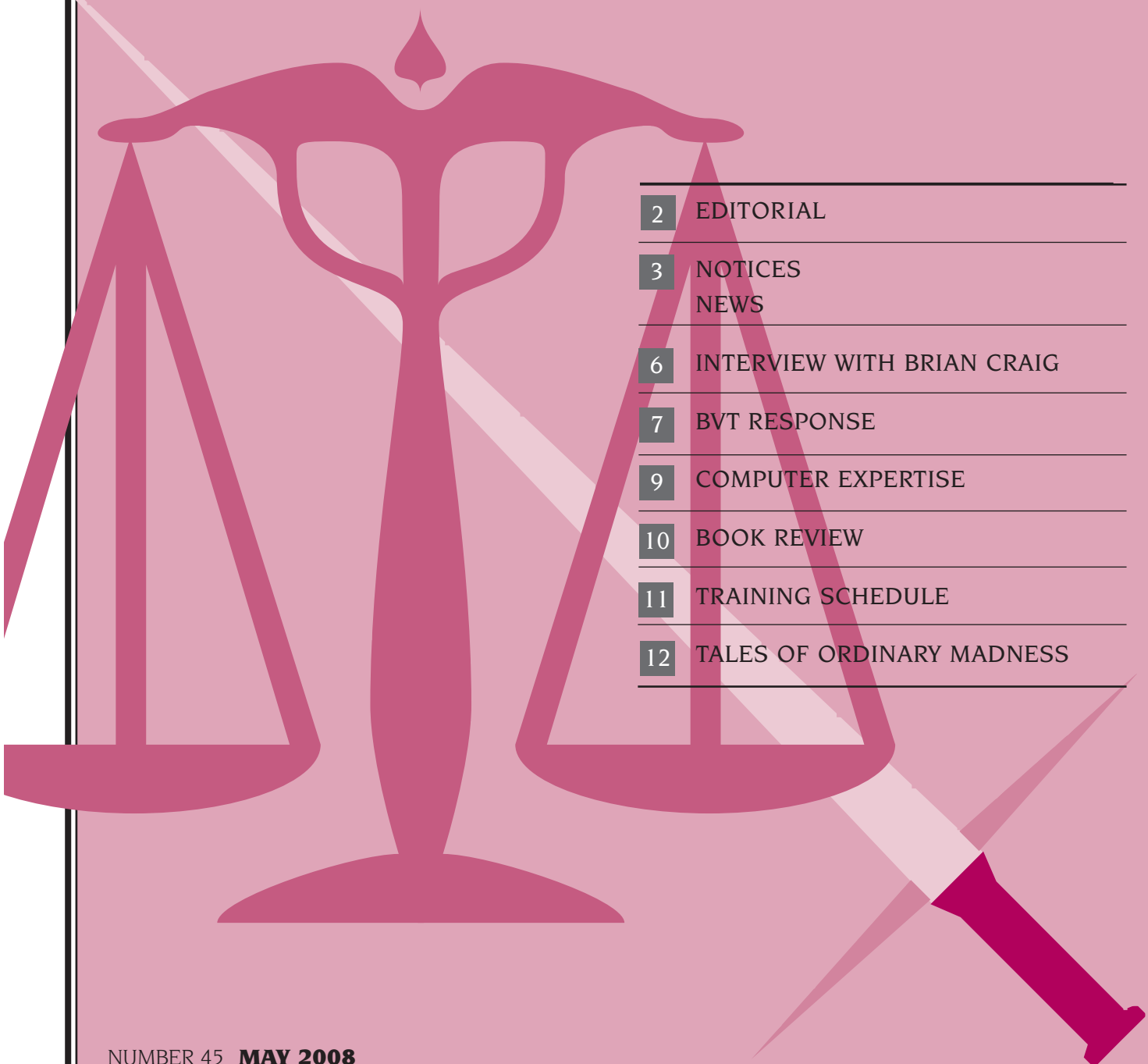


The LONDON ADVOCATE

Updating the London Criminal Courts Solicitors' Association

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NUMBER 45 **MAY 2008**



EDITORIAL

No-one working in the criminal justice system can have failed to notice the remarkable level of competence which has been displayed by the Legal Services Commission over the last few years.

The negotiation of fixed fees with the bar, the new arrangements for very high cost cases, the care with which evidence has been taken when planning for best value tendering – not to mention the preparation put into the introduction of the duty solicitor call centre – all these efforts have inspired observers with awe and wonder.

Perhaps the most striking contribution of the LSC, together with government, has been to educate practitioners in the importance of market economics. We now understand that the world can only work if it is structured around competition. Nothing can proceed unless there has first been a process of tender.

