

THE LONDON ADVOCATE

The newsletter of the London Criminal Courts Solicitors' Association

NUMBER 86

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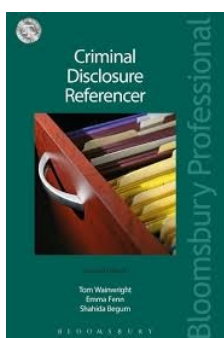
In this month's newsletter:



LCCSA Notices & News



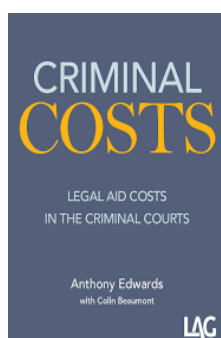
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LCCSA Notices and News

May we first of all wish a very Happy New Year to all our members!

Committee Meetings The first committee meeting of 2018 took place on 8 January 2018 at the offices of Kingsley Napley. A number of matters were discussed and we hope to have news of the new website amongst other things soon. As ever, all members are welcome to attend these meetings, the next one will be held on 12 February 2018 at 6.30pm and if any member wishes to attend please email Mark Troman, LCCSA secretary: marktroman@psplaw.co.uk

Summer Party The date for the Annual LCCSA Summer Party is Friday 6th July 2018 at the Rotunda, Kings Cross. Please ensure you keep the evening free!

October Conference Following the success of the 2017 LCCSA conference in Seville last October, LCCSA administrator Sara Boxer has been hard at work arranging another sojourn in sunny Spain for this year. Please put 5–7 October 2018 in your diary; more details will follow once confirmed.



Interview with Emily Dugan

Emily Dugan was kind enough to speak to the Advocate this month. Following 9 years with the Independent during which time she held roles including Social Affairs Editor and Chief

Reporter, she has recently moved to BuzzFeed as a Senior Reporter writing regularly on the subject of Access to Justice.

LCCSA: What made you want to be a journalist and how did you pursue this career path?

Embarrassingly I think I was about 7 when I first thought I'd like to be journalist. I was given a John Bull printing set and tried to make a newspaper. It's hard to think of a better job - you get paid to talk to people, tell their stories, find out new things and write about it. If you're lucky you get a chance to try and effect change too.

LCCSA: A lot of our membership already enjoy your articles on Legal Aid and Legal issues which appear on BuzzFeed but for those who are yet to be introduced can you tell us a little about BuzzFeed?

BuzzFeed started as an American viral entertainment site in 2006. Its news arm launched in 2012 and BuzzFeed News has quickly grown into a global operation, with an emphasis on breaking our own stories and investigative journalism. It now has around 300 news staffers around the world, with offices in 11 countries - as well as foreign correspondents elsewhere.

Reporters are given the rare freedom of time to pursue our own stories and break new ground. The series I've been working on about legal aid cuts and access to justice has its own homepage at :

<https://www.buzzfeed.com/accesstojustice>

LCCSA: Many of your recent articles have focussed on the Justice system and Civil Liberties issues, how did you become interested in this field?

Some of my earliest scoops as a junior reporter at The Independent were in human rights and I've always been interested in stories that give a voice to the underdog. The justice system became an obsession after Chris Grayling became justice secretary. A contact at the Howard League told me about the criminal courts charge, which perhaps because it was largely affecting people who had pleaded guilty to petty crimes, was going largely unscrutinised in the media. I brought in successive front

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pages on the people forced to plead guilty to avoid exorbitant charges; the rebellion of magistrates; and the laughable crimes (stealing a couple of 70p Drumstick lollies) hit with the flat £150 charge. Later that year the charge was one of several policies reversed by Grayling's successor, Michael Gove.

LCCSA: You wrote a book in 2015 about the challenges faced by immigrants in the UK, how do you think things have changed – either for better or worse - since then?

When I wrote Finding Home I thought Britain had reached its lowest ebb in terms of political and media rhetoric about immigration. Sadly I was wrong. Shortly before it was published, the 2015 general election was won by the Conservatives on the promise of an EU referendum, and discourse around immigration has continued to sour. The book follows the experience of 10 migrants and their families who all arrived in Britain within the last decade - and was an attempt to humanise a debate that had become about numbers and scapegoating, rather than people. Sadly there is little evidence that the quality of public discourse on the subject has improved.

LCCSA: This week we've seen the 6th Justice Secretary appointed in almost the same number of years, what do you think this says about our Government's view of this Department's portfolio?

I think governments of all parties have viewed the Ministry of Justice as a poor relation to, say, the Home Office or the Foreign Office. The revolving door of justice secretaries on one of the most complex briefs is quite scary when you think of the leadership needed to tackle the prison crisis and a crumbling courts system.

