

THE LONDON ADVOCATE

The newsletter of the London Criminal Courts Solicitors' Association

NUMBER 87

MARCH 2018

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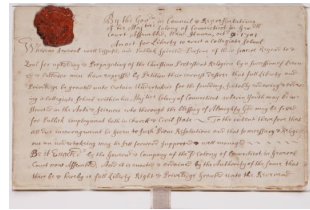
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Event 6-7 February 2018

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LCCSA Notices and News

Committee Meetings

All members are welcome to attend these meetings, the next one will be held on 12 March 2018 at 6.30pm. If any member would like to attend please email Mark Troman , LCCSA secretary:

marktroman@psplaw.co.uk

Documentary—'The Accused'

Brinkworth Productions are looking to reach out to any defence solicitors and firms who might be interested in taking part in the documentary about what it is like to be accused of a serious crime, "The Accused". Featuring the defendant, their family and their lawyers, "The Accused" focuses on the defence and the human experience of being accused of something the individual maintains that he/she did not do.

They would like to begin conversations with any other firms who, alongside Hodge Jones and Allen and GT Stewart solicitors, wish to help show the British public a side of our justice system that has long been overlooked- that of criminal defence.

If your firm is interested in finding out more about being involved please

contact Tash Gaunt directly by phone [0203 764 0590](tel:02037640590) or email

tash@brinkworthproductions.co.uk



The General Data Protection Regulations-

What you need to know

25 May 2018 will see the introduction of the European General Data Protection Regulation (GDPR) which will see a monumental change to the current rules. Simply put, due to the massive increase in the amount of digital information we now create, capture and store has magnified the old regime is no longer seen as fit for purpose. The EU's own website says this will harmonise the existing rules across Europe and give us all greater protection and rights to individuals but what does this mean for Criminal Law firms?

Criminal Law firms are already data controllers and as such, should already be compliant with the Data Protection Act 1998. The new GDPR will impose more stringent accountability and transparency obligations on the data controller in your firm however and so Law Society advice is to appoint a designated person to lead on GDPR compliance as well as ensuring that every staff member has an understanding of the GDPR, their obligations under it and their shared responsibility for compliance.

The Information Commissioner's Office has published a 12 step guide to prepare for the new rules kindly reproduced here:-

1

Awareness

You should make sure that decision makers and key people in your organisation are aware that the law is changing to the GDPR. They need to appreciate the impact this is likely to have.

2

Information you hold

You should document what personal data you hold, where it came from and who you share it with. You may need to organise an information audit.

3

Communicating privacy information

You should review your current privacy notices and put a plan in place for making any necessary changes in time for GDPR implementation.

4

Individuals' rights

You should check your procedures to ensure they cover all the rights individuals have, including how you would delete personal data or provide data electronically and in a commonly used format.

5

Subject access requests

You should update your procedures and plan how you will handle requests within the new timescales and provide any additional information.

6

Lawful basis for processing personal data

You should identify the lawful basis for your processing activity in the GDPR, document it and update your privacy notice to explain it.

7

Consent

You should review how you seek, record and manage consent and whether you need to make any changes. Refresh existing consents now if they don't meet the GDPR standard.

8

Children

You should start thinking now about whether you need to put systems in place to verify individuals' ages and to obtain parental or guardian consent for any data processing activity.

9

Data breaches

You should make sure you have the right procedures in place to detect, report and investigate a personal data breach.

10

Data Protection by Design and Data Protection Impact Assessments

You should familiarise yourself now with the ICO's code of practice on Privacy Impact Assessments as well as the latest guidance from the Article 29 Working Party, and work out how and when to implement them in your organisation.

11

Data Protection Officers

You should designate someone to take responsibility for data protection compliance and assess where this role will sit within your organisation's structure and governance arrangements. You should consider whether you are required to formally designate a Data Protection Officer.

12

International

If your organisation operates in more than one EU member state (ie you carry out cross-border processing), you should determine your lead data protection supervisory authority. Article 29 Working Party guidelines will help you do this.

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So, having followed the 12 steps are we any clearer on what this means for Criminal Law firms? The most important points to draw from it are that we need to know what data we hold about clients, where we got it from and who we are permitted to share it with. Time to update the office manual and ensure there are signed authorities on all relevant files?

