

The London Advocate

The newsletter of the London Criminal Courts Solicitors' Association

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Editorial

This may be the last editorial I write before the General Election. While not being party political, I offer some food for thought to the incoming government – whatever its persuasion.

I know that it is fashionable to portray legal aid lawyers as fat cats who make vast amounts of money out of the public purse (I wonder: who really does this?!) but please remember that this is simply not the case.

We have to deal with legislation passed in Westminster by people who have very little idea about its practical implementation at the front line.

More and more work is piled upon us for less and less remuneration. On top of that, our claims for fees are savaged or we have to spend a great deal of time appealing decisions before we are finally paid what we are rightfully owed.

We are asked to respond to consultations, which we do – and spend much time and effort doing so. Our

views are dismissed and the proposals are brought in anyway.

The goalposts are then moved – eg following the Carter Review’s measures on travelling and waiting times, cases were moved out of local courts; we now have to go to distant courts, knowing that we will not be properly remunerated for travel.

We need to rely on other agencies to play their part in the criminal justice system but find ourselves wasting hours of unpaid time because of their inefficiencies.

Please bear in mind that our job is to uphold and protect the individual’s rights and to ensure that justice is done; and remember that we deal with some of the most vulnerable people in the country.

Please, new government, listen to us – we often speak sense – and let’s try and work together to solve society’s problems. We might just get along.

– Malcolm Duxbury
Victor Lissack Roscoe and Coleman

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Notices

COMMITTEE MEETINGS

These meetings, which are held on Monday evenings, will take place on: 8 March, 12 April, 10 May, 14 June, 12 July, 13 September, 11 October and 13 December.

The venue is the offices of Kingsley Napley; and the meetings start at 6.30pm. All members are welcome to attend.

ALL-DAY CONFERENCE

The first LCCSA London all-day conference will take place on 13 March 2010 at the Hallam Conference Centre, 44 Hallam Street, London W1W 6JJ.

The keynote speaker, who will open the morning session, is to be the Right Honourable the Lord Judge, the Lord Chief Justice. This will be followed by a Criminal law update from Professor David Ormerod.

In the afternoon, delegates will choose from three specialist workshops.

ANNUAL DINNER

The association's Annual dinner will be at the Savoy hotel, on 2 July 2010.

EUROPEAN CONFERENCE

This year's annual conference will be held in Brussels, from 1 – 3 October.

AGM

The annual general meeting will take place on 8 November, at 6.30pm, at Browns Courtrooms, at 82-84 St Martin's Lane, WC2.

News

VHCC: response to consultation

The LCCSA has responded to the Legal Services Commission's (LSC's) consultation on very high cost (crime) cases. In an executive summary of this response, the association outlines a number of themes. It says:

- “
- We recognise that there are significant budgetary pressures on all areas of public spending and that stakeholders within the criminal justice system must do their best to ensure that services are provided at the best possible value whilst maintaining a sustainable quality criminal defence service delivered within budget.
 - The price paid for 'lower work' (ie police station advice and assistance and representation in the magistrates' court) has reached 'rock bottom' and any further cuts jeopardise the quality of justice that can be achieved.
 - The 'litigator's graduated fee scheme' (LGFS) is in its infancy and has yet to be properly reviewed. We have strong reservations as to its effectiveness and believe that it contains fundamental flaws such that it is not fit for purpose. We believe applying such a scheme to arguably the most complex criminal cases is nonsensical and reckless.
 - We accept that if there is a need to make further savings then these must be sought from VHCC. This

may mean reducing the 2007/08 hourly rates further, or it may mean coming up with innovative and new remuneration structures. It does not mean that it is appropriate to simply extend the scope of existing schemes and we are keen to continue our work with all stakeholders to properly explore the options.

- If a graduated fee scheme is to be successfully applied to VHCC work, it needs to be 'supersensitive', with many variables and escapes built-in.
- The 'blunter' the graduation of fee, the less suitable it is for application to the work of the litigator. On this basis, we believe that it is appropriate to consider two separate schemes for litigators and advocates.
- We believe the VHCC panel should be 'open' with access to VHCCs for all firms.
- We believe that only firms with a general criminal contract should be eligible to undertake publicly-funded VHCCs.
- We agree that advocates should be contracted on a case-by-case basis.
- We believe it should be for the complex crime supervisor to assess the competencies and suitability of a particular advocate. The regulation of this should be via regulation of the complex crime supervisor.”

Many thanks to Jim Meyer, Steven Bird and Anil Rajani for preparing the association's response.

