

The LONDON ADVOCATE

Updating the London Criminal Courts Solicitors' Association

- 
- | | |
|----|-------------------------------|
| 2 | EDITORIAL |
| 3 | NOTICES
NEWS |
| 5 | PRESIDENT'S REPORT |
| 6 | INTERVIEW WITH NEW PRESIDENT |
| 7 | THE CONSERVATIVES: ANY HOPE? |
| 8 | MAGISTRATES ON VIRTUAL COURTS |
| 9 | TRAINING - THE INSIDE STORY |
| 10 | BARCELONA 2008 |
| 11 | TRAINING SCHEDULE |
| 12 | VIRTUAL DREAMLAND |



EDITORIAL

This issue sees the end of Tan Ikram's tenure as president and the beginning of Ray Shaw's service in the role.

Many thanks to Tan for all his hard work this year – and also to those officers and members of the committee who are moving on. This has been a tough period to do these jobs and the Association is most grateful to those who have given of their own time to do them.

Ray and his new team face as many, if not more, challenges this coming year. On the financial front, members are bracing themselves for the full impact of the graduated litigator fee – coupled with the new means test in the Crown Court, the possible abolition of committal proceedings and the introduction of the single fee in the Crown Court.

Meanwhile, we shall be wrestling with London's pilot of virtual courts and the government's plans to amend

PACE, not to mention the ongoing problems with VHCC.

All these issues would have been tough enough without a government facing a massive financial crisis. With billions of pounds now leaving the country's coffers, no doubt public expenditure will be drastically reduced. I will award no prizes to those who can guess which ever-popular sector is likely to suffer from the coming cuts!

All the very best of luck to our new president and his team as they struggle with the thorny problems ahead. As can be seen from the interview in this issue, Ray sees the oncoming difficulties as challenging, rather than daunting. We have a great committee, with fresh ideas and a positive attitude. They deserve members' enthusiastic support – and I have no doubt that, by this time next year, they will have demonstrably earned, not only that support, but also a great debt of gratitude.

– Malcolm Duxbury
Victor Lissack Roscoe & Coleman

PRESIDENT

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

PAST 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

EXECUTIVE OFFICER

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

VICE-PRESIDENT

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

JUNIOR VICE- PRESIDENT

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

SECRETARY

Nicola Hill
Kingsley Napley
Knights Quarter
14 St John's Lane
London EC1M 4AJ
DX 22 London/Chancery
Lane
Tel 020 7814 1200
Fax 020 7702 5140
nhill@kingsleynapley.co.uk

TREASURER

Michelle Crotty
Revenue and Customs
Prosecution Office
New Kings Beam House
22 Upper Ground
London SE1 9BT
michellecrotty@
hotmail.co.uk

TRAINING OFFICER

Paul Harris

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

SUB/COMMISSIONING EDITOR

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

ADMINISTRATOR

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

TRAINING ADMINISTRATOR

Hilary Riddle
PO Box 63251
London N2 9UW
DX 52056 East Finchley
T 020 8444 5609
M 0789 159 2747

LCCSA WEBSITE

www.lccsa.org.uk



NOTICES

■ COMMITTEE MEETING

The final committee meeting of 2008 will take place on Monday 8 December, at 6.30pm at the offices of Kingsley Napley.

All members are welcome to attend.

■ ANNUAL DINNER

Next year's annual dinner will take place on 3 July, at The Brewery, Chiswell Street.

NEWS

BVT – the latest

A consultation is to be published in December 2008 with a view to tendering in July 2009; BVT conditions would be part of a general contract term when new contracts come into force in January 2010.

This timetable is extremely tight and, although the LSC continue to work with their economic consultants to produce a model, it is clear that they are keenly aware of the difficulties. It may be that the imposition of best value tendering is in retreat.

Virtual courts

The Office for Criminal Justice Reform (OCJR) is leading a project to establish a pilot scheme for virtual court appearance at Camberwell Green for defendants drawn from 15 police stations.

The LCCSA, together with the CLSA and Law Society, recently met representatives of the Ministry of Justice, OCJR and the Criminal Defence Service. The Association is also responding to a consultation on the subject.

The LCCSA has expressed the view that, as a fundamental matter of principle, the virtual court is not a good idea; the defendant's absence from the court will erode its legitimacy.

There has been no resolution of major process issues – for example, the practical difficulty facing the solicitor who has chosen to meet his or her client in the flesh and is therefore unable to liaise with the family about bail issues.