Our clients are also awarded more rights by this—they can access any personal data we hold on them, be told what we are using it for in clear and easily understandable language and they also have a right to know to whom it has been disclosed. The GDPR introduces two significant changes to the subject access request regime—we cannot now charge a fee for this and must respond to any such requests within a month.

Most if not all of us deal with youths and so it may be necessary to obtain their parent or guardian's consent to handle their data in this way—the easiest way to do this should be simply by adding an addendum to any signed authority to obtain information about them to include the parent or guardians consent for this to be done also.

On the topic of consent—relying upon a client's signed consent form does not necessarily mean you can then use the data obtained for other purposes without renewed consent so this will need to be borne in mind as a case progresses.

The GDPR will make it mandatory to report personal data breaches to the Information Commissioner's Office only when it's likely to result in a 'risk to people's rights and freedoms'. Whether such a breach crosses that threshold will really depend on the context of the information and the case. If the threshold is deemed to have been crossed, the report must be made no later than 72 hours after having become aware of it.

The fines imposed by the Information Commissioner's Office increase tremendously under the GDPR (from £500,000 to €20,000,000 or around £17,000,000 at current exchange rates) but they are at pains to point out that any fines imposed will be proportionate and actually, are rarely levied—of 17,300 data breaches they investigated in 2016/2017 only 16 organisations were fined but of course everyone remembers the story last year of the unnamed barrister's husband who when updating the software on their home computer unwittingly uploaded the details of 250 clients onto an internet directory making them visible to Google and easily accessed through a simple search! Firms with good processes in place shouldn't have to do much to update them but further information is at hand from the Information Commissioner's Office:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

And the practice management section of the Law Society website:

<http://www.lawsociety.org.uk/support-services/practice-management/>



The Chemsex Phenomenon

Some of you will have had cases arising from the gay chemsex scene . The price and sadness of addiction to multiple illegal drugs is all too graphically described and apparent from the detailed explanation in this article .We publish the article to provide the framework and understanding that Solicitors need when dealing with people arrested from within this social group .

Darrell Jones is a Drug Expert Witness who continues to spend his time with specialist addiction doctors and psychologists, nurses, counsellors and men who have previously attended and hosted Chemsex parties to gain an understanding of what takes place within this environment.

Speaking to a number of different people associated with this phenomenon and asking "What is Chemsex?", the answers all come down to roughly the same thing - it's a term which has been coined to define chemically enhanced sex by men who have sex with men taking place within a subsection of the gay community. Society in general is becoming more aware of it for a variety of reasons: the arena is growing, social and mainstream media are reporting on recent murders within this environment as well as the use of PEP and PrEP, which I will mention later, and the fact that the number of negative incidents linked to this section of the gay community all catching the headlines.

Chemsex is seen by many who work within sexual health clinics and other similar services as a complicated sexual arena rather than a complicated drug related arena. Putting those views aside for a moment, this is still a very drug specific setting, the aptly named "un-holy trinity" of drugs, which have become notorious on the scene are Methamphetamine (Crystal, T, Tina, Meth), Mephedrone (M-cat, Meph, Drone) and Gamma-hydroxybutyrate / Gamma-butyrolactone (GHB/GBL, G, Gina) are used by nearly everyone who attends.

Methamphetamine is a strong central nervous system amphetamine-based stimulant. The initial rush creates a euphoric feeling which can last up to 30 minutes depending on the route of administration and the following sense of well-being can last 6 to 12 hours. During an event the people who I spoke with said that they would initially slam (inject) the first hit then continue smoking it while engaged in sex, the continued use maintaining the euphoric high and avoid the pain of the inevitable comedown.

The next consumable is GBL (often used and known as a date rape drug), a sedative/depressant which creates a similar feeling to being drunk but in control, along with an initial rush of euphoria and reduced inhibitions it is taken on the hour every hour as phones are synced to alert everyone when the next

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shot is due. Everyone looks out for each other with measurement of doses and effects to make sure no-one goes under. As a typical dose varies from 0.5ml to 1.5ml, two milliliters is enough to induce coma and there is a fine line between quantities which induce negative side effects ranging from coma to heart failure and death.