Alliance for Legal Aid

The LCCSA is taking part in the Alliance for Legal Aid. This alliance, currently in formation, will be broad, bringing together lawyers' associations, individuals and charities – all those who wish to take a stand on behalf of legal aid.

Anyone who is interested – or who wishes to form a local group – should contact Carol Storer, of the Legal Aid Practitioners' Group, 020 7183 2269, Carol.Storer@lapg.co.uk.

Quality Assurance for Advocates

The LSC has published a discussion paper on "quality assurance for advocates" (QAA), with the plan that there will be a quality assurance scheme for criminal defence advocates in place from mid-2011. The paper can be found at www.legalservices.gov.uk/CriminalDefenceService/QualityandPerformance/QAA. Comments are invited.

The LSC says that future development work on quality assurance will be undertaken by a "joint advocacy group" (JAG), which will be made up of the Solicitors' Regulation Authority, the Bar Standards Board and ILEX Professional Standards for Legal Executives.

Visits to prisons

January's edition of The Advocate recorded that Alured Darlington had reported serious lack of co-operation with defence lawyers by prison officers when visiting clients at HMP Downview.

Alured subsequently took his complaint to the head of the prison service at the Ministry of Justice. At his most recent visit to HMP Downview, he found that the system for visits had been overhauled, with the result that waiting times were reduced from three quarters of an hour to under five minutes.

Meetings with MPs

Committee member Emma Lipscombe is co-ordinating a series of meetings between LCCSA members and MPs.

At the end of last year, there was a meeting with Neil Gerrard, Labour MP for Walthamstow, who was extremely sympathetic to the views of legal aid solicitors.

Mr Gerrard has experienced a huge rise in applications for help since cuts in civil legal aid affected immigration law practices and he expects that cuts in criminal legal aid will lead to similar problems. He promised to make contact with the Ministry of Justice and with NAPO (representing probation and family court staff). He also proposed tabling an early day motion in the House of Commons.

Split-shift courts

In June of this year, there will be a pilot project at Croydon Crown Court, which will operate a double shift system.

The pilot will last six months and will take place in courts 3 and 5. There will be two shifts in each court room, one from 9am to 1.30pm and one from 2pm to 6.30pm.

All types of cases and applications (except those involving youth or female custody) will be heard. In the coming months, advocates at Croydon will be asked to complete a double shift sittings form, in addition to the usual PCMH questionnaire, to discover whether a case will be suitable for the pilot.

Honorary membership

LCCSA member Naomi Redhouse has been appointed as a district judge. As such, she is now an honorary member of the association. Congratulations to Naomi Redhouse on her appointment.

Youth justice training

Just for Kids Law and the Prison Reform Trust are running a training day for solicitors and barristers working in the youth court on Friday 26 March.

The venue is Garden Court chambers and the session is free, though a deposit of £50 will be asked for on booking. The day will accrue 5.5 CPD points. To book, go to: <http://tinyurl.com/outoftrouble>

President's Report

The LCCSA is extremely concerned about the virtual court system which has been piloted for several months and is currently being evaluated. Despite the fact that this evaluation is incomplete, and its outcome unknown, there is already talk of rolling out the scheme across London.

Under the system, defendants make their first appearance at the magistrates' court by way of video link from the police station.

The Ministry of Justice claims that virtual courts will be cheaper, quicker and no less fair. However, it is our fear that, in fact, the system is unfair, undermines the

integrity and impartiality of the court process, and is unlikely to save costs.

Initial statistics from the pilot indicate that far more defendants are unrepresented in the virtual court system than would be normally the case with first appearances at court.

Consistent concerns

On Wednesday 10 February, I was present as an observer when the independent evaluator interviewed eight solicitors who had taken part in the virtual court pilot and who were able to provide feedback on their experiences. A number of common features emerged, all of which raise worrying fears about conducting “justice” in this manner.

The integrity of the court process is undermined when the defendant’s important first appearance is conducted virtually, with the defendant in one room in a police station while those who are determining his fate sit in another building.

If the solicitor sits in a small room with the defendant at a police station, he or she is removed from the court process. Consequently, one cannot properly engage with the prosecution and tribunal, cannot make representations to the Crown in court, and is often handicapped by a defective link or time delay. As a result, the normal court process is undermined.

Solicitors report that it is often difficult to get disclosure from the Crown in time to prepare the case properly and to advise the defendant and that there is improper pressure to proceed because the “slot” is booked and the court is waiting.

What we all take for normal process – engaging with the probation service at court, liaising with family members and possible sureties – may be impossible because none of these people are in the same physical space; they may be outside the police station or at the court itself. As a result, the advocate is significantly restricted in making these enquiries, a situation which would never arise if all parties were physically present in one place, at court.