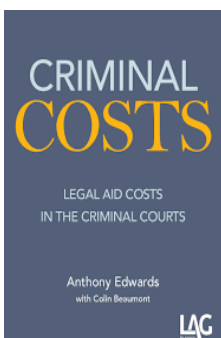
The fact that several recent ministers have had no legal background has also been seen by many lawyers as a sign of the disregard that the government holds the role in. Though experience is often less important than willingness to listen to the experts and make intelligent decisions.

LCCSA: Of all the stories you have researched and written about lately what have you found the most shocking?

The article which prompted me into pursuing the experience of unrepresented defendants is still one of the most shocking stories I've come across. It was a judgment published on Bailii with little ceremony that had gone unnoticed by journalists until a legal contact flagged it to me. A homeless woman who had begged for 50p was sentenced to six months in prison in a hearing where she had no lawyer. Even as he was handing down her sentence the judge said he was "disturbed and concerned" by the situation.

Emily's next article on Access to Justice will be about people being turned down for criminal legal aid so keep an eye on <https://www.buzzfeed.com/accesstojustice> for that.

If members have other suggestions for stories that may be of interest please email her on Emily.dugan@buzzfeed.com



Book Review—Criminal Costs: Legal Aid Costs in the Criminal Court

Anthony Edwards with Colin Beaumont

Publisher – LAG ISBN: 978 1 908407 74 0 £50.00

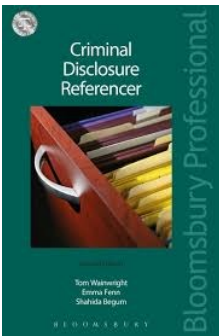
As stated in the book's blurb "The criminal legal aid scheme has become ever more complex and unclear. Criminal

lawyers have a mass of statutes, regulations, guidance and cost decisions to navigate alongside the standard contract amendments. Criminal Costs: legal aid costs in the criminal courts is a comprehensive guide to managing fees for police station, magistrates' and Crown Court work. Covering fixed and graduated fee schemes, it explains the principles that apply and identifies the relevant authority for making a claim."

This is the 4th edition of the text, the third edition 'Fixed Fees in the Criminal Courts: A survival guide' published in 2013 having become rapidly out of date due to the ever changing landscape of criminal fees. A summary is given at the beginning of the critical dates for changes in fees and the regulations from each year that changed them thus.

The main commentary encompasses costs, enhancements, police station fees, magistrates court fees, prison law, crown court work, VHCC cases and appeals. The book also helpfully touches on the relevant criminal proceedings that we sometimes find ourselves involved in and the thorny administrative issues that regularly crop up. All of this is supplemented with a wealth of appendices which include fee tables, experts' fees and rates, VHCC rates, classes of offences and court, police station and prison codes so that the busy practitioner has all the necessary information at their fingertips in a handy, accessible volume.

Having had it on my desk for the last few months I can agree with the publishers statement that it is "quick and easy to navigate and has answers to all the tricky questions in one place."



Book Review—Criminal Disclosure Referencer

Tom Wainwright, Emma Fenn and Shahida Begum

Publisher – Bloomsbury ISBN: 978 781784518790 £75.00

The timing of this book's publication couldn't be more serendipitous coming just three days after the collapse of the Liam Allen rape trial. As that case showed in sharp focus, disclosure is the most important part of trial preparation and can make every difference to a trial's outcome.

In the foreword to this, the second edition, Lord Justice Goldring QC refers to the drastic changes in the criminal justice landscape in recent years and the importance of a correct approach to disclosure in order to ensure a fair trial. He stresses the importance of understanding and using the tools which are at our disposal and the real benefit of this book is that it highlights these tools and the best way to utilise them at the reader's fingertips.

The text follows the disclosure process chronologically from the commencement of the investigation to the conclusion of the case drawing together all the relevant legislation, codes, guidelines, rules, protocols and case law in a comprehensive manner, thereby enabling the reader to see quickly and effectively the duties and obligations of the main participants.

The second edition is updated to take account of numerous developments in legislation including the Attorney General's Guidelines on Disclosure, the Judicial Protocol on the Disclosure of Unused Material in Criminal Cases, the Magistrates' Court Disclosure Review, the recent revisions to the Criminal Procedure and Investigations Act Codes of Practice as a result of the Magistrates' Court Disclosure Review Criminal Procedure Rules 2015 and the Criminal Procedure (Amendment) Rules 2016. Important recent developments in case law expounded upon include *R v Asiedu* where the Court of Appeal considered the safety of a conviction following a complaint of a lack of proper disclosure; *R v Salt and Boardman* which sets out the Courts approach to failures in disclosure by Prosecution; *R v R* in which the Court of Appeal provided guidance on disclosure where large quantities of electronic documents are involved and on rulings as to abuse of process where delay has been caused by disclosure and *R. (on the application of Nunn) v Chief Constable of Suffolk*, one of the most significant cases on the Crown's duty of disclosure post-conviction.

