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Archbold Review

Cases in Brief

Corporate criminal liability—trial of corporation in absence of controlling mind—fairness

ALSTOM NETWORK UK LTD [2019] EWCA Crim 1318; 23 July 2019

A was convicted of conspiracy to bribe in relation to large international contracts in a trial at which the two men, K and L, who were the controlling minds and wills upon which the prosecution relied to fix the corporation with liability through the identification principle were not present, and were not willing to assist the defence. A did not argue that no corporation could ever be tried in the absence of the relevant controlling mind, but rather that it was unfair to do so where, as here, the prosecution case rested on inferences from matters with which only K and L could deal, and their absences were involuntary (K's attendance could not be secured for jurisdictional reasons and L was absent as a result of prosecution case management decisions). To the extent that it was an abuse argument, it was different to the familiar authorities, none of which involved an absent Y's guilt comprising X's guilt. The court refused A's renewed application to appeal (but noting the issue was fully argued and appropriate for reporting). Despite the disavowal by A that its submissions would prevent any trial of a corporation in the absence of the controlling mind(s), if its submission were well-founded, it would have wide and untoward ramifications that the court was unprepared to accept as a matter of principle and policy:

(1) In reality, if the submission were accepted, a trial could take place absent the controlling mind in only very narrow circumstances, and any rule of law to that effect would be inimical to sound policy and "considerations of practical justice" (cf *Jones* [2002] UKHL 5; [2003] 1 AC 1, [12] per Lord Bingham).

(2) That not all alleged conspirators were before the court had never been a reason for the trial of those that were not proceeding, and there was no justification for a different rule for alleged corporate conspirators.

(3) Such a rule would give rise to perverse incentives for the absence of controlling minds, creating satellite issues and adding complexity.

(4) The presence of a controlling mind would not of itself and generally resolve A's difficulties. The controlling mind would not have had to give evidence. Conversely, if he did, it could not be assumed that he would emerge unscathed from cross examination and that the evidence would have assisted A.

(5) The court adopted the obiter observations in *R v A* [2016] EWCA Crim 1469; [2017] 1 Cr.App.R. 1 (the Crown's successful appeal against an evidential ruling at A's trial) at [36]. The only modification to that statement was that, insofar as the court said that the "…presence or otherwise of a controlling mind at the trial is *irrelevant*" (emphasis added), the court went too far. The presence or absence of a controlling mind may well be *relevant*; but, without being at all prescriptive, it could only be in a very rare case that the absence of a controlling mind would itself be determinative of the question whether a corporate defendant could receive a fair trial.

(6) The court rejected further submissions that the conduct of the trial and the summing up had not been fair.

Dangerous dogs—contingent dog destruction order—enforcement where non-compliance with condition

CHIEF CONSTABLE OF MERSEYSIDE POLICE v DOYLE [2019] EWHC 2180 (Admin); 11 July 2019

Contrary to the decision of the district judge, it was possible for a contingent dog destruction order made under the Dangerous Dogs Act 1991 s.4A(4) to be enforced by an order of the magistrates' court, where there had been non-compliance with a condition imposed by the order. The making of an order under s.4A(4) was conditional on a per-

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son being convicted of an offence under s.3(1) of the Act, but the order was not part of the penalty for the offence. It was a measure imposed for the safety of the public. The Act did not provide a specified procedural route to enforcement. It was, however, evident that the Parliamentary intention was that, should there be non-compliance with the condition, an order could be made to destroy the dog. By s.4(4) (applicable to a contingent order by s.4A(6)), the court may make an order to appoint a person to undertake the destruction, for the delivery up of the dog, and for expenses to be paid. While such an order could be made at the same time as the contingent order, it may be advantageous for it to be made subsequently, on a finding by the magistrates' court that the condition had not been complied with. The words "where a court makes an order" in s.4(4) did not require orders in s.4(a) and (b) to necessarily be made at the same time as the making of the contingent order. The matter could, procedurally, be brought before the court by the making of a complaint under s.4A(4) alleging non-compliance. But even if that were wrong the Magistrates' Courts Act 1981 s.63 provided an alternative statutory jurisdiction. The order was not part of the sentence and non-compliance was not a criminal offence. Accordingly, it was part of the civil jurisdiction of the magistrates' courts and s.63 was available.