If, on the other hand, the advocate is at the court, then he or she usually only has a short amount of time to obtain instructions from a client via video link. It is difficult in these circumstances to establish trust, confidence and independence. The defendant is often bewildered and confused by a process in which he or she remains at the police station, detained by those who are responsible for bringing the case against them.

The solicitor-client relationship is predicated on confidentiality, without which a solicitor is in breach of the code of conduct. There have been real issues over confidentiality and the fact that conversations can be overheard by those in the custody suite

–which again undermines the integrity of the process.

Extra expense

One of the aims of the virtual courts system is to save costs. But initial feedback suggests that, in fact, costs are likely to increase. If the virtual court sitting times are extended any further, there will be overtime pay for court staff, prosecutors, prison personnel, Serco and so on.

When defendants are escorted to prison following a hearing, they are usually taken by one van from the court to the prison. However, under the virtual court system, defendants are collected from different police stations all over London and taken to prisons that have to pay staff to stay open late to accommodate late arrivals.

Additionally, while the virtual court is being operated, a police station’s resources are not being maximised because the virtual court room is also used as a consultation room or an interview room. This means that a virtual court causes additional delays to other police business.

Often, virtual court hearings have to be adjourned to obtain information that would be readily available if the court was sitting physically in normal hours, creating the additional costs of having unnecessary extra hearings.

Police courts

There are question marks about the police management of the system. Defendants have often been unrepresented because their solicitors have been given incorrect information about the timing and location of the court. Also, some defendants have been misinformed about their rights over access to their own or a duty solicitor.

We are fearful that the virtual court amounts to a re-introduction of the police court, the ambit of which may be extended further. Indeed, we are conscious that the government is considering the removal of funding for face-to-face advice at police stations, save for the most serious offences. This would amount to a return to the pre-PACE days and the various miscarriages of justice that subsequently came to light, costing the government many millions to remedy through appeals and compensation.

This is not about complaining about legal aid cuts. It is about an erosion of the rights of the individual, and removing further checks and accountability on prosecutions and investigations which, history suggests, lead to expensive miscarriages of justice. I use the word “expensive” because I fear that cost is the only language the Ministry of Justice truly understands.

– Paul Harris

Edward Fail Bradshaw & Waterson

Interview with Roger Smith

Roger Smith, a solicitor, is director of Justice

Q: When you spoke at our AGM dinner in 2008, you said that cuts to legal aid began with the Access to Justice Act in 1998 and that the process is now ending in an unpleasant fight between elements in legal aid for the available resources. Which sector is winning that fight?

A: I don't think there are any winners at the moment. For the first time in my practising life, legal aid is going to suffer quite severe real cuts and I think that every practitioner who is funded from legal aid, barrister or solicitor, criminal or civil, is going to find it very hard in the future. I think it's going to be very uncomfortable and it will not make it easier that almost everyone who is dependent on public funding – from policing to social work – is going to be in the same boat. It will be difficult for people to focus on the position of legal aid because what is coming up is a massive battle about public funding over the range.

Q: Would you agree that the cuts in fees now outlined by the Ministry of Justice undermine Justice's recent call for a "thriving and diverse market" in the provision of legal advice and the need for "properly funded legal advice in the police station after arrest"?

A: The crucial thing – and lawyers have to recognise this – is that the clients get the service. How do people get the legal advice they need? I'm a long-term opponent of competitive tendering and I'm glad to see it stalled and very much hope to see it dropped. But I've been to the US and looked at public defender schemes and I don't have a principled objection. The key factor seems to be expenditure. Where you get high expenditure, you seem to get high quality. You can deliver services in various ways. If you go for the market model it should be a full market. But you can go for different models; they work equally well. I'm not wedded to the present model. I've seen the public defender system and it works.

The duty solicitor scheme in the police station is crucial. If you are in the police station facing any kind of serious charge, you need a lawyer to give you advice. We also know, frankly, that the advice is cost-efficient. Every criminal practitioner will tell you that, despite the image of being red in tooth and claw and fighting every point, the truth is more often, in an appropriate case, that the solicitor convinces a recalcitrant client of the strength of the evidence against him.

Q: Justice is currently working with others towards a minimum provision of legal aid across

Europe so that, everywhere, there will be access to justice and a fair trial. While other countries may see standards going up, surely standardisation would see British standards dumbing down?