The hearings will be held at short notice and often in the late afternoon or (as the scheme is extended) in the evening; they will be single hearings, requiring the late re-organisation of resources and staff. This means that there will be no economy of scale for solicitors. Remuneration should therefore be higher. Instead, the current proposal – a standard fee of £150, in hours, or £180, out of hours, for cases concluded on a first hearing – represents a cut. Cases where we may have made a small profit will be removed from the magistrates' court fee system.

So far, the LCCSA has not, as promised, been shown the business case. Apart from the saving to police, from not having to accommodate overnight prisoners, this appears, like the ill-fated night court, to be an extremely high-cost system. So far, there seem to be no agreements with court staff, probation, CPS, or indeed magistrates – not to mention court security staff, front desk staff and transport issues. Perhaps these extra costs explain the desire to pay defence lawyers less.

The Association takes the view that it is far-fetched to imagine that the project will be underway by January. When the business case is examined, it is hoped that this fantastical project will be abandoned.

Crown court means testing

This autumn will see a consultation on means testing in the Crown Court. What is likely to be proposed is staged payments – which will be related to means – for the length of the case, with the defendant owing the debt to the LSC.

It seems that solicitors will not, as had been feared, be responsible for the collection of contributions.

Graduated litigator fee scheme

In January 2009, there will be a review of the graduated litigator fee scheme. Attending the criminal contract consultative group at the Law Society, LCCSA's executive officer Greg Powell drew attention to the current level of Crown Court expenditure, which is significantly less than it has been in the past, showing that the LSC has achieved a reduction of beyond 5%.



The assessment of the damage to suppliers – possibly fatal in some cases – should, Greg argued, be made without delay.

Abolition of committal

It is possible that committal proceedings will be abolished in April 2009. Members will be concerned that the abolition will coincide with the full impact of the graduated litigator fee – a potential disaster for some firms.

It was originally envisaged that, when committal proceedings were abolished, there would be an increase in the powers of the magistrates' courts; but new powers for magistrates have now been shelved, so that abolition would result in a marked increase in the workload of the Crown Courts.

The LCCSA has prepared a paper, providing information for the LSC to use in discussions with the Office for Criminal Justice Reform.

The Association has pointed out that there would be a series of unintended consequences should this abolition go ahead – not least the massive effect on caseload which would be faced by the Crown Court as a result of denying the defence and CPS the opportunity to discuss charges at committal. These discussions often lead to written representations and second thoughts by the Crown about the level of charging.

There would also be enormous knock-on effects on the number of hearings before the Crown Court on issues such as bail and transfer of representation.

LSC spend

The criminal contract consultative group at the Law Society has heard that there has been a reduction in the amount the LSC spent on police investigation and magistrates' court work.

On the figures so far available, it seems that, in 2007/2008, £13m less has been spent on investigation work and £36m less on magistrates' court work than was spent in 2006/2007.

Discounts on books

LCCSA members are eligible for discounts on some books published by Oxford University Press.

OUP, who were kind enough to sponsor the LCCSA's annual dinner this year, are offering a discount on two key titles. For all orders made before 31 December 2008, OUP are offering 15% off the purchase price of Blackstone's Criminal Practice 2009 and also 15% off the price of Fraud: Criminal Law and Procedure.

Blackstone's Criminal Practice 2009, whose general editors are Lord Justice Hooper and David Ormerod, and whose consultant editor is HHJ John Phillips, is now available with biannual supplements, quarterly paper bulletins and monthly web updates. The book, together with two cumulative supplements, is normally priced £225. With the discount, it would cost £191.25

Fraud: Criminal Law and Practice, by Clare Montgomery QC and David Ormerod, is presented in a single, portable looseleaf volume and is the most comprehensive, analytical and up-to-date fraud service. The mainwork price (which includes first year updating) is normally £195. With the discount, this would cost members £165.75

More information on these titles and other purchasing options for Blackstone's Criminal Practice can be found at www.oup.com/uk/law. To order copies, phone 01536 741727 or email bookorders.uk@oup.com.

To ensure the 15% discount, please quote reference ALLCCSA08.

Call centre complaints

It is being reported that there are very few complaints being made to the Defence Solicitor Call Centre and that, therefore, things are going extremely well. The anecdotal evidence, however, is to the contrary.

Members who are not satisfied with the service provided must make complaints – otherwise there will never be any improvements.

Training with Swansea University

The LCCSA has reached agreement with Swansea University. Working together, the Association and the university are to offer new training courses.