Evidence—sexual history evidence—counsel's comments in closing speech; Procedure—attack by counsel on procedure—whether allowable; Discharge of jury—requirement for submissions; wasted costs–where on court's own motion

LE BROCQ v LIVERPOOL CROWN COURT [2019] EWCA 1398; 1 August 2019

LB appealed against a wasted costs order imposed on him (Prosecution of Offences act 1985 s.19A) after the judge discharged the jury following his speech as defence counsel in the trial of a defendant on counts of sexual offences against a minor complainant. The evidence of the complainant was video-recorded, including cross-examination and re-examination, as part of the pilot of Youth Justice and Criminal Evidence Act 1999 s.28. At the ground rules hearing, the judge had refused to allow LB to put it to the complainant that she had told a lie to cover up the fact that her relationship with her 19-year-old boyfriend was a sexual one at a time when she was 14. In the video-recorded cross examination, LB had asked the complainant, in an agreed question, why she had told the lie, without mentioning the nature of the relationship. In re-examination by Crown counsel, the complaint said that their relationship was "illegal in the eyes of the law". An extract from an official document put in as agreed facts had, at the suggestion of Crown counsel, included a passage referring to the complaint "Engaging in … activity with older boyfriend." During the trial, the judge had made clear that if LB wanted to put questions about the sexual nature of the relationship to the complainant's mother, he would have to make an application under s.41 of the 1999 Act, and no such application was made. In his closing speech, LB complained about the unfairness imposed on the defence by the s.28 procedure; and described the complainant as "sexually precocious", citing her statement in re-examination. As a result, the judge discharged the jury and imposed the wasted costs order following a hearing at a later date. The Court allowed the appeal and revoked the order.

(1) The reference to the relationship being "illegal" had not been edited out of the cross-examination at the instance of the prosecution, because it was relevant to show that the complainant was not an habitual liar. A question asked by the prosecution, it was not the result of a ruling under s.41, but a ruling on admissibility as relevant. That evidence was before the jury, reinforced by the obvious implication of the agreed fact. The judge's observation that he had ruled that the complainant's sexual history was irrelevant was accordingly wrong. But it would not have been right for LB to have approached the matter on the basis that the cat was out of the bag and he could say what he liked about the complainant's sexual history. The question for the judge was whether it was improper or unreasonable for the defence to comment on the evidence that was before the jury for some purpose other than that for which the prosecution had sought to adduce it. The court referred to the twin rape myths (*Seaboyer* [1991] 2 SCR 577) behind s.41, that previous sexual experience was relevant to likelihood to consent, and that sexual activity or promiscuity was relevant to credibility. Comments by counsel relying on the rape myths were not appropriate. In this case, the first did not apply to the offences. As to the second, while the main thrust of LB's observations went to counter the possibility (not advanced by the Crown) that the complainant was only acquainted with the sexual activities she described because of the alleged offences (cf Lord Hope, in *R v A (No.2)* [2001] UKHL 25, [2002] 1 AC 45, [79], read with *R v MF* [2005] EWCA Crim 3376), some of his language could have been understood as relying on the second rape myth. LB's language was open to criticism, but the judge's core finding that LB's observations were made in frank breach of an order was not sustainable. His comments did not fall within the scope of s.19A of the 1985 Act. In any event, they could have been dealt with in the summing up.