A: There is a common European standard – the European Convention on Human Rights as interpreted by the European Court of Justice. It is worth noting that the European Court has recently been getting tougher on the need for police station advice. In the context of the cuts that are coming, article 6 (the right to a fair trial) has been a restraint on government. Practitioners in this country should go to bed thanking the Council of Europe for the Convention which at least slows down cuts, particularly on the criminal side.

Q: Do you have any concerns about the European arrest warrant?

A: We've always been in favour, in principle, of the European arrest warrant, as easing the transfer of people from one country to another. The warrant is the subject of a lot of xenophobic flack. The British press is not always terribly exact in the way it writes up these stories. The notion that you can recognise warrants across Europe is right and will result in pressure to raise standards so that people get the same standard of representation and a fair result.

The model for extradition to the US was taken from the European model. The Nat West Three made a lot of fuss about being extradited to the US and then, when they got there, pleaded guilty and didn't receive draconian prison sentences. British lawyers should be careful about too easily criticising other jurisdictions.

One of the improvements which might be made to the warrant is that, where someone has allegedly taken actions which might constitute an offence which is committed both in this country and elsewhere, the decision of the UK prosecuting authorities could be given precedence.

Q: Justice has demanded jury trial for "all serious trials". The trial of Twomey, Blake, Hibberd and Cameron for armed robbery is going forward without a jury because of alleged jury-nobbling. What would you suggest in these circumstances?

A: I think this is really difficult because two principles come against each other. If there is significant evidence of jury nobbling, then it seems reasonable for the state to find a way round that. But it is the thin end of a wedge: the use of anonymous witnesses began on a very small scale and then, suddenly, we were all quite surprised about how widespread the practice had become. And that could happen with juries.

This particular case was reviewed by David Calvert Smith, who was himself Director of Public Prosecutions before he became a judge, and his view was that the jury could have been sequestered and protected at reasonable cost. I think his advice should have been followed and they should have had one more go at a jury trial.

Q: Is the Legal Services Commission a dead duck?

A: Probably. I see that New Zealand has announced that it is going to repeal its equivalent of the LSC, its Legal Services Agency, and deal with the need for independence of decision-making by creating a statutory independent officer. I think that this is what Sir Ian Magee will recommend. It's difficult to see that the LSC has any significant policy-making function and so you can get rid of its board.

As long as I've been watching legal services policy, since the mid-eighties, there's been a rivalry and a duplication between the various different bodies we have had – the Legal Aid Board, the LSC, the Lord Chancellor's Department, the Ministry of Justice, the Department of Constitutional Affairs – which has never been satisfactory. Legal aid administration is a mess, with the result that priority has been given to grandiose schemes such as compulsory competitive tendering.

You just have to look at the number of reviews of legal aid there have been since 1997 – a real indication that no one has got a grip on what is going on. What legal aid needs is a series of small, focused decisions, well worked out, keeping incrementally within budget. In Scotland, they have done a really good job of micro-managing it.

Q: How does Justice do its briefing and campaigning work?

A: We have a permanent staff of seven. Four of us are lawyers, doing a mixture of lobbying, research, a few third party interventions and training – we do CPD training for lawyers with Sweet & Maxwell. Our

mission is to advance human rights, access to justice and the rule of law. We do the work ourselves or we hire experts. For example, we've just done a project on the parole board written by a former member of the board.

Q: What is your personal history and what do you get out of the Justice job?

A: I qualified as a solicitor at Allen & Overy but that was not my type of law and so I moved very rapidly to work in law centres, also doing also some freelance advocacy in the London courts. In 1979, I moved to the Child Poverty Action Group, where I had six years doing judicial review work. I was director of the Legal Action Group for 12 years and spent three years at the Law Society as director of training before coming here in 2001.

I loved working at LAG. It was a positive time, when there was money coming into legal aid. I very much enjoyed travelling round the world and coming back with ideas which we might think of developing here. What I took from that experience is that lawyers are remarkably adaptable. They thrive in the most hostile territory. Even in the US, which has pretty minimal legal aid provision, there are some really good lawyers in public legal services. All round the world, there are seriously committed lawyers, often grumbling but delivering excellent service.

I like the job at Justice because I've always been interested in the link between politics and the law, in how law is made, how it can be changed and how you can defend the position of the poor. I'm interested in using legal processes.

Q: How would you sum up your view of the future?

A: I don't give up hope for legal aid. There is a battle ahead in preserving legal aid in this country and a battle in defending the Human Rights Act. If we can save a legal aid scheme and a human rights framework in the time that is coming, that will be an achievement.

Vulnerable Defendants

This article considers the treatment of vulnerable adult defendants, particularly those with learning disabilities, in the criminal courts.