In association with the university, the LCCSA will provide a police station accreditation programme. This



will include marking the critical incidents test, the applicant's portfolio and, where appropriate, the written exam.

In addition, the Association and university will provide the course and test which is needed for applicants seeking to become court duty solicitors.

All applicants from the LCCSA will receive a 20% discount.

Swansea University marks the tests and exams promptly, so that results are received within ten days – the quickest turn-around available. And applicants are allowed to submit portfolios at any time, rather than by certain dates, as is the case with other providers.

Snaresbrook court news

The users group discussed the following points: defence case statements; workload/old cases; budget; and bail variations

Defence case statements

Defence solicitors should be proactive in alerting the court to problems with clients, including the lack of

service of defence case statements. If lack of service is because the client has failed to co-operate, this should be brought to the attention of the court; no question of privilege prevents a solicitor from notifying the court of a lack of co-operation.

Workload/old cases

This has increased by 10% -12% compared to last year and cases are now being fixed for August 2009. The court will be reviewing old cases in conjunction with the CPS. Defence lawyers will be given about two weeks' notice if their case is selected for review. Practitioners should be aware that judges will want to progress these cases and will be receptive to Goodyear indications if the case can be put forward on an agreed basis.

Budget

Expenditure cuts are likely over the next year and may well impact on staffing levels. The Ministry of Justice nevertheless plans to construct secure corridors, increased cell capacity and a possible five further court rooms by 2011.

Bail variations

Minor variations should be agreed wherever possible.

PRESIDENT'S REPORT

I have to confess that leading the Association has been particularly tough over the last year. Consultation has, frustratingly, often been about how, rather than whether, changes will be effected and the hard work has often been on influencing the detail, rather than the objectionable principle. But, as the sky gets even greyer, and the Ministry of Justice faces cuts of £900m, the future for clients, witnesses and users looks even tougher. Whilst many solicitors have already thrown in their wigs, the Association has continued to play a vital role in ensuring that the voice of the profession is heard above the noise of the knives and political rhetoric.

Over the last year, we have continued to contribute the views of the profession on seemingly endless law reforms. Training courses have continued to be popular and we have introduced new speakers and new programmes. Sadly, the most popular one was on how to exit the profession – promoting the judiciary to solicitors. Shortly, we shall introduce new police station and duty solicitor qualification courses and enhanced training for higher court advocates.

The Brewery, ironically, hosted the first annual dinner with a Muslim president at the helm and was very well received by those attending. The recent European Conference in Barcelona was very well supported this year and enjoyed by all, even though I mistook a senior partner for a waiter at our get-together on the Friday night!

On a personal level, I have enjoyed the challenges of the year, which included the experience of giving evidence in Parliament, introducing the after-dinner speech – before the starters were served! – at the AGM, and feeling the real fear of giving a speech before my peers at the annual dinner.

Blimey, who would ever have thought the Slough Boy would have become president of the LCCSA? Diversity does matter, and, as an Association, we can be proud of our record and of, once again, leading from the front. Thank you for the opportunity of allowing me to make a small contribution and thank you to my colleagues on the committee for their support, hard work and commitment.

– Tan Ikram



INTERVIEW WITH RAYMOND SHAW

Raymond Shaw is the new president of the LCCSA

Q: Do you think that the pace of reforming the profession has slowed?

A: Things have slowed down in the sense that we are over some of the incredible structural changes which have recently affected the practices of those who do predominantly legal aid work. But there's a number of other issues on the horizon. These include the virtual court pilot scheme, the introduction of Crown Court means testing – will people be unrepresented in the Crown Courts as a result? – and the planned abolition of committal proceedings. There are also ongoing discussions about peer review and quality standards and (dare I mention?) the bar and VHCCs – and the even more contentious and thorny subject of “one case one fee”. This last proposal – the suggested payment of one fee to cover the work of both solicitor and barrister – represents a potential change of enormous significance to the criminal justice system that could see a marked demise in both remuneration and in the quality of criminal defence work.

Q: Are you concerned that the focus on remuneration plays badly in the media?

A: It is important that we refocus the debate onto the changes being made to the criminal justice system. It is not easy though. The legal aid issue has dominated the agenda for good reason. With well-known firms abandoning criminal legal aid, it is inevitable that solicitors are concerned over the survival of their firms and their employment. We know that we are never going to have the sympathy and support of the mainstream media on these issues. Sadly, any real change to this will only follow a number of significant miscarriages of justice which are seen to have resulted from cuts to public funding, or a sudden real fear over the continuing loss of individual liberties, and/or a growing concern over the development of a two-tier legal system.