Last of the trio is Mephedrone, chemically similar to amphetamine, which is taken to offset the lethargic effect of GBL. The initial feeling is one of euphoria, extreme horniness and being sexually alert to what is going on around, being empathic to others and very confident. This cocktail of drugs all mixed together seriously reduces your inhibitions, boosts your self-worth and engages you with everyone in the room to the extent where you are having sex with total strangers, feeling the best you have ever felt and having the best sex you could imagine. A few days later, the come down kicks in and for a short space of time you consider your options, then it's back on the apps looking for the next hook up. What really convinces you to go again is that your drug dealer has just sent out another group text with a picture of a kitten smiling with the phrase "Thank F**K it's Friday get your special offers T,G,M, V's party packs available" .

Some men attend these events to overcome personal issues they may have, consuming drugs to overcome fears of rejection, sexual inadequacies, being ashamed about their body and to feel sexually released. Many gay men have struggled with growing up with a different sexual identity than what may have been expected of them, with the help of apps aimed at this community, men have been able to communicate instantly with people who have had the same feelings and desires to fit in and find friendship. I have seen that this can also come at a cost as they are introduced into a setting they may not have expected, or even liked but again the need to fit in, to be accepted wins over any negative judgement they may have of what is taking place.

The men who attend are from all walks of life and some tend to fit themselves into certain categories of which they are quite proud, for example Wolves: Late 30s to 40s, lean to semi muscular, usually hairy, often with facial hair. Otters: Late 20s to 30s, leaner, usually hairy, often with facial hair and Twinks: Late teens-early 20s, boyish features, thinner to slim build, and usually smooth skinned, to many other descriptive terms which men categorise themselves, and there's those who don't who are generally referred to as "others". Their financial status is anywhere from sofa surfers living off friends and family to men with high paid jobs and large disposable incomes to men in their 70's who pay for young male escorts/sex workers who are supplied free drugs to advertise on their profiles that a Chemsex party is on with the aim of attracting similar looking men for the older generation to get involved with when the free drugs kick in.

Men I have spoken with have said that Crystal Meth and Mephedrone impact the

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ability to obtain an erection and ejaculation, and at a sex party that is the last thing you would want. Viagra, Kamagra or similar erectile dysfunction medication are consumed in abundance, one telling me that he would often be more concerned about the rush of blood in certain parts of his body rather than the cocktail of drugs he was injecting, smoking and drinking as he would take one Viagra with every shot of GBL on the hour every hour. The open and frank discussion about how the drugs take over and extreme sexual disinhibition kicks in was quite distressing.

Any stigma, shame or intimacy issues were stripped away as the drugs took over and hours turned into days, the boundaries which had been set prior to drug use have long since disappeared, unprotected sex has taken place with multiple partners whose names are a blur or not even known, and extreme sexual practices which would never be have been considered under "normal" circumstances had now become standard practice. Injecting crystal meth (slamming) once viewed as a step too far towards addiction, and "only addicts inject" is now at the top of the list of things to do as soon as you arrive, then all of a sudden wondering what happened to the last five days.

Chemsex parties will often last for several days and these events can be easily found on any number of sexual networking sites and smartphone apps, for example Grindr, Scruff, BarebackRT and Gaydar to name but a few. The men I spoke with stated that they would never host a party at their own place if it also meant dealing drugs. This environment has created a niche market for drug dealers with numerous clients in one location for days on end who require serving up and I have been told that dealers too would take amphetamines to stay awake over long weekends to supply numerous clients at numerous venues.

Flying around London on mopeds to serve a very demanding market which will go on for several days, established dealers have their clients details stored in their handsets and as soon as an order is placed, the standard response is sent and the supply continues. The content of the message is often seen as a basic abbreviation for the common commodities, for example GMTV or TKMAX, very commonly used acronyms for GBL, Meph, Tina and Viagra or Tina, Ketamine and Meph the deal is set, the drugs are served and the party continues. It would not be uncommon for a dealer to return to the same venue several times over a number of days

I've been told how this "Party N Play" culture became a way of life, of being unable to have sex without "Chems" and numerous known and unknown partners, there was no off button until your body was physically unable to cope, which could be 3 or 4 days later. More often than not these parties were spontaneous and would often start with just 2 men, smart phones and apps, and before long there would be numerous men arriving with or without drugs soon followed by the men with the drugs...the dealers.