Learning disabilities

The prevalence of learning disabilities among defendants is difficult to measure. A review of research on prevalence ("The prevalence and associated needs of offenders with learning difficulties and learning disabilities" by N Loucks, 2007) concluded that there is a "vast hidden problem of high

numbers of men, women and children with learning difficulties and learning disabilities trapped within the criminal justice system" and that between 20% and 30% of offenders "have learning difficulties or learning disabilities that interfere with their ability to cope within the criminal justice system".

Defendants with learning disabilities may face particular problems – in terms of their general welfare and, more fundamentally, the risk of wrongful conviction. Many studies strongly suggest that suspects and defendants with learning disabilities are "vulnerable" in the sense that, compared to their non-

disabled peers, they are, according to ICH Clare, (in "Psychological vulnerabilities" of adults with mild learning disabilities", 2003):

- (1) less likely to understand information about the caution and legal rights;
- (2) more likely to make decisions which would not protect their rights as suspects and defendants;
- (3) more likely to be acquiescent... [and] suggestible.

The vulnerability of a defendant with learning disabilities can be heightened during court proceedings, given the intrinsic stresses associated with court appearances and the potentially enormous impact of the court process on the life of the individual. Some of the problems are vividly illustrated by the following comments from prisoners with learning disabilities and learning difficulties about their experiences of court:

"I couldn't really hear. I couldn't understand, but I said yes, whatever, to anything because if I say I don't know, they look at me as if I'm thick. Sometimes they tell you two things at once."

"I always find it hard in court, because there's a crowd of people there and I find it hard. But I'm in my own box, so it's not that bad."

"It was weird. The court was big and there were lots of people, people could just walk in off the streets. I didn't know who they all were."

"It was scary because I just see this man and two women sitting on a great big bench and I was in a glass box and there were all these others looking. A man then came over and said he was my solicitor but he was different from the one the night before. I thought to myself: what is going on?"

(These quotations are taken from "Prisoners' Voices" by J Talbot, 2008.)

Participation

There is a general recognition in law that defendants must be able to participate effectively in the criminal proceedings of which they are a part. This is reflected in the right to a fair trial enshrined in article 6 of the European Convention of Human Rights, and the case law that supports it. The requirement for effective participation is reflected also in the criteria used to determine "fitness to plead" – namely, that the defendant can plead with understanding, follow proceedings, question the evidence, and instruct counsel.

The principle of effective participation has clear implications for vulnerable adult defendants, including those with learning disabilities. One implication is that criminal prosecution may be deemed inappropriate for such a defendant. Government policy has long been that the diversion of "mentally disordered" offenders into health or social care services should be considered as an alternative to prosecution and punishment by the criminal justice system.

However, many vulnerable adult defendants have the potential to participate effectively in criminal proceedings, provided they are given the necessary support. The criminal courts can take certain practical steps to assist defendants' participation. For example, in some circumstances a "vulnerable accused" can give evidence to the court by a live television link, and courts can adopt various measures to make the court environment less intimidating. If the defendant is subsequently convicted, the court has options for addressing the defendant's needs through the type of (criminal justice or non-criminal justice) disposal it selects.

Provision and gaps in provision

Under the Disability Discrimination Act 1995 (as amended by the 2005 DDA), the courts have a duty to eliminate discrimination on the basis of disability and to promote equality. It follows from this that, by law, defendants with learning disabilities should be provided with the assistance and facilities they require to participate fully in court proceedings.

More broadly, the DDA supports the principle of inclusion with respect to people with disabilities, whereby individuals with disabilities of any kind are understood to have the same duties and obligations as their fellow citizens who do not have disabilities. The inclusion agenda thus fosters the presumption that, unless their capacity to participate effectively in court is severely limited, defendants with learning disabilities should be subject to the same range of disposal options as their non-disabled peers.

Notwithstanding the existing systems of support and policy safeguards for vulnerable adult defendants, there are notable gaps in provision. Particular areas of concern include local agencies' lack of capacity for screening and assessing defendants' needs; this reflects, in part, the wider problem of courts' limited access to local liaison and diversion schemes which can undertake assessments and refer defendants to treatment and support services.

Another concern is that vulnerable defendants do not have the same statutory rights as vulnerable witnesses to assistance and support during court proceedings. Additionally, in both policy and practice, the needs of defendants with mental health problems tend to be prioritised over the needs of those with learning disabilities.

To read the full report "Vulnerable defendants in the criminal courts: a review of provision for adults and children" see [www.prisonreformtrust.org.uk / uploads/ documents/ courtreport.pdf](http://www.prisonreformtrust.org.uk/uploads/documents/courtreport.pdf).