Q: Do you worry that solicitors sometimes seem more concerned with how much they are paid than with matters of principle?

A: The fact is that money and principle are inevitably connected: if you don't pay people well enough, it will have an impact on the quality of representation.

It used to be the case that solicitors could say to a client, hand on heart, that legally aided work was of as high a standard as privately paid work (as with the NHS). So long as your work was reasonably and

properly done, you would be remunerated for it. Talented and incredibly committed lawyers are still working to an excellent standard; but now, with fixed police station fees and litigator fee schemes, there is a growing conflict between the client's interest in seeing everything possible done for their case and the solicitor, whose financial interest for the business is to get the job done in as little time as possible. It should also be noted the most dramatic cuts in fees have been in London.

The entire thrust of government policy is to push legal aid firms into spending less time on the case with less qualified staff conducting the work. In the police station especially, the more experienced you are, the more likely you are to get to the heart of what's going on. Murder and other serious offences demand time and commitment in the police station and firms can now expect to lose money if a solicitor attends for such cases in a fixed fee system. The impact will be to reduce the quality of the information available to the court and the quality of justice will be impaired.

Q: In what way would you like to develop the LCCSA while you are president?

A: In the last few years, inevitably, a great deal of time has been spent on legal aid issues, but the LCCSA does much more than this essential work. I want our members and the outside world to be aware of the full range of our activities. We have earned an enviable reputation for our contribution to law reform consultations and we are regularly asked to contribute to legal forums. Our training programme is a fixture in the calendar for hundreds of practitioners. We are on the radar of numerous bodies in the legal world and I want us to build on this.

One strength of the Association is the broad range of our members, representing the spectrum of solicitors practising criminal law in London. I want to ensure this continues and that we harness the energy and talent available from all firms, legal aid and private, large and small.

There is a perception that the Association is under-represented in south London. We should look and see if this is true and, if it is, deal with it.

We can look to build links with other national and European organisations and, where appropriate, run joint events.

Another question I want the committee to consider this year is whether we can offer something to the growing army of police station “accredited reps” and paralegals working in criminal law.



I'm keen we enter the year on a positive note. The profession is beset by change. In law reform there is never a dull moment (the PACE consultation is live); legal aid changes will continue; with the ongoing news of mergers and closure, we may see firms alter their structures; and, post-Clementi, there will be the first legal disciplinary practices (LDPs) in the coming year. Amidst all this, it is refreshing to join together with solicitors from diverse backgrounds, all engaged in criminal practice in our extraordinary capital city. LCCSA events not only give a chance to meet colleagues, old and new but also provide a chance to step out of the daily rush between court, police station and the office and to remind us of the bigger picture.

Q: Why did you take the job on?

A: I joined the committee because I was drawn in by the legal aid issues which were around at the time. I think it was at the 2001 Madrid conference that I expressed an interest to Avtar Bhatoa and suddenly found myself having a meal with Linda Woolley – and then joining the committee. I stayed on because I enjoyed seeing the committee at work and having my horizon broadened – and as I believe that what the LCCSA does is important. I hope I can bring something to this job: I have a campaigning instinct

and background and there are good and able people to work with.

Q: What is your professional history?

A: I had a pre-law life. My degree was in international history and politics and then I was a full time youth worker for a while. I also worked in housing, on the “priority estates project” in “problem estates” such as Broadwater Farm. It was then that I was drawn towards the law – mainly by the fact that lawyers I met so obviously liked their work. Childhood memories of Petrocelli and Quincy may have been an influence. I trained at Fisher Meredith and helped establish a general crime department at the London office of Garstangs before, with Paul Graham and Daniel Kersh, establishing Shaw Graham Kersh in 1999. Phil Hill has since become our fourth partner. We are proud to conduct the full range of criminal defence work from complex and serious fraud to minor magistrates’ court matters.

Q: Do you have any interests outside the law?

A: I've got a family, with two kids, who are ten and eight. I'm the co-manager of my son's football team. Occasionally, I sing, with three friends, in a group; we play in pubs and at parties, sometimes. The group's name? I'm not telling you.

THE CONSERVATIVES: ANY HOPE?

The writer is a shadow minister for Justice

It is a great pleasure to have the opportunity of writing an article for the Advocate; and I would like to pay tribute to all those solicitors working in London's criminal courts. Incidentally, I am also especially grateful to the LCCSA for the first class briefings given to MPs.