This being so, I should like to invite the LSC to consider a new use for its stunning skills-set. Given the difficulties which have attended the opening of Heathrow's terminal 5, surely it is time for the Commission to put in a bid for a new contract: their efficiency, familiarity with complex computer systems, and attention to detail must stand them in good stead to tender for the running of the baggage system at terminal 5.

Of one thing we can be sure. In the extremely unlikely event that anything goes wrong for travellers, then, like BA, who now face a bill for several million pounds, the LSC will be more than happy to pay massive compensation to anyone who suffers inconvenience or is put out of pocket as a result of their incompetence. Those members who have suffered any wasted time or lost income as a result of the unfortunate glitches at the DSCC will no doubt feel particularly confident on this score.

– *Malcolm Duxbury*
Victor Lissack Roscoe & Coleman

PRESIDENT

Tanweer Ikram
ABV Solicitors
Kingshott Business Centre
23 Clayton Rd
Hayes, Middlesex UB3 1AN
T 0844 587 9996
DX 44650 Hayes (Mddx)
E tikram6328@aol.com

VICE PRESIDENT

Raymond Shaw
Shaw Graham Kersh
95 Dean Street
London W1D 3TB
T 020 7734 9700
E raymond.shaw@sgk-solicitors.co.uk

TREASURER

Peter Binning
Corker Binning
12 Devereux Court
Strand, London WC2R 3JJ
T 020 7353 6000
DX 363 London Chancery Lane
E pb@corkerbinning.co.uk

SUB/COMMISSIONING EDITOR

Gwyn Morgan
Max Findlay Associates
T 020 8870 0466
E gwynmorgan@maxfindlay.com

COMMITTEE MEMBERS

Sundeep Bhatia
Steven Bird
Angela Campbell
Michelle Crotty
Siobhain Egan
Richard Hallam
Nicola Hill
David McCluskey
Joy Merriam (Representative of CLSA)
Jim Meyer (Webmaster)
Stuart Miller
Anil Rajani
Melanie Stooks
Judy Teplitzki (Law reform co-ordinator and CPS)

EXECUTIVE OFFICER AND PAST PRESIDENT

Greg Powell
Powell Spencer & Partners
290 Kilburn High Road
London NW6 2DD
T 020 7624 8888
DX 123862 Kilburn 2
E gregpowell@psplaw.co.uk

SECRETARY

Paul Harris
Edward Fail Bradshaw & Waterson
150 The Minories
London EC3N 1LS
T 020 7264 2016
DX 300701 Tower Hamlets
E paulh@efbw.co.uk

EDITOR OF THE ADVOCATE

Malcolm Duxbury
Victor Lissack, Roscoe & Coleman
70 Marylebone Lane
London W1V 2PQ
T 020 7487 2505
DX 9020 West End
E malcolmduxbury@victorlissack.co.uk

ADMINISTRATOR

Sandra Dawson
PO Box 6314
London N1 0DL
T 020 7837 0069
DX 122249 Upper Islington
E sandra@admin4u.org.uk

TRAINING ADMINISTRATOR

Hilary Riddle
T 01233 820676
E hilary@hradmin.co.uk

LCCSA WEBSITE

www.lccsa.org.uk



NOTICES

■ EUROPEAN CONFERENCE

The 2008 European Conference will be held in Barcelona, from 3-5 October.

This year, the winter conference has been revamped, with low prices – and attendance is now worth five CPD points. Andrew Keogh has agreed to deliver a "Criminal Update" to delegates; and Louis Charalambous will conduct a session on "Handling the media in high profile cases".

Following the arrangement which worked well last year, the Association is arranging the hotel and conference, leaving delegates free to make their own travel plans. This can lead to considerable savings BUT it is vital to book flights early: members who book now will find the cost of a return flight to be under £100.

The venue is the Hotel Catalonia Ramblas, which is near the beach and Barcelona's gothic quarter; the hotel has been recently refurbished to the highest of standards and has an outdoor pool with deck and bar. See <http://ramblas.barcelonahotels.it>

Planes go direct from both Heathrow and Gatwick.

To make your travel arrangements, log into www.britishairways.com www.iberia.com or www.opodo.com

■ ANNUAL DINNER

Next year's annual dinner will take place on 4 July at The Brewery, Chiswell Street. This is a smaller venue than the Grosvenor House Hotel and members would be wise to book early for this event.

■ COMMITTEE MEETINGS

This year's remaining committee meetings will be held on: 10 March, 14 April, 12 May, 9 June, 14 July, 8 September, 13 October and 8 December. All these dates are Mondays. The meetings start at 6.30pm and will take place at the offices of Kingsley Napley.

All members are welcome to attend.

■ AGM

This will take place on 10 November at the Law Society.

NEWS

LCCSA meeting with the LSC

On 26 March, Executive Officer, Greg Powell, represented the LCCSA at a meeting between the Commissioners of the Legal Services Commission and representative organisations.