– Jessica Jacobson with Jenny Talbot

Legal Aid Funding and Access

A meeting of the Westminster Legal Policy Forum, 9 February 2010

In three hours and 20 minutes, a spectrum of speakers presented a kaleidoscope of views and opinions and the usual suspects engaged in trench warfare – only we are armed with darts and they have customised tanks called “No more money”, “Savings must be made” and “Even more ambitious proposals”.

Our former president, Colin Reynolds, made a passionate plea for no more cuts and to be left alone, whilst Roy Morgan of the Legal Aid Practitioners’ Group used his five minutes to talk about the importance of police station advice and the case of the Cardiff Three. The importance of face-to-face advice was highlighted by Professor Lee Bridges who spoke about two myths: that there would be no more miscarriages of justice and that criminal legal aid has had any an impact on the civil budget.

Baroness Ruth Deech pointed out that £250m spent on the Vetting and Barring Authority had little cost benefit, as it was unlikely to protect children, and Des Hudson offered a critique of the reform programme which might be summed up by that chant aimed at

referees, “You don’t know what you’re doing”, highlighting the waste of the last several years.

Although the supplier base has shrunk since 2004/5, the additional expenditure of the LSC in the last five years has been about £100m. Why? There was no answer in the compass of the tedious speech of LSC chief executive, Carolyn Regan.

Lord Bach, a minister in the Ministry of Justice, wound up proceedings by promising an even more ambitious reform programme to be announced in the next few weeks. The heavy hint was that this would involve large minimum contract sizes coupled to competitive tendering. While explaining that he was committed to ending the “poor relation” status of social welfare law, he failed to deal with directly relevant questions concerning the new civil contract tender, which involves the reduction in supply of new matter starts in many parts of the country for welfare benefits and housing.

One can only conclude that the tanks of “reform” are lined up along the border with their engines running.

– Greg Powell
Powell Spencer & Partners

Book Reviews

Inside Information

Published by Inside Time, £25

Following on the heels of the excellent Prison Law by Margaret Obi, comes this thick book. In many ways, it complements Margaret’s book – it is filled with useful information about all prison establishments, contact points, telephone numbers etc. Details of the nearest train or public transport would have been most helpful.

However, the book does contain important details of courses offered to inmates and the nature of education and training – something which may assist lawyers advising inmates who are seeking transfers to progress through “the system”. The second section deals with help and support and lists relevant organisations. This can be most helpful if a lawyer needs specialised assistance.

The balance of the book, other than sections listing counsels’ chambers and “useful addresses”, consists of a number of legal fact sheets and references to prison law and rules. The fact sheets are written by a number of solicitors and are designed to be as helpful as possible; the style is easy to follow and would assist any inexperienced or aspiring prison lawyer to find information.

As with Margaret Obi’s book, any reader must remember that there is no substitute for the need to look at the source material – statutes, statutory instruments and published prison rules. On top of that, there are the ever-increasing law reports as the higher courts struggle with increased litigation in the face of such issues as IPP (imprisonment for public protection) prisoners being unable to undertake, let alone complete, courses prior to release on parole/licence.

This book will be an invaluable addition to any library of solicitors dealing with prison law issues (assuming that they can obtain a new contract from the LSC). In my opinion, no law library of a firm or set of chambers dealing with prison law should be without this book and the book written by Margaret Obi. Add access to law reports and statutes and you have the complete set!

Inside Time has done the legal profession, inmates and their families a good service and a lot of credit must be given to John Roberts and Paul Sullivan for putting this all together in such a user-friendly fashion.

– Julian Young
Julian Young & Co

Sentencing Handbook

by Anthony Edwards and Joanne Savage
Published by the Law Society £59.95

As can be expected from a book co-authored by Anthony Edwards, this manual is well written and clear in its objective of providing a practical guide to sentencing in criminal proceedings.

The book helpfully consolidates available sentencing powers and overriding sentencing considerations into a single volume. It therefore has chapters dealing with available sentences for a broad range of offenders, from youths, through to offenders facing mental health disposals, and even football hooligans. It sets out the minimum sentences for certain offences, as well as dealing extensively with dangerous offenders and confiscation proceedings.

The book also contains the relevant cases and statutes in each category. There are no fewer than 18 appendices, the most useful of which is the reproduction in full of the Magistrates' Courts Sentencing Guidelines, but I also found, for instance, the list of specified offences for dangerous offenders extremely helpful, as it can never be easily located in Archbold. These appendices are reproduced on a CD Rom disc supplied with the book.