Over the past year, I have led the Opposition on two key bills affecting your profession, namely the Legal Services bill and the Tribunals Courts and Enforcement bill. These two bills are good examples of where we as an Opposition broadly supported the government and worked hard to play our part in ensuring that we ended up with workable legislation.

Legal aid

Alas, one area where we have not been able to see eye to eye with HMG is legal aid!

Had we been in government, we would have gone to the profession and told them that we wanted to work with them to come up with viable solutions that were not only sustainable, but which also carried the goodwill of solicitors and barristers alike.

The key to finding a way forward for legal aid is through co-operation and collaboration with the lawyers at the sharp end. Unfortunately, what we have had is the reverse, with ministers going round the country arrogantly dictating to lawyers. Is there any wonder that the Law Society felt compelled to take HMG to court under judicial review, and is it a surprise that the Bar Council is in serious dispute over VHCCs?

I have always been instinctively in favour of graduated fee schemes paying lawyers for all publicly funded work. Graduated fee schemes have been shown to produce resilient and predictable cost outcomes for a given volume of cases, and are surely fair to both the lawyer and the public purse alike. So, in other words, why on earth did the government not consider building on the success of the Bar's scheme that was introduced in 1997 and extending this far more widely?

I do believe that such an approach could have been the right way forward, especially if it was combined with more efficient case management, far more administrative efficiency and a determined attempt to bear down on the ever escalating costs of expert witnesses.



Hard times

However, I have to be completely honest with LCCSA members, and make it quite clear that, if we do win the next election, we are going to have to face up to incredibly tough economic conditions, and with our overall level of national debt heading towards a staggering £2 trillion, every single departmental budget is going to continue to come under ever increasing pressure.

I personally feel that it was an absolute tragedy that the government did not use the growth in the economy and the burgeoning coffers to increase the legal aid budget in order to ensure a much smoother transition towards the new regime.

However, that opportunity has now been lost, and this is why we must now look very urgently indeed at how we can bring new money into the legal aid budget.

Proposals

In addition to the efficiency savings I mentioned above, surely the time has now come to split the two different legal aid budgets? Given that there is every likelihood that an ever increasing amount of criminal legal aid is going to be devoted to terrorist trials, there is an argument for ring-fencing part of the budget. I also believe that the time has now come to look urgently at setting up a conditional legal aid fund, which, in essence, would be a fund replenished from a small percentage of damages recovered by successful claimants.

We already have in place the ability for judges to award recovery of defence costs orders; but why are these not being used more often? I am also very keen to look at the whole area of additional contributions to the legal aid fund from outside organisations like insurance companies, government regulators and government departments. For example, in all those cases where legal aid is granted for road traffic cases, surely it should be the insurers reimbursing the cost of representation to the legal aid fund?

Furthermore, when it comes to fraud cases, it is surely not beyond the ability of experts to devise a scheme that can identify those cases that have been

caused by failures of supervisory bodies such as the FSA. In such circumstances, there could be a levy to cover the cost of defending these cases.

Maybe a pilot project should be set up, and – who knows? – this could then result in such a scheme being rolled out across very many different bodies. There are, of course, those occasions when government departments themselves have failed in their statutory duties, and in such cases, why should they not pay money towards the legal aid fund, rather than the poor old hard pressed Ministry of Justice?

The courts service and JAC

Unfortunately, all of these changes to legal aid are taking place at a time when the courts service itself is under a great deal of pressure. Just at a time when hard pressed officials are being asked by the MoJ to deliver greater efficiency, they feel that they are having the rug pulled from under them with the imposition of regional pay and court closures.

Of course, it is bitterly ironic that, just when the courts service is under so much pressure, the MoJ are pushing ahead with their grandiose and hugely costly plans for the new Supreme Court!

Another key area of concern is the Judicial Appointments Commission because, not only is it costing far more than expected, but we are now receiving a significant number of complaints from senior members of the profession who are quite appalled at the different exams and tests that they have to go through when seeking appointments. Is it really fair to expect senior lawyers to subject themselves to this type of bureaucratic nightmare?

In conclusion, my colleague, Nick Herbert MP, the shadow secretary of state for Justice, and I are keen to discuss all of these ideas with lawyers, not just in your Association, but across the country as well. We really do need your help in moving these ideas forward, and it is now more important than ever to rebuild trust and confidence between lawyers and politicians.

– Henry Bellingham MP

VIRTUAL COURTS

An article by the chairman of the Magistrates' Association

Developments in the criminal justice system stream in constantly. Technological advance is one such development, which may have many benefits for the system – but safeguards are

essential. Justice must never be sacrificed for efficiency alone, nor should it be compromised in any way simply to save money.

