



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CLC/EErg:1709578

9 May 2019

Mr Paul McKnight
Executive Director
Policy and Reform
Department of Justice
Locked Bag 5111
Parramatta NSW 2124

By email: jonathan.lee@justice.nsw.gov.au

Dear Mr McKnight,

Proposed amendments to the *Crimes Administration of Sentences Act 1999*

Thank you for consulting with the Law Society in relation to proposed amendments to the *Crimes Administration of Sentences Act 1999*. The proposed amendments are in response to the recent decision of *Hamzy v R* [2019] NSWDC 7, in which it was held that Part 2, Division 6 of the *Crimes Administration of Sentences Act 1999* is the sole means by which an inmate may be deprived of a withdrawable privilege in response to conduct that may constitute a correctional centre offence.

We note His Honour's comments that "the Commissioner cannot create a parallel punishment system by giving it another name, in this case by calling it a 'behaviour management plan'". We support a review of the use of withdrawal privileges and would welcome the opportunity to work with the Commissioner on the development a legislative framework and any underpinning policy. The review should be informed by the Supreme Court consideration of the challenge to the behaviour management plan which we understand will be heard later this year.

We note the concerns raised by Corrective Services that the decision limits the way in which they can manage inmate behaviour. We appreciate that there is an issue in the interim, however we disagree that the gap can be filled by simply legislating as proposed given the issues raised in the District Court decision and the fact that the Supreme Court's consideration of the behaviour management plan is pending. We are happy to work with the Commissioner on an alternative solution, but are of the view that the proposal as formed, should not progress.

The contact person for this matter is Ms Rachel Geare, Senior Policy Lawyer, who is available on (02) 9926 0310 or at rachel.geare@lawsociety.com.au.

Yours sincerely,

Elizabeth Espinosa
President

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