Greg told the Commissioners that they were responsible for a crime – that fixed fees would mean that people who paid privately will receive a very different service from the legally aided. This was a disgrace. Nor was there any interest in assisting the LSC in the development of BVT.

There was no meeting of minds on this occasion.

Duty solicitor rotation

The LCCSA submitted a paper, prepared by Greg Powell and Theresa Hendrickx, to the LSC on the subject of duty solicitor rotas at the police station.

The LSC has decided not to alter the way in which these slots are allocated – at least for the six-month period of the current rota.

Laptops in prison

Some members have reported that prison officers are refusing permission for solicitors to bring laptop computers into prisons, even where arrangements to do so have been made in advance.

Anyone experiencing these difficulties is asked to contact Raymond Shaw at raymond.shaw@sgk-solicitors.co.uk

London sub-committee

The LCCSA is setting up a sub-committee to look at issues that specifically relate to London, such as London waiting, travel and duty solicitor work.



It is intended that the sub-committee should carry out an in-depth analysis of the proposed BVT scheme and consider whether it could work in London, addressing it from different angles, such as from the economic point of view, and what effect it will have on access to justice and quality of advice.

The sub-committee will also focus on the current arrangements for youth justice in the capital and what effects BVT would have on the administration of justice for juveniles.

Anyone who is interested in becoming involved in this dynamic project should contact Paul Harris at paulh@efbw.co.uk

Membership sub-committee

Additionally, the Association's committee is planning to establish a membership sub-committee, which will have the aim of attracting more members.

This sub-committee will also try to ensure that newly qualified solicitors and trainee solicitors become more involved in the work of the LCCSA and that they are represented on its committee.

Anyone interested in joining the membership sub-committee should contact Paul Harris at paulh@efbw.co.uk

Psychiatric liaison at the Central Criminal Court

The Central Criminal Court has formed a partnership with two NHS Foundation Trusts to provide the services of a community psychiatric nurse and of a consultant forensic psychiatrist. It is hoped that this new initiative will make it easier to deal with the large number of defendants who have mental health needs.

In a pilot programme, which begins on 6 May and is expected to last for a year, the nurse will be available at the court throughout the working week and the consultant will hold a weekly surgery. Their free and confidential services will be available to all legal practitioners using the CCC.

One way in which this service may assist could be in the provision of an NHS bed for a defendant where an

independent psychiatrist's report indicates that the person concerned is seriously mentally ill.

Both the nurse and the psychiatrist will be giving a presentation about the scheme at the CCC on Thursday 22 May, from 5pm to 6pm. All practitioners would be extremely welcome to attend.

Southwark Crown Court open day

There will be an open day at Southwark Crown Court on Saturday 10 May. Described as a "fun and informative day for all the family", the day will feature attractions such as a mock trial and opportunities to dress up as a judge, sit in a prison van and escape from the cells.

The open day will run from 10am to 4pm. For further inquiries, ring 0207 522 7200.

Video link at Snaresbrook

Shaun Murphy reports that, when he wished to arrange a video link between Preston and Snaresbrook Crown Courts recently, he was impressed with the co-operation and efficiency of the staff at both courts.

Shaun's client was on bail to appear at Preston Crown Court and it was made possible for the client and counsel to appear at Snaresbrook so that the PCMH could take place via a video link with Preston.

This procedure saved money and also meant that the client did not have the inconvenience of making the journey to Preston. It is hoped that other courts will follow Snaresbrook's helpful example.

Police station E-diary

As reported in the last issue of the Advocate, Independent Defence Lawyers, an association of 50 London firms, has launched an online diary which shows which lawyers are available at any particular police station or court at any particular time.

Any firm or individual may join the diary and it is now reported that some members of the bar are taking part; there is a free trial period running until 30 June 2008. Further details can be found at www.idlgroup.org/E-Diary.html



Sponsored London to Brighton bike ride

LCCSA member, 73-year-old practising solicitor, Alured Darlington, is to take part in the London to Brighton bike ride on 15 June.

Alured, who featured in the Advocate's interview slot last September, is riding on behalf of Childrens Homes in Zimbabwe, a charity which supports orphans, many of whom are suffering from HIV. He is also riding on behalf of the British Heart Foundation.

Anyone who wishes to sponsor him should email AluredDarlington@aol.com

Conference on violent crime

The Public Policy Exchange, in association with the Centre for Parliamentary Studies, is to hold a one-day conference on violent crime reduction on Tuesday 20 May.

Anyone interested in attending should contact Parvin Madahar at parvin.madahar@publicpolicyexchange.co.uk

Law reform consultation papers

The Association has prepared and submitted consultation papers on sentencing for corporate manslaughter; and sentencing guidelines for magistrates' courts.