Virtual courts arise from a section on live links in the Police and Justice Act 2006. Parts of this legislation were controversial but this particular section produced very little coverage and even now, with pilots



announced, discussion in the press is virtually non-existent. Yet this is a development that may have enormous implications – both in practical terms for court business and for the principles of administering justice. The Magistrates’ Association is wholly in favour of improvements to a fair and just system but we think it important that these implications are understood and openly debated.

Questions of consent

When the bill was going through, we had very real concerns about the issue of the defendant’s consent and those concerns remain. How can we be sure, without the openness of a court, that a defendant may not feel pressurised to agree to a virtual court hearing or even to plead in a certain way to expedite a decision?

On the surface, it might seem to make sense for someone arrested in the afternoon to be offered an immediate (virtual) court hearing via a live link as an alternative to being bailed to a future date or perhaps a night in custody; but cases are often not that simple and, where a night in custody is a consideration, the pressure might be immense.

This initiative is said “to improve the service given to victims and witnesses”. What about the defendant? Not everyone charged is guilty; and there must be fairness for everyone involved. Can we be sure that all factors have been taken into consideration, that full instructions have been given and that informed consent has been given without pressure? The Association ensured that consent was firmly embedded, but might this change in the future? Speed and convenience must not take precedence over proper safeguards.

Expansion and scope

The report on policing by Sir Ronnie Flanagan contained the recommendation that “following completion of the pilot evaluation, urgent consideration should be given to rolling out virtual courts, both geographically and in terms of categories that they can cover.” This opens up all sorts of questions as to the scale envisaged.

A recent factsheet from the Office for Criminal

Justice Reform states that: “Virtual courts have the potential to transform how the justice system deals with low level crime such as public order offences, theft and criminal damage...First appearance, plea and judicial sentence will be possible without the defendant, their representative or the police needing to set foot in the courthouse.”

“Judicial sentence” is an interesting phrase in itself – not all the cases described above would be “low level crime” – and the overall picture comes across as remote from many people’s concept of local justice.

There are references to magistrates’ courts operating more flexible hours more closely matched to demand. The Magistrates’ Association have pointed to the previous unhappy experience of night courts. We have been told that the virtual court is a different concept – but whose demand is being talked about?

Magistrates are unpaid members of the judiciary, with family and professional lives outside the courts. We carry out our judicial role as a service to society and are as flexible as possible; but it is not right to assume that we are automatically available, and not right for judicial decisions to be made after a day’s work elsewhere.

If this concept moves beyond one court, it will have enormous implications for the workload and operation of neighbouring courts. How will local justice and local confidence be affected by increased numbers of hearings over a video link?

Financial considerations

As I am writing this, headline news in the Gazette has highlighted difficulties in pay issues relating to the project. We are well aware of grave financial restraints overall. We predicted last year that cutting costs will jeopardise justice and we must be assured that this initiative is not driven by financial considerations.

Real benefits from the use of technology will be enthusiastically welcomed, and virtual courts may seem to provide an answer for some issues; but safeguards are needed, as is judicial agreement for future development. Justice must never be compromised.

– Cindy Barnett JP

TRAINING – THE INSIDE STORY

Two tutors describe the preparation and delivery of one of the LCCSA courses

Worried about a bail application in a difficult overnight case? How can you prevent your client from going to prison?

That was how we advertised the LCCSA course “Practical advocacy in the magistrates’ court – 1. bail; 2. mitigation”. The course was aimed at newly qualified, inexperienced or just plain terrified advocates. We promised that, by the conclusion of the two evening sessions, the delegates would be more



able and confident in making bail applications or pleas of mitigation in the magistrates' court.

We have taught together before for the LCCSA and so we knew we worked well together – but this was a new course. It was scheduled for April and we had our first meeting to prepare the basic outline in February. After an obligatory coffee and cake – and catching up on the latest mergers and acquisitions of legal aid firms – we settled down to course preparation.

Preparatory work

It wasn't hard to divide the workload between us. Naomi knows the law and all the procedural rules and Teresa makes up stories, or rather case studies, complete with red herrings, blind alleys and strange connections between the various defendants.

Having decided what homework we each needed to do, we fixed the next meeting, conscious that we needed to work to a timetable and not wanting to let Hilary Riddle down by failing to prepare the material in time. Once the preparation of the materials was started, there followed constant emails and endless lengthy telephone calls, with exchanges of amendments and further amendments. Despite a minor blip when Teresa's email server crashed, the materials were ready – just in time.