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When men started to arrange Chemsex events based on their HIV positive status it was seen by some as a good thing, somewhere they could go and have unprotected sex and indulge in whatever they wanted with whoever was there without prejudice. This however has taken a worrying turn with people attending such parties with the intention of getting infected.

In my previous employment I read text message evidence discussing a man who wanted to get "popped up", it was and is still hard to understand the concept, as no doubt it is for many people. There are many of reasons why men attend these parties to get intentionally infected with HIV—I have been told that for some it provides a sense of security within a certain clique while others see it as the ultimate self-harm or even sexual suicide. I was told that men would attend these events intent on carrying out specific sex acts that would or could increase the chance of contracting HIV. It became such a common thing that it wasn't long before terms were bestowed upon the people involved. The person looking to get infected is a "bug chaser" and the man, or more often than not men were called "gift givers". I was told that knowing you have it is better than worrying about catching it.

With the unlimited availability of men on apps willing to partake in a wide variety of sexual desires ^{24/7}, it's inevitable that the passing of sexually transmitted diseases would take place. It's believed 1 in 8 gay men in London are HIV positive and with endless Chemsex events this should be a cause for concern. David Stuart, Substance Abuse Lead at the sexual health clinic at 56 Dean Street, Soho explains that about 3,000 gay men attending the clinic each month are using GHB, crystal meth, and mephedrone and the clinic diagnoses between 20 and 30 gay men who are regular users of these drugs, with HIV each month. He also explains that the centre estimates that it also prevents between 200 and 300 gay men from contracting HIV via chemsex each month, by prescribing PEP (Post-Exposure Prophylaxis). PEP is a treatment available through sexual health clinics which can reduce the likelihood of HIV infection after potential exposure. PrEP (Pre-Exposure Prophylaxis) on the other hand is taken regularly and stops people becoming infected if exposed to HIV. At present it is available in Scotland and Wales on the NHS with a trial started in England in Sept/Oct 2017 making this product available in certain sexual health clinics. The cost of this medication on the NHS in 2016 was estimated to be between 10 and 20 million pounds a year. The use of PrEP and PEP is a game changer in prevention of HIV and with advancements in science hopefully HIV will become more easily managed in the future.

It is common knowledge that sex between men takes place within saunas and in the back rooms or dark rooms of a number of other venues throughout certain parts of London, Manchester and Brighton. Numerous other venues throughout the cities and suburbs of the UK also hold specific events which are openly advertised for a specific clientele. The "No Strings Attached" sex is seen by some as social interaction after a night out and safer than cruising.

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The use of CCTV and security at these venues is seen as another benefit, but that does not stop sexual assaults, rapes, overdose, drug supply and many other types of crime taking place. I was told non-consensual sex while someone was in a GBL induced coma is very common. The fact that a game called GBL Roulette features at these events would indicate that some hold a psychological attraction to being used while in a catatonic state.

GBL roulette is played by any number of players, a number of shots are poured and one glass contains enough GBL to put you into a "G sleep". All the glasses are mixed up so no-one knows which is which, they are consumed and the one who goes under is then used by anyone and everyone until they wake up.

With an increase in the number of these events, the rise in crime being reported having taken place within a Chemsex setting was inevitable. Murder, rape, blackmail, extortion, assaults, thefts and being injected against your will while tied up in a sling are a number of incidents that I know have taken place. The biggest issue men have in not wanting to report these incidents is the fact that the Police know very little about this environment and are concerned that if they explain the circumstances of the incident they feel they may be arrested, or are high at the time of reporting the crime and think that they will not be believed. Some high-profile cases for example the Stefano Brizzi and Stephen Port murders have subsequently shone a spotlight on this sexual arena and the Police are becoming more aware of the setting and attitudes appear to be changing.

Having spent a long time gaining an invaluable insight into this environment as a Drugs Expert Witness, I would suggest that any trial surrounding this drug trafficking arena would benefit from the services and opinions from an expert like myself. Please get in touch at www.drugsexpertwitness.com or email darrell.jones@drugsexpertwitness.com.