Sentencing for corporate manslaughter consultation paper

The Association's law reform sub-committee prepared a response to a consultation paper on sentencing for corporate manslaughter. It was worked on by Judy Teplitzki, Guy Bastable, Judith Seddon and Jonathan Grimes.

The Corporate Manslaughter Act 2007 came into force on 6 April 2008, the culmination of a long process aimed at codifying the law regarding the criminal responsibility of corporations for manslaughter with the ultimate ambition of improving the prospects of prosecutions in such cases.

Responding to the consultation paper's question on the assessment of seriousness, the LCCSA's sub-committee agreed with the view of the sentencing guidelines panel, that part of the assessment exercise must be to consider the culpability of the offender, focusing on the "actual, intended or foreseeable harm involved in the offence" (see the consultation paper, paragraph 13).

The sub-committee expressed the view that the main aim of sentencing should be the same for an organisation convicted of an offence of corporate manslaughter as it is for one convicted for an offence involving death under health and safety legislation.

The sub-committee agreed that the aim of imposing a fine was to ensure future safety and simultaneously reflect serious concern at unnecessary loss of life. But it disagreed with the panel's proposal that there should be a minimum fine, either for offences of corporate manslaughter or for offences under the HSWA involving death, as this would be contrary to the general principles and practice of sentencing and would leave little room for judicial discretion.

The panel's proposal on publicity orders – ie that their imposition on organisations for offences of corporate manslaughter would have a deterrent effect – was approved by the Association's sub-committee.

Sentencing guidelines for magistrates' courts consultation paper

John Binns chaired the sub-committee responding to this sentencing guidelines consultation. He was assisted by Julian Weinberg.

The sentencing advisory council's consultation paper proposes a new approach to the assessment of fines, which is much more prescriptive than the current guidance. It introduces the concept of "deemed income" for the lowest earners; it also proposes two new fine levels (D and E) and a concept of "fine bands".

The LCCSA's sub-committee totally rejected the proposal that there should be an identified amount which is deemed to represent the relevant weekly income of an offender who is in receipt of low income. This suggestion is deeply flawed and unnecessary. The sub-committee made the alternative suggestion that actual income should be used, with certain benefits disregarded.

But the sub-committee said that it was quite proper for the council to recognise that disproportionate fines are to be avoided and found that the guide for imposing fines provided in the consultation paper was very helpful. It was felt that there is an advantage to a formal guideline to provide a uniform basis for considering factors in the sentencing process, with the sentencing court having discretion as to the weight to be applied to any relevant factor.



INTERVIEW WITH BRIAN CRAIG

Brian Craig is business manager at Tuckers; he is chair of the Association of Major London Criminal Law Firms (AMCLF) and also chair of the Joint Associations' Representative Committee.

Q: Why did you form AMCLF in 2004?

A: To talk direct to government about PCT. I've never been hopeful about the outcome of negotiations with the government – we're effectively up against a steam-roller. But the firms that formed AMCLF had a lot in common: sheer size means we face issues that are not encountered by other firms on a daily basis; and it seemed appropriate to make our position clear, which was that we didn't like the concept of PCT. Then the group was invited to attend Lord Carter's review and it seemed logical we should go forward making our representations in that forum as well. I know at the time we were viewed with suspicion but what we were doing was objecting to much of what he was postulating, in the same way as the other organisations were.

Carter was pretty much a mechanism to make cuts and we said that the margins for firms were very low, with fixed overheads which don't change, and, if you were going to take away a portion of income, the only thing that would ensure that large firms were not put out of business was to provide volume. Our point was that they either funded the system properly or they should make a decision whether they wanted a cottage industry or to concentrate on larger units; they could not just cut and expect everyone to carry on.

Q: Was the Joint Association Representative Committee formed too late?

A: I don't think any of these things happened too late. The people who chair the various representative bodies have always been in contact with each other. The situation we're in now is that the LSC have chosen not to pursue Carter's recommendations on stability measures and we've ended up with a straight cut in rates and the imposition of standard fees. The LSC have achieved something which I never thought possible: they have united every single association against what they are delivering.

Q: Was the DSCC's catastrophic start in January inevitable?

A: Yes. There are still problems. We had a client incorrectly referred to another firm last week. What's worse, I do not accept that the records kept by the

call centre on call deployment are accurate. But I wonder: what is the real purpose of this additional and unnecessary level of bureaucracy? Is it to allow the government to direct more and more work away from the solicitor of choice and into call centre advice? Is there an attempt to break the link between client and solicitor that has been built up over many years? The Commission argue that it's necessary for them to collate information but it's a very expensive way of doing that!

Q: Did you respond to the government's consultation on BVT?

A: I put my response in on the last day. I thought that the LCCSA did a superb response. But, I am sure the message from the associations will not divert the LSC from what we all believe is their predefined course. It will be full steam ahead with BVT.

