

THE LONDON ADVOCATE

The newsletter of the London Criminal Courts Solicitors' Association

NUMBER 85

NOVEMBER 2017

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Annual General Meeting 13 November 2017:

The Annual General Meeting took place on 13 November 2017 at the Crypt in Ely Place, Farringdon.

Following some formalities to approve the minutes of the last AGM and make some minor amendments to the Constitution, former president and departing committee member Greg Foxsmith delivered the accounts which were very healthy partly due to a growth in membership which is fantastic for the organisation and furthering the aims of its members; he went slightly off script with a very amusing countdown of the highlights (lowlights?) of the legal aid year.

Training officer Diana Payne outlined the many successful training events that the LCCSA has hosted in this past year and gave our utmost thanks to Hodge Jones Allen for providing space in their bar for these lectures. Many more interesting training events are being planned for 2018 and details of each will appear here. Suggestions and volunteers for training are also invited and if there is something you would like to suggest or could deliver training to other members on please email diana.payne@blackfords.com

Greg Powell delivered his outgoing President's report and, having graciously agreed to stay in the post for another year, his incoming President's report! The main areas we need to focus on next year will be pressing for the widest definition of what counts towards the '14 hours' to ensure that experienced and highly qualified duty solicitors do not fall prey to the Ghostbusters at the LAA; whether there is any actual need for a cap on PPE given the fact that the statistics do not appear to support this; we will lobby the MOJ regarding the inevitable rise in electronic evidence and the need for an increased budget to reflect this and the worrying tone emerging in recent Government policy fueling racism and discrimination.

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Annual General Meeting 13 November 2017:

The AGM was followed by a sell-out three course dinner to which we were delighted to welcome our friends from Farringdon and Garden Court Chambers along with Stuart Wild from Save UK Justice and sponsors and supporters of the event, Bloomsbury Press.

The inimitable Michael Turner QC from Garden Court Chambers then delivered the after dinner speech, he stressed the importance that we must all work together to ensure a better future for the profession, for the criminal justice system and for those who find themselves caught up in it. Only a united approach can ensure this and we must not let the Government continue with their agenda to divide and rule.



Jon Black receiving his honorary life membership of the LCCSA from Paul Harris



Greg Foxsmith delivering the LCCSA accounts



Greg Powell delivering his President's Report

Speeches, training report and treasurers report can all be found here:

<https://www.lccsa.org.uk/agm-2017-report/>

Next Committee Meeting:

The next meeting will take place at 6.30m on Monday 11 December 2017 at the offices of Kingsley Napley, 14 St John's Lane, EC1M 4AJ.

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Changes on the Committee



There have been lots of changes on the LCCSA committee following the AGM on 13 November.

To mark his lengthy involvement with the LCCSA, Jon Black was made an honorary life member.

Sandra Paul and Rhona Friedman have become co-opted members.

Leaving the committee after many years of service are Jenny Wiltshire, Lucinda Nicholls, Pamela Reddy, Samira Noor Khan, Paul Harris and Greg Foxsmith. They will be ably replaced by a number of new members details of whom are below. We extend the warmest of welcomes to all the new members and look forward to lots of productive meetings in 2018.



Rose Commander
-GT Stewart Solicitors



Claire Anderson
-ABV Solicitors



Ed Jones
-Hodge Jones Allen



Matthew Hardcastle
-Kingsley Napley



Rumit Shah



Theresa Hendrickx



Hesham Puri
-MK Law

Although the opportunity to join the committee has now passed for 2018, all LCCSA members are welcome at the monthly committee meetings. They are generally held on the first Monday of every month at 6.30pm at the offices of Kingsley Napley. Details of the upcoming meetings will be published in the Advocate each month. If any member would like to attend please let the secretary Mark Troman know by email to MarkTroman@psplaw.co.uk.

Finally, committee meetings wouldn't be possible without the continued support of Kingsley Napley who generously provide a meeting room each month and we would like to thank them very much for this.

