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Webinar with Prison Lawyers SL5 Legal

An overview of the information and advice shared by solicitors Andrew Sperling, Yasmin Karabasic, Catherine Bond, Joel Binns and Ian Clewlow of SL5 in a webinar hosted by UNGRIPP on 22nd May 2023 for people serving IPP and their families.

Being transferred from prison to secure hospital due to mental health deterioration

Andrew stated that the emphasis in a mental health environment is on care and treatment and, while the environment is not perfect, he described two clients who had stabilised well through that route, and then returned to the prison system. The advantage to the mental health route is a more coordinated approach to a person's case. They are allocated a care coordinator while they are in hospital who carries on that role and involvement when they are back in prison, and inputs into the Parole process, as well as making links to community care. The person still needs to demonstrate through their behaviour that their risk has reduced. The quality of post-release mental health care can also vary and getting it in place can lead people to give up. But in Andrew's view it can work really well once care is in place.

Negotiating progression in prison

Ian stated that people need to show they can control their behaviour, and if that's not possible, have a reasonable explanation why not, or why many people might have reacted that way in the situation. He recommended managing allies and working relationships – including keeping good relationships with POM, COM and psychologist. It can be very difficult if those people change frequently or have very fixed ideas about you. That's why it's really important to work with your other allies to assist in changing the narratives about you. There are some things you can't control, but you might be able to influence them into a more positive outcome if you control your behaviour.

Interventions (offending behaviour programmes etc.)

Joel advised that if you get a Parole knockback it's a critical time to get in early referrals for what needs to happen between then and the next review. There is no guarantee that a lawyer approaching a programme treatment manager will help, but sometimes it can help to focus their mind on a particular case.

Avoiding recall

Catherine explained that it is really important to have a good relationship with your COM to help avoid recall. Catherine gave an example of a lifer client who was accused of threats to kill by an ex-partner but wasn't recalled, because he had kept his COM fully apprised about the relationship with the complainant, and the potential for false allegations.

What can be done about someone recalled for missing an appointment?

Ian explained that there is an issue with the Probation Service at the moment, with a lot of inexperienced staff and up to 30% vacancies in some areas. To recall solely on the basis of

missing an appointment is not a legal recall. Recall is only supposed to occur if risk of harm has escalated so much it is no longer manageable in the community. It is a policy requirement that alternatives must be considered before recall. It is unusual for someone on IPP to be recalled after missing only one appointment after being on licence for a long time. But it is difficult to do anything about it immediately if it does happen. It is possible to get the recall rescinded but extremely difficult because it involves challenging Probation Officer judgment and the only way to really deal with that is at the Parole review.

Yasmin explained that it is possible to challenge recalls via judicial review but these tend only to be successful if the recall is based on completely false or demonstrably inaccurate information (rather than an unfair/unsound judgement about whether the identified behaviour escalated risk).

Another option is getting a recall rescinded *by* Probation. Catherine gave an example of a successful rescind application she had made where her client had been the victim of an assault but was recalled. This was rescinded once Probation acknowledged he was the victim (the perpetrator was arrested for assault).

Delays to hearings

The wait between a paper review and an oral hearing can be lengthy. If the Parole Board direct an oral hearing, Catherine explained that applications under Rule 21 of the Parole Board Rules can be made to apply for release on the papers. Catherine advised it is possible to make more than one Rule 21 application, referring to an application she made for one of her IPP clients which was successful on the second attempt. Though the applications are often rejected, it is still worth making Rule 21 applications in some cases to try to attain earlier release.

Can a victim remain anonymous when there have been exclusion zones?

It is difficult to see how somebody could remain anonymous in those circumstances. Non-disclosure requests can be made, but it is difficult to see how that would work.

What happens when there is an MCA and the person serving IPP refuses to engage?

Andrew said he has seen examples of the Parole Board recommending that people appoint a legal representative. He gave an example of someone who had completely disengaged from his Parole review but still received quite a positive letter that strongly hinted he might have had a shot at progression if he had engaged. The Parole Board often *wants* to either release people or at least give them some hope. Lack of engagement is completely understandable, but it is the easiest possible way to ensure staying in custody.

Parole Boards find people who can articulate their pain and anger in an appropriate manner really quite compelling. For people who really can't engage, having someone who can engage by proxy for you is also helpful.

Does family writing to the Parole Board help?

Often, yes. What is hugely helpful is somebody engaging with the reasons that somebody might be in custody in the first place and providing eligible, factual information that is relevant to why that person could be released – not just “please let him out because he's been in a long time”. It can also help to advocate to other people, like Probation.

Yasmin explained that one of the procedures an advocate can use is a Stakeholder Application form, which can be used to request information necessary for the hearing. Lawyers will follow

up on this before the hearing to make sure that that information is provided ahead of the hearing, or provide an explanation as to why it hasn't been provided.

My son was moved 500 miles away from his family. What can we do?

Lawyers will advocate for that not to happen and argue that family visits and access are necessary for a prisoner.