All the associations are against BVT because we can't see how it will work. We've got a very unsophisticated market: most of the law firms are small; they haven't got a lot of resources and many of them have inadequate management information to put together proper bids which are capable of being sustained over the contract period.

I don't believe the LSC have the ability to identify suicide bids from what are genuine bids. I'm very concerned that LSC employees are out of touch with reality – for example, I recently heard that someone in the Commission said he thought that firms were working on a 20% profit margin. I wasn't sure whether to laugh or cry.

The LSC have no figures on the number of hours people are working to get their fixed fees. You only have to do the maths on the old hourly rates (before cuts) to realise that to earn a reasonable salary (that would be, say, comparable with CPS rates of pay) individuals would have to produce more fee earning hours than they are employed each week. Firms and individuals have to identify how they adapt to the cuts imposed by the LSC. Many in this sector came into this work on a vocational basis – now they are finding it hard to make ends meet and simply cannot afford to remain in employment where they can see limited career prospects.

It's sad to reflect that this government has presided over the development of a three-tier legal system: those who can pay privately obtain solicitor and advocate of choice and a high level of service; those who get legal aid get a service that is increasingly



determined by time pressure; and those who don't qualify for legal aid and can't afford to pay privately are unrepresented.

Q: Would you go on strike about BVT?

A: Industrial action may well have a place. However, it would be necessary to show unity for it to be effective. While most would support action to highlight the plight of legal aid, there remains a minority who wouldn't go down this route for various reasons, one of which would be a desire not to abandon their clients. That level of dedication is what this government is reliant on: they want us doing the job for nothing. There is a mood of absolute despondency and I believe that the LSC have a real credibility gap and are resented by many firms for the way they ride roughshod over the profession's views.

One of the options is to bid at realistic and appropriate rates. If we all did this, it would cost so much that BVT would be history. Let's work on the basis of – let's not be greedy – a 10% profit margin on turnover in criminal legal aid. If all firms did that, the Commission and the government would immediately back off, as the independent evidence clearly shows that firms are not currently achieving such margins.

But they rely on the fear factor. A lot of firms will work on the basis that they have mortgages to pay and leases they are locked into and they have to guarantee having a successful bid. The attitude is: "Get a contract today and worry about staying afloat tomorrow". In the event of BVT proceeding, I wonder how many firms will have to seek supplemental rate increases or go out of business during the course of the contract. And, of course, once firms leave the market, most won't be able to come back.

Q: What is your personal history and do you have interests outside work?

A: My background is that I'm a frustrated marine biologist, with a master's degree in pollution control. I've now had 23 years in management. I worked as a senior systems analyst with a large retail chain and prior to that I was with a management consultancy. For four years before joining Tuckers, I was the group duty solicitor manager for the south east of England at the Legal Aid Board. I've been with Tuckers for 13 years.

I'm a conchologist: I collect shells, with probably one of the biggest private collections in the country. I love snorkelling.

BVT RESPONSE

This is an edited version of the LCCSA response to the Legal Services Commission's consultation on best value tendering. The Association's response was in four parts; the first two sections reviewed the economic background to the proposal and the second analysed the market into which it is suggested that BVT should be introduced. What follows is a slightly edited version of the third and fourth sections of the LCCSA paper.

BVT the wrong solution

If the fundamental proposition is that the purpose of the legal aid fund is to provide quality services at the point of need, both in criminal and civil work, BVT is simply the wrong solution. BVT is draconian in the sense that it probably represents a one-time only bidding process. If a firm fails in its bid, it effectively closes. This introduces such a degree of risk and fear that firms will make irrational choices, bidding basement prices in the belief that this will enable them at least to stay in the market. The impression is that this is the intended consequence of the proposals.

There is an inherent structural problem. The LSC is a monopoly purchaser. We know of no comparable

service industry which has a BVT process with a monopoly purchaser. One way forward would be to end that monopoly by abolishing the LSC. We note that, from a standing start, the administrative burden of the LSC is now £100m per annum. An alternative would be to split the budget between different purchasing agents who might deploy different strategies and have better relationships with front-line providers, who might then have a choice of contractual relationship.

There are endless difficulties with regard to geography and the size of suppliers. Efficiency gained at a micro level may be obtained by firms parking themselves or their services in particular courts or police stations. They can also be gained by becoming a "front room" organisation, with casualization of labour, removing employment rights within the industry.

The economy of scale at the micro level of police station and magistrates' court may work for very small firms but does not work for medium sized or large firms; the economies of scale required – for case management systems, electronic online reporting, human resources, accounts departments and reception



teams, alongside the need to cope with the bureaucracies of review, cost audit, file reviews and so on – do not lend themselves to very small casualized operations.