(2) LB's argument that the trial was not fair (that the defence had been "virtually emasculated") because of the s.28 procedure should not have been made. It would not have been unreasonable for LB to have made the "standard argument" (*Mahomud* [2019] EWCA Crim 667; [2019] 6 *Archbold Review* 1, at [26]) that such procedures could shelter a witness from more robust questioning, in an appropriately restrained way. But procedures to protect vulnerable witnesses, including decisions at ground rules hearings, were designed to ensure that the account of a complainant was properly challenged. It was too frequently overlooked that the purpose of cross-examination was to elicit evidence. It ensured that the evidence of a witness was properly tested. It was not designed to be an opportunity for theatricality nor for an advocate to demonstrate robustness in the sense of being antagonistic or to engage in aggressive, repetitive and oppressive questioning. The judge was the ultimate guarantor of a fair trial. It was wrong for counsel to attack the system because it amounted to going behind the ruling made at the ground rules hearing. Nonetheless, the comments could have been ameliorated by a short, tailored direction. That would have explained why the modern approach to vulnerable and child witnesses was taken and would have directed them to ignore that part of the closing speech. It might have included a reference to the purpose of cross-examination. The procedure followed was that ordained by legislation and the relevant rules. It was unquestionably fair. The judge might have added that the

questions asked of the complainant challenged her account in all material respects.
(3) The judge should have heard counsel before discharging the jury. There were no circumstances in which the judge should dispense with the need for canvassing the submissions of the parties before discharging the jury on account of something which has happened during the trial.
(4) Wasted costs applications were usually initiated by an application from the party who has wasted the costs. It was unusual to make an order when no submission was made by the prosecution to support it. There was a danger that the judge would be seen to be acting in his own cause. The Crim PR contemplated a court making a wasted costs order on its own initiative (r.45.9(5) and Crim Practice Direction part 4.2) but it was a power to be exercised cautiously, most particularly when the putative beneficiary does not support it.

Misconduct in a public office—statements made by office holder during referendum campaign—whether made by "a public officer acting as such"—whether breach of duty; magistrates' courts procedure—issue of summons—threshold test
R (JOHNSON) v WESTMINSTER MAGISTRATES' COURT [2019] EWHC 1709 (Admin); 3 July 2019
J successfully challenged the issue of a summons for misconduct in public office arising out of claims made by him in the EU referendum campaign in 2016, at a time when he was Mayor of London and an MP.
(1) At the time of the alleged misconduct the individual must be acting as a public official, and breaching a duty as such, not simply whilst he was one (see the first two ingredients of the offence as identified in *Attorney General's Reference (No 3 of 2003)* [2004] EWCA Crim 868; [2005] QB 73).
(2) The threshold for issuing a summons by a magistrate was a high one.
[The case is noted only very briefly here because it will the subject of an article in a forthcoming issue.]

Offences against the person—Offences Against the Person Act 1861 s.24—whether urine capable of being "noxious thing"
VEYSEY [2019] EWCA Crim 1332; 25 July 2019
(1) V argued that throwing urine in the face of a prison officer did not amount to administering a noxious thing with intent to injure, aggrieve or annoy, contrary to the Offences Against the Person Act 1861 s.24. Urine was not "noxious" in the necessary sense of causing harm. Counsel relied on *Hennah* (1877) 13 Cox CC 547, *Cramp* (1880) 5 QBD 307 and *Cato* [1976] 1 W.L.R 110. His appeal was dismissed. *Marcus* [1981] 1 W.L.R 774 made clear that, first, where a substance was administered in a manner and a quantity which was, in fact, harmful, the offence would be made out even though the same substance in a lesser quantity, or administered in a different manner, may not have been harmful. Secondly, the court plainly also accepted the dictionary definition of "noxious", which extended to a substance which was "unwholesome", and relied on this in reaching its conclusion, contrary to V's submission that this element of the judgment in *Marcus* was obiter.
(2) Where an issue arose as to whether a substance was a noxious thing for the purpose of s.24 it would be for the judge to rule as a matter of law whether the substance concerned, in the quantity and manner in which it was shown by the evidence to have been administered, could properly be found by the jury to be injurious, hurtful, harmful or unwholesome. If it could be properly so regarded, it would be a matter for the jury whether they were satisfied that it was a noxious thing within that definition. The judge in V's case was entitled to find that a cupful of human urine, from an unknown source, thrown at the face of a victim was capable of being regarded as an unwholesome, and therefore a noxious, thing.
(The court, in conjoined appeals, went on to consider sentencing for "potting" – the practice of prisoners throwing urine or faeces over prison officers.)