In all, this is a very helpful guide. None of the information contained could not be found in Archbold or Blackstones, but it is, of course, more portable, and more easily accessed, if you are embarking on a purely sentencing based process, either at magistrates' court level or beyond. You may need, however, to supplement it with Current Sentencing Practice if you are seeking cases to support a particular point. You would also need to ensure that you have with you the relevant Sentencing Guidelines if you were acting as an advocate in the higher courts. This omission is strange given that both authors have advised on the Sentencing Guidelines Council. A further appendix reproducing those tables would have easily remedied that defect. That said, in all, an extremely helpful, but non-essential guide.

– Daniel Kersh
Shaw Graham Kersh

Making Legal Aid Pay – A Handbook for Legal Aid Practitioners

by Vicky Ling and Simon Pugh,
Published by LAG

Making Legal Aid Pay provides the reader with a very concise summary of the current regime for

those providing publicly funded advice and representation, managing the work and getting paid.

The main body of the volume is just short of 270 pages and the chapters are divided between criminal and civil legal aid. It is certainly not an alternative to the voluminous contracts and accompanying documents, with which most practitioners will be familiar, but it does provide a quick reference resource.

The book is divided into two sections: Part A – Doing Legal Aid Work and Part B – Managing Legal Aid Work. Part A is then separated into 11 chapters. It is only at chapter 9 that the guide becomes of interest to criminal practitioners; the heading is Conducting a Criminal Case. The chapter sets out, in a neatly ordered and practical manner, the processes for carrying out publicly funded criminal work, with concise summaries of the requirements for representation at a police station, the provision of advice and assistance, court duty solicitors and work under a representation order.

Practitioners are often confused as to how to cover certain categories of work, eg appeals against ASBOs and football banning orders in the Crown Court and certain types of disbursement; this guide is helpful in that respect. Whilst most are generally aware of the material set out within this chapter, we don't expect all our staff to have thumbed the general criminal contract. If this chapter could be pulled out as a separate volume and distributed, it would have widespread use amongst practices seeking to ensure that junior and newly qualified staff have more than a piecemeal understanding as to how legal aid works.

Chapter 10, on getting paid for criminal legal aid work, covers basic principles – of which most lawyers in practice are already aware. But the final chapter, about managing legal aid work, which sets out the arrangements and requirements for running a contract and for performance monitoring, is a helpful guide through peer review and what is needed to gain the specialist quality mark.

With the ever-changing announcements from the LSC, it is difficult for the authors to be entirely up to date and, unfortunately, the checklist on applying for legal aid does not address the new regime for Crown Court means testing and the chapter on the future of legal aid will be outdated once our fate has been determined.

This book is not a substitute for the LSC contract guidance, though it may provide a précis of it. But, as the blurb on the back suggests, it is essential reading for law centres, CABs, charities, legal cashiers and accountants.

– Jonathan Black
BSB Solicitors

Criminal Procedure Rules A Guide to the Key Changes

by Andrew Keogh

Published by the Law Society

The Criminal Procedure Rules 2005 provide criminal law practitioners and the judiciary with the framework within which criminal litigation is to be conducted. Lord Justice Auld's stinging criticism in 2001 of a system of rules and varying procedures, which were so convoluted and inefficient that they could be regarded as an impediment to the accessibility of the law, resulted in the consolidation of the various rules into one easy-to-access codified form.

Since coming into force, the Rules have now been amended eight times, with the most recent amendments coming into force on 5 October 2009. The second edition of Andrew Keogh's book only incorporates six amendments, including those which came into force in October 2008.

Andrew Keogh provides an interesting and useful commentary on the development of these Rules, referring to case law and the views of leading academics such as Ed Cape. In his usual forthright manner, the author highlights the possible

unintended consequences of the attempts to set such rules in an adversarial system. He raises concerns about the lack of resistance to the manner in which these rules are being interpreted and which impact on the ability of defence advocates to act fearlessly for their clients and in their clients' best interests. He suggests that this provides an ethical dilemma which needs to be debated and taken seriously by those who regulate our profession.

The book sets out the Rules clearly and includes additional rules and protocols for other aspects of criminal litigation. It also sets out the Law Society practice note on the impact of the Rules on a solicitor's duty to the client. Having all this material in one book will be of use to practitioners.

Given that there are 78 parts to the Rules, I was somewhat surprised that the contents page did not break down the Rules into their individual parts or provide a separate index for them. This would have made the book more user-friendly and easier for the practitioner to search through to find the part relevant to their situation or argument. Other than this one criticism, I found the guide to be an invaluable tool in an advocate's armoury.