The next worry was whether anyone would actually come to the course. We knew it was worthwhile; but would the employers of our potential delegates be prepared to fund their education in these credit-runched, lean, mean times in the legal aid world? Luckily, they were and the course was oversubscribed.

We specified that numbers would be limited as we wanted each delegate to have a chance to "perform" at least twice in each session and to obtain what we hoped would be constructive feedback.

Then we had to consider the venue. Hodge Jones and Allen had kindly provided the premises. It is difficult to set up a room to be formal enough to emulate a court and informal enough to be a teaching environment. We did a lot of furniture removal.

Course in action

We started each section with the whole group together and a brief overview of the relevant law. Then we split

into two groups, trying to ensure that each group had a good balance between less and more experienced lawyers. Then it was time for us to take a back seat and to let the delegates display their talents to persuade us, acting as rather grumpy district judges, to grant their clients bail.

At the end of the applications, we gave constructive criticism and we also had a group discussion on whether we thought a particular client would be granted bail in real life. This was interesting as the scenarios had been written on the basis that some applications were highly unlikely to succeed.

The following week was the mitigation part of the course. The advocates had to deal with both straightforward and difficult sentencing exercises to try to get the best result for their clients. We were impressed that some people turned up very well prepared, having read the new case studies, looked up the sentencing guidelines and planned a well structured mitigation. The discussion on likely sentence was a useful forum for everyone.

Feedback

Did we succeed in our aims? The feedback we obtained said an overwhelming yes. Unsolicited comments included:

- "It has been a great learning experience and I would definitely attend future courses."
- "Both speakers very understanding."
- "The course was practical and helped in explaining what to do and what not to do."

So it was worth some of the anxiety, late nights on the computer and increased telephone bills to know that we had given delegates some helpful information and increased confidence.

And we are glad to have been asked to do it again in March – so get signing up now. It is hoped that there won't be quite so much preparation for us to do this time, although you can always rely on the government to change the law just when you thought you had finally mastered it. So, this time round, we'll be including the CJIA 2008 changes to the Bail Act and the new magistrates' court sentencing guidelines.

– Teresa Brennan and Naomi Redhouse

BARCELONA 2008

The first weekend of October and everyone knows what that means: the annual LCCSA European conference, a fixture in the calendar on a par with Henley Regatta, Wimbledon and Glastonbury.

This year, the venue was Barcelona, and, on Friday 3 October, planes carrying the cream of London lawyers arrived in the Catalan capital, famed for the Ramblas, Gaudi and the Nou Camp.

Over 70 delegates attended this year's conference,



which began on Friday night with a meal of traditional Spanish cuisine. The courses were endless, the food delicious and the ambiance delightful. Following dinner, the delegates dispersed to various drinking establishments, but were all present for the following morning's lectures, at least in body.

Louis Charalambous provided a thoughtful insight into "Handling the media in high profile cases". The question of what to say and how to deal with the media has never been an easy exercise for Criminal law practitioners; and we all benefited from his guide into the benefits and potential pitfalls of managing press interest in a high profile case.

This lecture was followed by Greg Powell's update on the various proposed changes in public funding and how such proposals will affect solicitors with legal aid practices. This was informative, practical and only slightly depressing, as Greg took us on a humorous journey through the next set of hoops we may need to jump through in order to continue working in Criminal practice.

Following these lectures, there was the City Tour, on which delegates enjoyed an enchanting journey around the sites of Barcelona. There was also a Sitting by the Pool Tour, which consisted of sitting by the pool.

During the evening, delegates did their own thing; eight went to the Nou Camp to see Barcelona beat Atletico Madrid 6 -1. Of course, this article is not a football report and therefore the author, a frustrated sports journalist and depressed Spurs fan, will not dwell for too long on the silky skills of Messi, Eto et al which saw Barcelona 3 - 0 up after nine minutes and 5 -1 ahead at half time.

Kevin McCormack, head of the sentencing guidelines secretariat, was the guest speaker on Sunday morning. Some delegates had only just returned from their previous night out, but attenders enjoyed the lecture which focused on changes in sentencing, particularly in the magistrates' court.

The conference then dispersed, as the tired and hung-over delegates headed for the airport.