In the major conurbations, the problems are deeply underestimated. There has been a massive reduction in the number of effective police stations operating as holding cells, interviewing centres and charging centres, and in the number of courts processing people. This means that many firms are very far from any “local” court. They do not fit easily into single borough arrangements as many firms are at the boundaries or junctions of different London boroughs.

The duty solicitor schemes have artificially propelled the market and caused a certain amount of clustering whereby new firms especially could gain some market presence through obtaining membership of as many duty solicitor schemes as possible. There are also difficulties in central London from a lack of a stable client base because of the highly transient population of London, somewhat magnified perhaps in respect of those people passing through a police station.

There is a very brief mention in the BVT document about dealing in-house with clients with housing or relationship difficulties. In the past, there have been various expressions of the idea of holistic services but there is no consultation or policy document which seeks to stitch together services for criminal clients and services in civil legal aid, although these are obviously highly overlapping client groups. A strength of the system to date and its added value has been the network of relationships a firm has in a local community. This is a social inclusion mechanism in poor working class areas. Legal aid promotes the belief for all people that they have rights and provides a currency of legitimacy as ordinary people engage with civil and criminal systems that provide social goods and justice.

BVT does not address the holistic problem or the problems of geographical location and volume or the fact that, if many suppliers – and smaller suppliers – are eliminated, this will eliminate many black minority ethnic owned firms.

How can it be done better?

Stability: this is probably far from the government’s mind but what all suppliers need is a period of stability, with longer term contracts so that they can properly plan their business. Stability would also allow the Legal Services Commission to actually focus on the services that it currently provides, such as online reporting, and enable it to get at least a few basic things right.

More money: it is a disgrace that “No more money” has become the mantra of government. We would take

very strong issue with the proposition that “it is the most expensive system in the world” or that in some way funding is over generous. Price comparisons with expenditure in European countries are disingenuous without also costing the investigating magistrates’ role and all other associated costs. As to the value we place on the provision of quality legal advice, how has it come about that the government professes to the public a desire to see expenditure levels on health and education competing with the most generous of our partners in Europe when simultaneously decrying – as a badge of shame – our relatively impressive historic commitment to publicly funded legal assistance?

London: The capital has its own difficulties. The LSC seems set on targeting the conurbations and appears to view the number of suppliers here as an indication that the market is ready to be further pressured. This is not about quality or best value. It is about simple price cutting. We would welcome a more open and less risky approach if this is in truth what the proposals seek to bring about.

The LSC produced a London region report in 2003 which confirmed that over 40% of London’s children live in households below average income and that London has the highest rate of child poverty in the UK. The report said further that, with a population of over seven million people, London is the largest city in Western Europe and, at that time, there was a projection of substantial growth in its population, which almost certainly was an under-projection in view of the very large scale migration from countries admitted to the European Union. There was an attempt to set up community legal services partnerships, to identify need and to talk about the integration of supply. This failed miserably through lack of resources. There is a fundamental difficulty about integrating legal aid funding and local authority funding, particularly as the latter is subject to local authority budget difficulties as well as political change.

However, to some degree, those attempts do represent a model of how a sensible programme might be undertaken. It should be recognised that change requires planning, implementation and evaluation, usually on a small scale, before it is projected onto a large scale and that these processes need to be transparent. There would be an opportunity in major conurbations, moving through areas of groups of boroughs, to think about current provision, how it might be improved and to encourage (if that is the object of government) more holistic services which more closely integrate crime and civil work.

This could be done in conjunction with making more generous grants in relation to trainee solicitors, in order to encourage a future generation of lawyers, and by



subtle adjustment of the economic levers. In the abandoned preferred supplier scheme, there was the notion of relationship managers. If, by that, a mentoring and coaching role was envisaged in the context of a local area development plan, then, integrated with trainee grants, this would be a way forward. Contract sanction and cost audit should be separately located within the institutional structure. Such a programme would recognise the complexity of need and supply and not be a single highly bureaucratic solution to the enormous conurbations of England and Wales as a whole. It would be less likely to result in the serious side effects and unintended consequences that will inevitably follow the untested and ill judged proposals that are BVT.

It has sometimes been asserted that there are too many suppliers in major conurbations. It maybe inconvenient to the LSC to have “too many” suppliers but this does not mean there are “too many” from the point of view of clients. London, which has had a very stable population of contracted firms, has far more people sentenced per year than any other city. According to the sentencing guidelines council’s “Sentencing Trends 2005”, Crown Court sentencing data shows 12,270 defendants sentenced, more than the combined totals of Greater Manchester (4,857) and the West Midlands (4,350). In 2006, the figure was 12,433. The picture is duplicated in magistrates’ courts, where 29,175 were sentenced in Greater

London in 2006 for either-way offences, with a high rate of custody (18%) and, in addition, the second highest rate of committal for trial. There is more fraud (London is certainly the fraud capital) and, at the opposite end of the spectrum, the highest rates of youth custody, which also reflect relative poverty, with Brent, Hackney, Redbridge and Southwark having substantial numbers of children sent to custody and Kingston Upon Thames, Kensington & Chelsea and Westminster relatively few.