*– Akhtar Ahmad
ABV Solicitors*

Obituary

Graham Parkinson CBE (1937-2010)

It was as a newly qualified solicitor that I was interviewed in 1977 at the Ealing office of Darlington and Parkinson by Graham Parkinson. The interview was short, his hiring decision was quick, and I stayed for 22 years.

Always referred to by his loyal staff as "Sir" and subsequently as "The Chief", when he was appointed the chief metropolitan stipendiary magistrate in 1997, Graham was a man with strong views but endlessly courteous, patient and just – he encapsulated everyone's idea of a "very parfit" gentleman.

Graham's hectic work schedule combined the pre-duty solicitor diet of murder, rape, assault and fraud with a general practitioner's wide caseload. He dictated all letters and briefs direct to his secretary, who had the then required shorthand and typing skills, and he always demonstrated a meticulous eye for detail – on which he built the reputation of the firm. He had a strong work ethic and when, as a young solicitor, I mentioned to him that we had been invited to play golf during the

working day by a local businessman, the suggestion met with withering disapproval.

Graham had many passions aside from law. He was an accomplished piano player, he loved opera, and I remember him telling me once that he had given serious thought to training as an opera singer before he qualified as a solicitor. He introduced me to opera through visits to hear the work of his cousin, Richard Armstrong, then a conductor with the Welsh National Opera. His love of music was shared by his devoted wife Dinah. He was immensely proud of his two children, Nicholas and Georgina, and his four grandchildren.

It was a shock to all his colleagues and friends when a severe stroke cut short his time as chief magistrate only two years after his appointment and his last few years in particular were marked by escalating ill health. The lawyers and staff who trained and worked at Darlington and Parkinson, his judicial colleagues and many friends will remember him with great affection.

*– Kenneth Grant
District Judge*

Your Face or Mine?

A technological breakthrough for the judiciary

The advent of Facebook now brings a welcome respite to a DJ with a boring list. Seemingly engaged in in-court research, one can chat online with the colleague next door.

11.00 am

SolonTheLawGiver: How r u? I'm barely half alive. My remand list is like walking with chewing gum stuck to both shoes. How's the trial?

JudgeJeffries: Rather spend the morning stuffing live ferrets down my trousers. Cut-throat two-handed blade. Both saying, "I use it for peeling fruit and besides it was his anyway." Contest between a Son of the Gentry and an angry Mel Krudy... She's given him a black eye and the CPS haven't finished opening it yet.

STLG: Gonna acquit?

JJ: You kidding? Fruit? they haven't seen a vitamin in their lives – probably both weaned on Fanta. How's "Spot the Cliché" going?

STLG: So far, I've had one "crossroads of his life" and a couple of "family standing by him"s. Can't compare with your "Sword of Damocles" last week.

JJ: Solicitor advocates – no classical education, that's the trouble.

11.23 am

STLG: What's a cross-eyed prehistoric fish – 10 letters?

JJ: – Pass. Lead guitarist of Slayer – 5+4?

12.03 am

STLG: Dull or what! Test match postponed and my credit card bounces on eBay. Just given Bramwell, the ASBO merchant, four months.

JJ: Discount for plea?

STLG: Yeah, but I had to add a month for lack of personal hygiene.

JJ: How is the "horrible tie" competition going?

STLG: Reid's ahead as usual. Today's one is more lurid than a loiterer's knickers.

JJ: May have one better. Son of the Gentry is wearing one that squawks even more than he does. Looks like chimp vomit. I'll rise for a minute. Get a "Reserved to you personally" listed

in here and you'll see what I mean.

12.17 pm

STLG: Brilliant, you're right. Reid's going to have to spend a bit more money in the transfer window. Usual £5 in the Oxfam box?

JJ: Nah, let's blow it on the horses like last week. Betfred cover Kempton Park. I'll give you my password.

STLG: What if the DCA catch on to this?

JJ: Relax. The Under Secretary's a poker partner. We trashed San Antonio's district court 6 online last week. Mind you, I think their concentration was broken by some court-room riot. Speaking of which, there's claret on the carpet, Son of The Gentry's in real trouble; looks like Mel's got his artery. She's foaming the words "affront to justice". Seems upset. Back in a minute.

12.23 pm

JJ: Thanks Mel! Got out of it! We agreed I couldn't continue after Son of the Gentry revealed her client's convictions.

STLG: But you sentenced him last week! We all laughed in the retiring room when you gave him a bender! I nearly choked on the custard cream!

JJ: Want help with that remand list or not? Send some of it over; otherwise I'll get stuck with that crack house closure from court 4.

"Court Rise!"

– Bruce Reid



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