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LCCSA Launches CHARTER FOR JUSTICE

The Justice system is in crisis.

The recent disclosure scandals have only brought to public attention what we have all known for a long time about problems with timely and adequate disclosure of a prosecution case.

Open Justice is under threat, from an accelerated programme of digitalisation and court closures.

The part-privatised probation service is failing, and the prison service has past breaking point.

Underpinning this, and all the other issues within the criminal justice system, is the chronic underfunding of a legal system which has seen repeated systemic draconian cuts year on year.

Too often we- whether lawyers, campaigners or both- have been campaigning on a single issue rather than focusing on the bigger picture, or acting reactively to the latest catastrophe or cut rather than proactively setting out the case for the properly funded efficient Justice system that we all deserve.

The LCCSA are devising a CHARTER FOR JUSTICE which we hope will encapsulate in a short and simple way some key principles that we can all unite behind and campaign for. We have been engaging with the CBA and will be working with some leading prison reform campaigners. But most of all we want to hear from you, our members.

We are proud to announce the launch of the CHARTER FOR JUSTICE at the Law Society, at 6pm on 26th March. This free but ticket-only event will hear from key-note speakers, top lawyers and campaigners, and from you the members.

Please sign up now and be at the forefront of the fight for justice.

<https://www.lccsa.org.uk/events/lccsa-launch-of-charter-for-justice-on-26th-march-at-6pm-at-the-law-society-charter4justice/>

#Charter4Justice

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Petty France's Youth Inception Event 6-7 February 2018

- a commentary by Bruce Reid

On 25th Jan, Greg Foxsmith advertised for volunteers to attend this; the heroic Abigail Pavitt seems to have stepped up, if my past experience of similar projects is anything to go by then a George Cross is the least she should expect on her return.

I used to attend this sort of stuff when I was young, ambitious and thought that I could make a difference; a mood that lasted some 6 weeks. After the customary decades of disillusionment I saddled up again a few years ago to participate in the Virtual Courts "Consultation", and it all came flooding back. Greg Stewart and I made a series of suggestions that were eventually incorporated into the model. About 12 months later.

Before that, Dork after Dork from the MOJ suggested that you could have time-fixed - say 11.35 - virtual bail hearings for cases. Defendants could turn up at a police station to answer bail, and wait a few minutes and then depart. There was a surprisingly low take-up rate by my clients, in fact, not one of them ever successfully completed the process - this went on for months. The custody officers further scotched the idea by refusing to let Defendants in the station at all.....

I was told that the MOJ construction engineers had said it was impossible to provide soundproofing in the police station to ensure confidential instructions. In those days you could hear the fights from the custody suite throughout the "interview".

I replied that it took some battens, 3 inches of fibreglass rock wool and a layer of second-hand carpet - a couple of grand and a half-decent carpenter could do it. I offered to show them the room at home that housed my muffled drum kit. I came 33rd in my class for "Woodwork" so it couldn't be that hard.

Not that you could hear anything from the booth anyway. Lay Benches, Prosecutors and myself started each set of proceedings with a rousing chorus of "We can't hear you!" as the Defendant gamely mimed his plea; Charlie Chaplin style. One poor soul, frustrated at his words constantly being auto-tuned into a squawk, simply went "Dead Parrot" on us and drew his finger across his throat and collapsed, feigning death. We interpreted that as "Guilty", but the District Judge didn't jail him just in case it wasn't.

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At one point the solution of 2 tin cans was mooted, until the MOJ pointed out that the string to stretch from Camberwell to Brixton would have to be put out for a best value tender.

For 12 months the gibberingly insane had their paranoia multiplied by a Judge addressing them via a TV screen; the custody officer applying the age-old FME test that if the Defendant was not actually biting anyone at the moment, then they were fit to appear/be detained/plead/get sentenced etc. I got into the habit of letting this pass regardless; if I protested that my client had a right to access a mental health practitioner, he would have had to wait till the afternoon or tomorrow for SERCO to get him to Camberwell, whereas, if I could extract a plea to that rubbish S4 POA, then an eminently sensible Lay Bench would con dis him and we could all go home.