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Legal

Update

S162 Policing and Crime Act 2017

- Laura Porteous

The what now you might be asking, but if you've appeared at all in Court since the 13th of November, you may have noticed defendants being asked, along with their name and date of birth, for their nationality (and in the case of a particularly strident legal advisor at Westminster and my very English sounding client, whether he had dual nationality—presumably due to his Irish surname). This is as a result of the implementation of s162 of the Policing and Crime Act 2017 which has inserted a new s86A into the Courts Act 2003 making it a criminal offence punishable by either a fine or up to 51 weeks in prison for providing false or incomplete information or failing to provide information without a reasonable excuse.

Human Rights and Civil Liberties organisations including Liberty and Transform Justice have accused the government of fueling racial bias and discrimination, bringing border controls into the Court room and potentially damaging defendants' trust in the impartiality of the Criminal Justice System and LCCSA President Greg Powell has been tweeting on this very topic:



Greg Powell
@gregpowellpsp

Following

Post Lammy how unbelievable that from Monday all defendants in mags courts will be asked their nationality & refusal to answer is a crime .

3:12 AM - 10 Nov 2017

36 Retweets 20 Likes



6

36

20



The amendment has certainly come in through the back door, not being part of the original bill which was debated by MPs, the reasons for this are unclear however.

Whether it is part of the Government's much publicised crackdown on foreign nationals who commit offences isn't clear—the police record nationality on arrest in any event and liaise with UKBA on these matters so if that is the rationale it seems like a sledgehammer to crack a nut. Furthermore, the period March 2016—March 2017 saw nearly 5000 EU citizens deported, a tripling since 2010 .

One possibility being mooted is that it has been introduced as a means to deal with the so-called Freemen on the Land who pop up every now and then in claiming not to be governed by statute law and sermonizing about 'contracts and legal fictions'. However, sledgehammer and nut again come to mind given the number of people seeking to rely on this who've been jailed for contempt.

Whatever the reasoning behind it, it is certainly being implemented in the Courts and we would be well-advised to inform our clients that they can be asked to provide this information at any stage during their case and of the penalties for failing to provide it.

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14 hours Survey Results

— Mark Troman

Prior to the commencement of the new Crime Contract in April of this year the LCCSA had

argued that the LAA should not implement a requirement that duty solicitors complete 14 hours of contract work per week to remain on the rotas, there being far simpler ways to address the issue of 'ghosts'.

Once the new regime had begun members complained to us that experienced and dedicated solicitors were being forced from the rotas, despite carrying out legal aid representation in criminal matters on a weekly basis.

On behalf of the association I therefore initiated a survey of our membership to find out how extensive the problem was and what issues were arising. We received 145 responses to the survey. Nearly 67% of respondents either had experienced problems supplying evidence to a contract manager or anticipated problems arising. The range of problems arising was broad and included (beginning with the most popular) the impact on part-time workers, that Contract Work was too narrowly defined, uncertainty over the definition of Contract Work, insufficient volume, other responsibilities outside of work (such as caring for children), being unable to record Crown Court advocacy, relying more on private funding over legal aid and working in different branches of a firm.

Eleven respondents reported having either been sanctioned for non-compliance or being aware of colleagues who had. Two respondents stated they had taken pre-emptive action to withdraw several solicitors from the rota. One person revealed they had been issued warnings for minor reporting errors, another had been suspended for 6 months and a third was given one month to comply following audit. When asked if their contract manager had interpreted the rule unfairly, answers in the affirmative included: failing to give any clear interpretation, not making allowances when on annual leave, equating Contract Work with chargeable time (so excluding additional phone calls to suspects in police detention or reporting to their family) and not making allowances for illness or pregnancy. When one respondent spoke to their contract manager the latter boasted about rescinding the contract of another local firm.

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The survey asked what amendments should be made to the interpretation of the rule. Again in descending order of popularity answers included: allowing Crown Court advocacy, allowing non-chargeable time (of various descriptions), including time spent on private instructions, allowing part-timer workers to apply a pro-rata reduction to the requisite figure, a lowering of the number of hours and finally to allow work at different branches of a firm. Though not an answer to the question, nearly 35% replied it should be abolished and / or revert to the old rules. 10% simply wanted the LAA to issue guidance.

From those replies it is clear that members risk losing their place on the duty schemes even though they regularly work on criminal cases and provide those services to legally aided clients. We were concerned the rule was operating unfairly and potentially unlawfully and so the survey asked questions to identify the type of person responding.