[Though Captain Rum, the deranged seadog in a Tudor episode of Blackadder, drank his urine in preference to water, I suspect that most people would have thought the defendant's argument in this case completely hopeless. A better point, surely, would have been that "administering" requires the application of a substance in a way that causes it, or some of it, to get into the victim's body. Notwithstanding Gillard *(1988) 87 Cr. App. 89, I believe this point remains to be decided. Editor].*

SENTENCING CASE

Administering a noxious thing; prison
VEYSEY [2019] EWCA Crim 1332, 25 July 2019
The Court's conclusions regarding the appropriate levels of sentencing in such cases (see the previous note) may be found at [41-46].
These offences will generally involve a high level of culpability. They are committed by prisoners against public servants performing a difficult and important role. The offender must intend to "injure, aggrieve or annoy". There is usually a significant element of planning. The use of urine and/or faeces is similar to the use of a weapon. The repellent and unhygienic nature of the offence shows a desire to humiliate, demean and distress, to inhibit the officer's performance of their public duties, and to undermine good order and discipline within the prison. Such conduct carries the obvious and serious risk of giving rise to wider disorder and/or disobedience; the offender is at the very least reckless as to that risk.
The fact that the victim did not suffer actual physical or psychiatric injury does not make the harm caused anything less than serious. The effect on the victim is significant, but the seriousness of the harm also lies in the intended/likely effect of such offences on prison discipline and order, and on the deployment of resources.
It is unrealistic to treat these offences as no more than a common assault or a minor offence of assault occasioning minimal bodily harm. Nor is it realistic to suggest that the sentence should not significantly differ from penalties available under the Prison Rules. The need to punish and deter necessitates severe punishment. Offences of this nature will generally attract a starting point after trial in the range of two to three years' imprisonment; offences involving urine falling at the lower end of that range; offences involving faeces at the upper end.
In addition to relevant previous convictions, a record of adverse adjudications involving similar misconduct will be relevant. Actual physical/psychiatric harm will be an aggravating feature, as (to a lesser extent) will an officer needing

to seek medical advice even if no actual injury is shown; these factors may justify a significant uplift from the otherwise appropriate sentence. The offence being motivated by a particular grievance, or desire to manipulate the system will be aggravating features, as will be any element of hostility based on race, religion or sexual orientation. Potential mitigating factors are youth and/or lack of maturity, mental disorder or learning disability relevant to the commission of the offence and, in some instances, the fact that the offender acted under severe pressure from others, amounting almost to duress, or had been taken advantage of by others. A consecutive sentence will usually be necessary when a prisoner is serving a sentence at the time of conviction, and a further sentence of imprisonment will usually be necessary when a prisoner had been released by the time of conviction. Totality must be considered, but given minimal weight: those choosing to offend in this way must expect to receive an appropriate sentence.

Features

The Law Commission's Review of Anti-Money Laundering and Counter-Terrorism Financing

By Holly Brennan*

Introduction

On 18 June 2019, the Law Commission published its report *Anti-Money Laundering: the SARs regime*, in which it made 19 recommendations designed to address systemic problems with the suspicious activity reporting process. The report focuses on improving the efficiency and effectiveness of the consent regime (described below) within the existing legislative framework. It also contributes to broader research and ongoing government initiatives in the field of anti-money laundering and economic crime more generally.[1]

Why was a review necessary?

In December 2017, the Home Office asked the Commission to review limited aspects of the UK's anti-money laundering regime, namely the "consent provisions" in Pt.7 of the Proceeds of Crime Act 2002 (POCA) and the parallel counter-terrorist financing regime found in Pt.3 of the Terrorism Act 2000 (TA).[2] The review was intended to identify the most pertinent issues, to consult on provisional solutions to them and to generate ideas for potential future avenues for reform.

POCA requires, or encourages, disclosure of information about suspected money laundering to law enforcement under relevant circumstances. Suspicious activity reporting provides law enforcement agencies with vital intelligence and is considered a necessary tool to fight crime. However, the requirement for individuals, and particularly private sector entities operating within the regulated sector,[3] to disclose their suspicions can be highly burdensome. The burden on the agencies responsible for processing reports is also substantial, as is the impact on those who are the subject of the suspicions (whose accounts and transactions may be frozen). It is essential, therefore, that the system functions in a fair, effective and efficient way.