For months I harangued a series of flak-catchers, MOJ apologists and Lord Justice Goldring in the hope of progress. I remember the A4 of flannel I received from the latter, when, following a tip off from a mole, I ambushed His Lordship on his fact-finding visit to Camberwell to the dismay of his minders. God Forbid there might be any actual contact with a "stakeholder" - as I assume I was called.

Eventually with the system malfunctioning to the point of collapse, with both District Judges and Lay Benches open derisive of the whole sorry process, we had a visit from an Ex-Superintendent of Police sent to report to, I presume, Minister level. Watching aghast, he wondered aloud "Why is this so bad ?????". I took him aside and within 10 minutes of talking to a person with a brain rather than an ideology, communicated at last. Most of what the MOJ flunkies insisted were "teething troubles" that had, by now, become root-canal agony were fixed in a month. That we have the partially successful creaking VC system today is not a tribute to myself or Greg; the problems were pretty obvious to anyone, what it took was someone to see through the time-serving jobsworth-ery and bang heads together till logic prevailed.

Which brings me to Abigail's forthcoming award. I trust that she will have brought the following to the attention of the meeting.

1/ The Need for Interpreters.

As may be seen from the letter of introduction, whilst all the participants will be native English speakers, the conference will be conducted in a dialect that puts many of us at a disadvantage. If I had to endure the language any of those Virtual Court meetings again, I would rip my hearing aids off as a matter of self-preservation. "Inception" is defined as the "beginning of an organisation or activity". So the title of the workshop translates as "Youth Beginning of Organisation Event". If this sounds like the translation of a Chinese set of instructions for your mobile, then you are right - just be prepared for more of it.

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There is only one reason to use jargon like this: to deliberately frustrate the participation of those being 'consulted'. Obfuscate, and protest or counter-argument is muffled. You cannot successfully punch jelly. This will be the usual smokescreen/fig leaf for the MOJ- like every other 'consultation' they have embarked upon.

2/ The Safety of Youth Defendants.

This will include segregation. The complexity and ferocity of Youth gang politics is rivalled only by medieval Afghanistan. There is a need to separate those who are not from the same post-code/school/youth club from the hostile tribes that lurk at the bottom of their garden.

The provision of protective headgear and compulsory Kevlar should be mandatory and handed out on entrance to the Court waiting area. It won't stop the fighting but less damage will ensue. Each Defendant should be obliged to wear boxing gloves. This will have the virtue of protection and at the same time prevent the constant accessing of their mobiles during the taking of instructions, pronouncement of sentence etc.

Where there are Co-defendants their mothers should not be allowed to attend Court. Violence frequently follows.

3/ The Need for Education.

At present, Camberwell has daytime TV constantly on in the waiting room. I question whether the showing of Jeremy Kyle "Let's put a couple of relatives in a sack and watch them fight" television, reinforces pro-social attitudes. The same goes for those real estate programmes that feature "A Year in Provence" banalities. Knowing that they will never afford the plane fare to go and burgle rural France frustrates young people's rightful ambition.

Cook shows are slightly better, showing at least a potential career for the unqualified. By dint of sheer viewing repetition, I would imagine that most of my youth clients could manage a creditable cheese soufflé by now, although a series on deep-frying chemically enhanced chicken might ensure more rapt attention.

I suggest a more Reith-ian approach; whilst they are necessarily detained in that waiting room let them be educated as to the world beyond their 'ends'.

Lectures, for instance on the following subjects:

Mathematics - Kevin buys £100 worth of weed on credit and divides it into 15 bags. He gives one to Darren and sells the others for £10 each. He divides the money, putting three £10 notes in his wallet and the rest in a plastic bag in his underpants. The police stop him and confiscate the wallet under POCA. They miss the bag in his underpants. How much profit has Kevin made?"

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Domestic Science. The knife point robbery of Deliveroo drivers gains at best a free pizza and at worst 2 years. Learn home baking – (see Cook Show above)

Dating. The testimony of young women to the effect that romantic involvement is more likely to ensue if the young man concerned doesn't beat up the said young women for hesitating in the first place.

First Aid. Knife programs – show those harrowing A+E scenes now, it's a bit pointless after the punter has filleted someone.

Abigail, we await your report.....



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