a result, each time he left or returned to his cell, he was tipped out of his wheelchair whilst his wheelchair was jammed through the insufficiently wide cell door. He had to drag himself along the floor to use the bathroom and suffered frequent urine infections because of this; he was not able to access showers adequately and was not offered adequate pain relief or antibiotics or provided with sufficient clean catheters. PAS sought an urgent injunction from the Administrative Court and this was granted. The client's urgent and immediate medical needs were subsequently met, and he was also provided with psychiatric support; eventually a transfer to a prison offering a specially modified disabled cell was obtained.

It has long been PAS's experience that such positive results are rarely achieved easily. Rather, the case that Judicial Review proceedings frequently have to be threatened in order to obtain results, is a sad reflection of the fact that vulnerable prisoners require legal representation in order to uphold their most basic rights.

Development

The income received from Trusts and Foundations was £273,090 in 2012/2013. We are very grateful to all our donors over the course of the year for their exceptional support.

Despite the level of funding income received in 2012/2013, economic conditions remain extremely tough for a small charity such as the Prisoners' Advice Service, working in an area that is radically underfunded.

Partly this is a result of government cuts in a huge range of areas, leading to increased competition for all charitable funds. This has been exacerbated by the coalition government's direct cuts to Legal Aid for prisoners, which have made and will continue to make PAS's work more difficult. These cuts have continued since the year-end.

In late 2013, the Ministry of Justice announced that Legal Aid will no longer be available for all prisoner 'complaints' relating to their treatment or the conditions of their confinement. Legal advice, assistance and representation from private Solicitors in all but a few areas of prison law have effectively disappeared overnight as these proposals had been put into place by the end of 2013 by way of statutory instrument, obviating the need for legislature or parliamentary scrutiny.

As a result, only a tiny number of prison law matters now remain eligible for legal advice and assistance under legal aid -

- Parole proceedings where release can be directed;
- Disciplinary cases before the Independent Adjudicator (where there is a possibility of added days being given to a prisoners' sentence) or in front of prison governors where the governors have themselves authorised legal representation;
- Some sentence calculation matters but only where all internal remedies have been exhausted.

Everything else relating to prisoner rights is now excluded, ranging from:

- Category A reviews and categorisation appeals;
- Parole reviews where only a recommendation (which can ultimately be rejected by the Secretary of State anyway) can be made for open conditions by the Parole Board rather than release;
- Removal from open conditions;
- All internal disciplinary measures including governor's adjudications and segregation;
- The separation of mothers and babies in the specialist mother and baby units;
- Rehabilitation issues relating to resettlement and licence conditions.

There are no exemptions for children or vulnerable prisoners, such as those with learning disabilities or mental health issues.

PAS however remains committed to continue to provide legal advice and information to prisoners on any matters they require assistance and representation on, irrespective of these legal aid proposals, and as it has done over the last 20 years.

The continued support for our work is appreciated and needed now more than ever.



Thank you

Funding sources for the period 2012/2013 included income from the Legal Services Commission and other legal fees. There was also income arising from restricted and unrestricted grants, as well as gifts-in-kind, from the following individuals, companies, and Trusts and Foundations:

29th May 1961 Charitable Trust
AB Charitable Trust
Albert Hunt Trust
Allen & Overy London Foundation
Austin & Hope Pilkington Trust
Barrow Cadbury Trust
Big Lottery Fund
Charles Irving Charitable Trust
City of London Solicitors' Company
Cole Charitable Trust
Doughty Street Chambers
Esmée Fairbairn Foundation
Evan Cornish Foundation
Garden Court Chambers
Garden Court North Chambers

Garfield Weston Foundation
Hadley Trust
Hillcote Trust
J Paul Getty Jnr Charitable Trust
Jill Franklin Trust
K W Charitable Trust
Law Society Charity
Leigh Trust
London Legal Support Trust
Longford Trust
Marsh Christian Trust
Monatrea Charitable Trust
Peter Stebbings Memorial Charity
Pilgrim Trust
Rhiannon Trust
Souter Charitable Trust
Trusthouse Charitable Foundation
Tudor Trust
Walter Marais
Weil Gotshal Manges
William Allen Young Charitable Trust
William and Katherine Longman Charitable Trust



Financial data

Statement of Financial Activities (Incorporating the Income and Expenditure Account)
For the Year Ended 31 March 2013:

	Restricted (£)	Unrestricted (£)	Total (£)
Incoming resources			
From generated funds			
Voluntary income	-	169,709	169,709
Activities for generating funds	-	1,801	1,801
Interest receivable	-	72	72
From charitable activities			
Advice and information	109,990	103,921	213,911
Sundry operating income	-	1,608	1,608
Total incoming resources	109,990	277,111	387,101
Resources expended			
Costs of generating funds			
Generating voluntary income	-	16,608	16,608
Charitable activities			
Advice and information	107,190	240,808	347,998
Governance costs	2,800	13,224	16,024
Total resources expended	109,990	270,640	380,630
Net income	-	6,471	6,471
Reconciliation of funds			
Total funds brought forward			
At beginning of year	-	60,676	60,676
Total funds carried forward	-	67,147	67,147

To know that someone is on the other end of the line, solely interested in helping me get the right advice – that's invaluable. This prison now has no legal officer, so there's no reliable source of advice available from inside the prison.



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0845 430 8923

www.prisonersadvice.org.uk

The PAS caseworker went above and beyond in her duties, and I will be sure to tell other people here about you.

Your staff gave me all the help and support I needed when I could not see any light at the end of the tunnel. I had worked hard in prison and kept out of trouble, but to no avail until PAS took up my case and ensured that I got a fair hearing. If this had not happened, I wouldn't now have my freedom. I have been given my life back.