London has, in addition, specialised police teams such as Trident and the Flying Squad and SOCA is based in Sutton. It is the scene of political demonstrations and, as a counterpoint, a number of “niche” organisations and solicitor practices which attract particular client groups (animal rights protesters, green activists and so on). The organisations include the Howard League and Liberty who bring cases on points of principle using the legal aid system. This is a complex and subtle system that has grown to meet client need. We highlight these issues because BVT as a “solution” would be using a wrecking ball to rearrange the china in the shop. It appears to our association to be an ideological solution and not one which is based on any cost benefit analysis or on the complex reality of how legal services are actually provided.

– Greg Powell, Powell Spencer Solicitors

COMPUTER EXPERTISE

At any party, there comes a point at which I am asked what I do for a living. I dread that moment. Others have an easier time of it: “I am a doctor”, says the physician (I picture him standing in a heroic pose with chin held high and fists balled on his hips) – a simple, neat, elegant statement that tells the enquirer everything they need to know. I, on the other hand, respond with, “I am an independent forensic investigator and expert witness in criminal trials involving digital evidence”. This leads to a rapidly expanding space developing around me, as the party-goers seek out an accountant with whom to chat. Still, the party-goers’ loss can be your gain because an expert in this field can be invaluable during the conduct of many criminal trials.

As any commuter will know, mobile phones are almost ubiquitous these days. Consequently, I am often asked to examine mobile phones in an effort to determine where the holder was physically located at

a given date and time. Typically, I am asked to do so in order to confirm, or refute, an alibi. Recovered text messages can also provide highly useful information; in a recent case, my examination of a defendant’s phone revealed text messages from the complainant suggesting that the original complaint was a malicious fabrication made in order to frame the defendant. The prosecution found my testimony ... uncomfortable.

It is possible to recover deleted information from a computer, sometimes many years after the event, and so examination of long-forgotten email and chat logs may reveal conversations vital to the case. It is even possible to determine where received emails originated, down to the house address.

Examination of internet use can reveal the names and contents of web sites visited and the dates and times of the visits. In cases involving indecent images of children, it is not unknown for the expert to track internet usage over a period of many years in order to



uncover trends in the type of website accessed during that period. It is also possible to recover examples of the websites visited. Such examinations also reveal key words and phrases entered into search engines such as Google; in a recent trial alleging attempted murder by means of poisoning, I was able to determine precise dates and times at which critical phrases had been entered into an internet search engine. Both the phrases and the dates and times of the searches proved central to the prosecution's case.

Cases involving indecent images of children often require an expert to determine how and when the images came to exist on the computer. Analysis of the elements discussed above is combined with looking for data detailing the existence of viruses and Trojan horse programs on the computer in order to reveal any third-party involvement. Web pages visited are also examined to find out whether any contain code responsible for automatically creating pop-up web pages containing illegal materials.

When defending any case involving computer or mobile phone evidence, you should consider asking your expert to evaluate and comment upon reports produced by the prosecution. Most police forces today have their own computer crime units but the sheer volume of work can be staggering, I recently returned from a computer crime unit which has in excess of 300 investigations under way. Clearly, with such a volume of work, mistakes can, and do, happen.

When instructing an expert in this field it is beneficial to provide him or her with a full disclosure bundle. In a case involving indecent images of children, the defendant pleaded guilty to possession of certain images but disavowed knowledge of some others. Having cross-referenced the disclosure bundle with the

computer data, I demonstrated that the evidence suggested that the disputed images had been created by the defendant's housemate.

“The expert's examination may well uncover details missed by the prosecution”

There is a real benefit in issuing clear and precise instructions to your expert as this will provide you with some control over the areas of evidence examined – bear in mind the expert's duty to the court. An expert will query instructions which are too vague. If you ask your expert to “detail the entirety of the data on this computer and discuss all means by which it may have come into being”, this will lead to an explanation that modern computer hard drives contain vast quantities of data. If the data on my own computer were to be converted to sheets of A4 paper containing double-spaced text, I would be faced with a pile of A4 stacked approximately 30 miles high.

The expert's examination may well uncover details missed by the prosecution; sometimes this will make your case and other times it may break it. However, whether the expert's report supports or refutes the defence statements, the expert will highlight each of the strengths and weaknesses of your case prior to trial – and that is a service worth having.