Anyone who finds themselves in possession of this book will surely find it invaluable to arm them adequately to ensure compliance with disclosure obligations and to uphold fairness and equality in criminal proceedings.

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Welcoming the new Justice Secretary

A very warm welcome to David Gauke, the 6th Lord Chancellor in less than 8 years. At least we suppose he was a solicitor before taking office but we will



have to wait and see what his appointment will mean to those of us at the coal face of legal aid work, a very different world from financial services in the City. On this, his first day in office following yet another cabinet reshuffle, we look at who's come through the revolving door at the Ministry of Justice, their misguided policies and what we might expect with this latest Government restructure.

May 2010 saw the appointment of Ken Clarke; one of his first announcements



was an end to short prison sentences as there was no evidence a person could be rehabilitated in less than 12 months. Despite prison numbers being at their highest level in years and the prison estate at the edge of a looming crisis, these proved to be empty words and so his next policy announcement was £350m of proposed cuts to Legal Aid despite his November 2010 statement that he "genuinely believe[d] access to justice is the hallmark of a

civilised society". Commentators at the time dismissed the plans as "penny wise but pound foolish", warning that the proposals would remove access to initial legal advice which could prevent matters spiralling out of control into costly court cases. With the rise in unrepresented defendants we've all seen since then, how portentous that warning has proved to be.

September 2012 saw Ken Clarke reshuffled to Minister without Portfolio and the introduction of everyone's favourite villain and the first ever non-lawyer Lord Chancellor, Chris Grayling. It's 4 years to the week since solicitors, barristers and an assortment of other people concerned by his proposed cuts to Legal Aid held a co-ordinated demonstration outside Westminster Magistrates' Court.



Grayling's original aim was to slash £220m a year from the Criminal Legal Aid spend by reducing fees by an initial 8.75% and removing client's choice of lawyer amongst other measures. An embarrassing U-turn on the latter aspect of those plans prompted optimism from some including Paul Harris, then president of the London Criminal Courts Solicitors Association, who said: "The retention of client choice demonstrates that the government have listened to the concerns of all (not just lawyers) about abolishing this basic right. We hope that they will continue to listen and withdraw the other elements of the proposals on legal aid that pose a threat to an equal and fair justice system."

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March 2014 saw another protest against cuts, this time at the Houses of Parliament where Mr Grayling himself was able to make an appearance.



Failing Grayling was shuffled off in May 2015 and along came Michael Gove to be our 4th Lord Chancellor in 5 years.



He swiftly advised us that our fees would be cut by a further 8.75% prompting outcry from all sides that such cuts to a system which had seen no increase in fees in over twenty years and two cuts already since 2010 would lead to such an undermining of the criminal justice system that it may no longer be able to deliver fair outcomes. Following 99 separate legal challenges against this policy Gove performed a U-turn of his own and scrapped the further cut in January 2016.

Liz Truss then tweeted this misplaced optimism on her first day as Michael Gove's replacement.



Getting stuck in seemed to mean bringing prisons to the point of collapse for Ms Truss and suggesting that barking dogs would deter the drones bringing contraband into them but at least she was too tied up with that crisis to tinker with the Legal Aid Budget. Of course by this point the annual spend on Legal Aid had fallen massively from its peak of £2.1bn in 2008 without any (further) interference from the Government.

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In June 2017 the 4th non-lawyer Justice Secretary in a row was appointed, this time David Liddington, who not only having consistently voted against LGBT rights since the 1990s, had also voted in favour of repealing the Human Rights

Act. In a statement on the day of his appointment he said "Democracy and Freedom are built on the rule of law, and are protected by a strong and independent judiciary. I look forward to taking my oath as Lord Chancellor, and to working with the Lord Chief Justice and his fellow judges in the months ahead, to ensure that justice is fairly administered and robustly defended." We suppose being appointed shortly before the Summer recess doesn't give one much opportunity to ensure the fair administration of justice but at least he took a stand on the sale of tiny mobile phones which so often get cheeked and brought into prisons.

Now it's January 2018 and the 6th Lord Chancellor of this Government has been announced. The consensus seems to be that this is a Government that cares little for the administration of justice and that the role of Lord Chancellor is just a stepping stone on the way to other government positions. Let's hope that Mr Gauke is allowed to remain in the job for long enough make good on The Lord Chancellor's oath which he will shortly be taking:

"I do swear that in the office of Lord High Chancellor of Great Britain I will respect the rule of law, defend the independence of the judiciary and discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible. So help me God."

All we at the Advocate can say is watch this space...

Want to suggest content or contribute an article? Please email laura.porteous@sgk-solicitors.co.uk