There was a broadly equal split between those describing themselves as partners/ managers, employees or self-employed. Just under 56% of respondents had caring responsibilities, whether towards children or adults. 40% described themselves as female, 54% male and 6% preferred not to say. Nearly 8% described themselves as having a disability with around 6% preferring not to say.

Beyond the statistics it is the detail of the replies which reveals the extent of the unfairness. One member's position is threatened because they can only work part-time in the evenings when they are able to find a carer for their disabled child. Another member was forced to start working part-time on medical advice and though regularly providing Contract Work is unlikely to meet the minimum number of hours. Some parents of school-age children did not know if the leave they must take in the summer holidays will exclude them from the scheme. One parent and freelancer had been asked to work for free to make up the hours.

This rule is a blunt instrument for removing ghosts from the rota, those being forced to leave were not the intended target of this measure. We hope the LAA will recognise that there is a risk of unlawful discrimination. Although the survey has now closed, please continue to let us know of issues you have been experiencing with the new requirements - the LCCSA is attending meetings with the LAA on your behalf and, since this survey was taken, has already won promises that the rule will be relaxed. We hope to continue this process and will inform members of all developments as they occur.

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ROUGH JUSTICE

- by Bruce Reid

Robbery, Larry?, Squirrel looked at the swollen features of his client, "That's a bit trad! That what I call a Pre PACE Pummelling! I am surprised Dicky Dormouse got away with that when he brought you in.

Larry Lizard - Not Dicky, the 'victim' did It! You see Squirrel, I have got a new scam, what with Brixton getting full of Yuppies the criminal fraternity has to adapt or die. No one wants crack anymore so I hit on a great idea

Squirrel Nutkin - "Go on...."

LL - OK, Listen, some Hooray Henry wants to impress his date with an edgy experience in Brixton. They are walking along Coldharbour Lane. When I jump out and grab her bag. Henry gives chase, gives me a couple of fake slaps and saves the day and her iPhone. A couple of "Brixton Riots In A Glass" later in the "Tupac Shakur" and she's back in his place, regretting her underwear. Works a treat, I got a black book with half Chelsea in it. One hedge fund manager snagged a baroness that way and invited me up for some deer stalking in Scotland last month. Said he was well impressed with my shotgun skills.

SN - "You didn't tell him how you got them I suppose?"

LL - "Nah - these people think everyone rides to hounds. Stalking is over-rated, a lot of sitting around on a moor waiting for a deer to get stupid. Having that shotgun was useful, mind; no-one noticed when I got bored and sloped off to do a couple of Post Offices. Got back in time for the hampers and champers."

SN - "So what went wrong?"

LL - "He didn't realise she was a pentathlete! Off I go with the bag down the road, but she sprints in front of him. I scramble over the fence but she bloody hurdles it. I dropped the bag hoping she would pick it up but she discus-shoots my legs from under me with it and then javelins me into the dustbin. If Dicky hadn't shown up, I was a goner."

SN - "Well it's an unusual Defence but we could run it although I don't suppose we'll get him to court."

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LL - "No way, I figure he reckons he was lucky, think what would have happened if he'd got her home and then suggested a little S & M - doesn't bear thinking about.....besides I'm not facing her in Court, I'd want screens!"

SN - ", Well.....Selina Stoat, stout feminist that she is, will be so tickled at the bruises, she'll drop it to theft and we could tart up a plea with a bit of humour and a girlfriend standing by.....

LL - " Let's use the pregnant one, baby-bump showing over the Public Gallery screen when she stands up- but don't tell the others; they'll only show up mob handed and fight.

However, at Court the following day:

"Speedy, swift summary justice was handed out.....he now knows what the victims of violence feel....." Squirrel was well into his speech when from the Public Gallery a chorus of momentarily united girlfriends bellowed "About time too!" before lapsing back into their customary violent internecine hand-baggery and had to be collectively ushered out

LL-"You did me proud Squirrel, I thought DJ Pussywillow was 50/50 for the suspended but only you could get him to give the victim a Domestic Violence Program!

As they leave court a deer wearing a sporran approaches.

-Larry Lizard? I am Ranald Roebuck from Ayrshire Constabulary, I would like a few words.....