– Justin Lloyd
MSc MBCS AIITT MCSE MCSA MCP+I MCP
CEO Experto Crede (UK) Ltd
jllloyd@experto-crede.co.uk

BOOK REVIEW

Criminal Defence Good Practice in the Criminal Courts

*Roger Ede and Anthony Edwards
Law Society*

By Roger Ede, formerly the secretary to the Law Society's criminal committee and district judge in Sussex, and Anthony Edwards, senior partner in leading criminal practice TV Edwards, *Criminal Defence* is a step-by-step guide to practice and procedure in all the criminal courts. The book examines the role of the modern day criminal lawyer

from his/her role at the police station through to trial.

This is the third edition by Roger Ede and Anthony Edwards and includes the significant changes which have occurred in criminal defence work, including the Criminal Justice Act 2003 and the Courts Act 2003, as well as the new criminal case management framework and the associated consolidated criminal procedure rules.

Written in a straightforward and structured style, the book highlights the work that should be done at each stage of a criminal case, whilst also outlining the overriding legal and professional duties that must be adhered to. It poses the questions a competent lawyer should be asking themselves as they make their way



through the process and provides constructive answers for each eventuality. The book also contains a number of useful appendices including important websites and forums providing further information on the topics covered, as well as sample forms, checklists and letters which should be used in the preparation of a case.

As criminal law moves into a new era of funding initiated by the Carter Report, a criminal lawyer must strive to maintain the high standards that have led to the UK legal system being so highly regarded, as well

as learning to adapt to new systems, improving efficiency and case management.

Criminal Defence provides a comprehensive coverage of all aspects of a criminal case, in a structured, insightful and reader-friendly way. The book would sit well on the bookshelves of aspiring lawyers through to experienced advocates.

– Anil Rajani
IBB Solicitors

TRAINING SCHEDULE

Date	Course Title	Tutors
8 May	Criminal Law Update I	Andrew Keogh
15 May	Criminal Law Update II	Andrew Keogh
5 June	Sentencing in the Crown Court	Judge Anthony Ansell and Carl Woolf
12 June	Crown Court Costs – Billing	Colin Beaumont
25 September	Managing Higher Rights for Yourself and for your Firm	Jo Cooper
9 October	Police Powers and Criminal Defence Practice	Simon Natas
16 October	Criminal Law Update I	Lizzie Hogben
23 October	Criminal Law Update II	Lizzie Hogben
30 October	Crown Court Costs – Billing	Colin Beaumont
November	Prison Adjudication Law and Practice	DJ John Zani
4 December	A Profitable Criminal Practice	Colin Beaumont



TALES OF ORDINARY MADNESS

The following is all true.

My client is shouting into his mobile: "Stop taking a pop at me for f**k's sake. Give me some respect! I've just come out of prison!" Jason complains about the 14 days he's just got when it was his brother who actually took the car: "I only came to court for him as a stand-in 'cos he's in Majorca and didn't fancy a warrant." "We could appeal," I replied, "but there is the six months for perjury to consider..."

The fact that Herman is a double amputee does not stop him from mugging someone from his wheelchair. Never stand behind him in the kebab queue. He uses his incontinence as an act of aggression. No judge jails him because he smells too bad – they won't make SERCO suffer as well.

Naked and happily tied to a tree in a remote picnic spot, David was being ritually smeared with butter by his lover. He and the passing dog walker were both equally embarrassed. Reigate magistrates and a conditional discharge, if I remember rightly.

(There is some censorship in this story, to spare my more delicate readers.)

Junkies view the world through the rose tinted spectacles of the drug of choice. They get so used to seeing the world drugged up that they assume that's how it really is. Criminal lawyers are not much different; we see the nastier side so regularly that our

world view gets as skewed as the punter's. My own perception is now so distorted that, when the same weirdness happens outside of court it does inside, then it does not bewilder me at all. After a day at Camberwell when I had supped full of horrors, I went home praying there was a cold beer in the fridge. There wasn't. So it was a short walk to the off licence.

"Hey, Solicitor!" calls a voice from the gloom. Inwardly groaning, instinctively I reach for the £1 coin that is the hallmark of such occasions. As usual, I will



not have clue who he is but will still be expected to tell him whether or not there is a warrant out.

"I've got some stuff to sell. I need £1.20. Here, look at this." He pulls what looks like a dead dog out of the bag. Reluctant close examination reveals it in fact to be a large stuffed toy kangaroo. I express polite disinterest.

"Ok," he says, "how about this, then?" Out comes a watermelon. "£1.20?"

God knows what's coming next and I am not in the mood for handling stolen fruit. It is time to extricate myself. "Here you are," I say, "have this anyway." I proffer the £1 coin.

"Cheers mate." He disappears back into the gloom. Only 20p short of a can of Special Brew and he still has the kangaroo and the melon. His evening is looking better than mine.

– Bruce Reid

The LCCSA Diamond Anniversary

1948-2008

60 years of representing the interests of our members