This weekend, a favourite of mine in the LCCSA calendar, provides the opportunity for members to socialise in a relaxed and informal way – something we struggle to do during the rest of the year. Barcelona was a perfect venue – a vibrant, busy city, full of atmosphere, activities and great beauty. The lectures were excellent and provided five CPD points; the accommodation was first-rate and the weekend, as always, was well organised by the Association's administrator, Sandra Dawson, to whom we express our gratitude.

– Paul Harris
Edward Fail Bradshaw & Waterson

TRAINING 2008 / 2009

Date	Course title
20 November	Prison Adjudication Law and Practice
26 November	Judicial Careers for Solicitors*
27 November	Practical Case Preparation (postponed from 9 July)
4 December	Judicial Careers for Solicitors*
2009	
11 February	Police Station Solicitor Update I
26 February	Police Station Solicitor Update II
4 March	Practical Advocacy in the Magistrates' Court - bail
11 March	Practical Advocacy in the Magistrates' Court - mitigation
7 May	Criminal Law Update I
13 May	Criminal Law Update II
15 October	Criminal Law Update
22 October	Criminal Law Update

* Course being run in conjunction with JAC for launch of SE Recorder applications in January 09



VIRTUAL DREAMLAND

1 November 2015, after the reform of the virtual court

Tripping over my pyjama cord, I just make it to the phone in the requisite 30 seconds. "District Judge Direct," I say, panting. "You are through to DJ Reid*. How can I help?"

"...You again! I see, you want to speak to me personally about the five-year sentence I've just given you. What's the problem? Seems reasonable enough for Speaking Treason against the Labour Party.

"...Credit for a guilty plea? Well you didn't press 4 on the handset. Can't give a discount if you don't press the buttons properly. Besides, that's only available if you call the police to confess to the crime before you commit it. It's a bit late afterwards isn't it? Look, I can slice a year off for shopping the rest of the family. Press 6 now. Well done. Anything else?"

"...Your girlfriend's pregnant? So is mine; the wife's well upset about it. Doesn't mean you get a reduction...Well, I suppose we could file it under personal mitigation. OK, that's down to three and a half."

(Sweet Mother of God!, He won't stop will he? If this call was not 'being recorded for training purposes'...)

"...Yes, I know the PSR recommended a course of 'Political Re-education and the Power of Positive Thinking', but that has never worked for anyone else and I can't see why you should be any different. We can't fill these Titan Jails if we keep giving everyone probation; the private sector has to be allowed to make a profit!

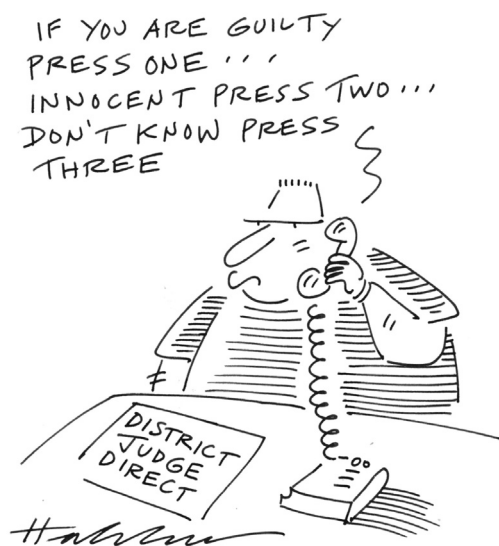
"...All right, if you insist on speaking to the duty solicitor, I'll patch you through to All Bar One, but you do realise its after 11.00 pm.

"...Too late, they've thrown her out, she will be in the takeaway getting some ballast for the bus home.....Can't link you up there, I'm afraid. Last time

we did that, she dropped the phone in the fries and we all ended up in the Administrative Court.

(*When the defendant's view of his advocate is obscured by chip fat, Justice is not seen to be done'.....I think they said. Pompous git! When was the last time a Lord of Appeal was in a magistrates' court? No understanding of the Riddle reforms at all...)

"...You can't read or write? I could tell you were a bit



bewildered by the new technology, but we must move on mustn't we?

"...Listen, so what if you were calling to report a gas leak? You pressed the wrong buttons didn't you? Too late now; three and a half years is the best I can do. Anything else I can help you with this evening? No? well, go and hand yourself in then, Thank you for calling District Judge Direct. Good night!"

Dammit! the Horlicks has gone cold, the dog's bladder is bursting and I have missed the first ten minutes of CSI Peckham. Still, never mind, early retirement beckons; they're outsourcing the lot to Borneo next year.

(*No-one else applied.)

– Bruce Reid

The LCCSA Diamond Anniversary

1948-2008

60 years of representing the interests of our members