POCA provides for two types of disclosure: "required disclosures" mandated by statute in certain circumstances, and "authorised disclosures" – voluntary disclosures which are the basis of the consent regime and the focus of the Law Commission's review.

An individual who suspects that they are dealing with the proceeds of crime can seek consent to complete a transaction by disclosing their suspicion to the UK Financial Intelligence Unit (UKFIU) – part of the National Crime Agency. Where, for example, a solicitor suspects that the origins of funds intended to purchase property are criminal, consent can be obtained by way of an authorised disclosure and the reporter may proceed with the transaction.

Authorised disclosures have two distinct functions: they ensure a flow of intelligence to law enforcement agencies and shield a reporter from criminal liability for the possible commission of a principle money laundering offence. Each authorised disclosure is individually analysed by UKFIU staff before a decision can be reached on consent. Prior to consent, or in its absence, an individual who proceeds with a transaction risks liability for the commission of a substantive money laundering offence.

Law Commission's process

The report is the culmination of a 13-month consultative process during which the Commission engaged extensively with individuals and organisations with experience and knowledge of the consent regime. Input was sought from representatives from law enforcement and prosecutorial agencies, officials from government departments, reporting entities within the regulated sector and supervisory bodies with oversight of sectoral compliance with the regime. In addition, valuable input was provided by leading academics and practitioners in the field. The Commission also learnt from the personal experiences of

*Holly Brennan is a Research Assistant at the Law Commission of England and Wales.

1 The Law Commission's review of suspicious activity reporting sits alongside the SARs Reform Programme, an operational review of suspicious activity reporting. Relatedly, the Government recently published its Economic Crime Plan for 2019–2022 in which it outlines strategic priorities for understanding and combatting economic crime.

2 As is evident in the recommendations, the review is primarily concerned with POCA. Only a fraction of suspicious activity reports submitted annually engage the TA. Consequently, the Law Commission observed a consensus among stakeholders that the issues identified in relation to the consent regime are not replicated in relation to counter-terrorist financing and thus reform is not required.

3 The regulated sector refers to the institutions specified in Sch 9, para 1 to POCA (and corresponding provisions in the TA) which are subject to particular obligations under anti-money laundering legislation.

those who had been the subject of an authorised disclosure.

The consultation paper,[4] published in July 2018, generated considerable interest and garnered responses from 57 diverse consultees, which were analysed and informed the final recommendations in the report. The review also benefited from the Law Commission conducting its own independent analysis of authorised disclosures that had been submitted to the UKFIU. The analysis was tailored to assess what impact the most significant provisional proposals would have on the volume of reporting. The results also helped to inform the Commission's final recommendations.

A summary of the problems with the regime

The Law Commission's consultation paper observed that a very large, and increasing, number of authorised disclosures are submitted to the UKFIU annually. In principle, the volume of reports is not necessarily problematic. However, it puts pressure on both reporters and the UKFIU, and it has been suggested that the quality of intelligence provided by the reports is not consistent. This was borne out by the Commission's analysis. A number of authorised disclosures the Commission analysed fail to meet the threshold of suspicion. In effect then, valuable resources are wasted preparing and processing reports which provide no evidence for suspicion of criminal property. Furthermore, while the authorised disclosure is considered by the UKFIU the relevant transaction is paused, the consequences of which can be devastating for the subject of a disclosure.

The Commission's empirical research found a substantial variance in the quality of authorised disclosures submitted to the UKFIU and evidence that at least some reporters misunderstand their legal obligations under POCA. Overall, the Commission found evidence of over-cautious and possibly unnecessary reporting.

The Commission highlights four overarching factors which may be contributing to this problem First, the "all crimes" approach means that the reporters' obligation to notify the UKFIU of suspected criminal property extends far beyond the offence of money laundering. Criminal property is broadly defined in s.340 of POCA which requires that the suspected proceeds of any criminal conduct must be reported, irrespective of the nature or gravity of the underlying crime. Secondly, it becomes necessary for a reporter to submit an authorised disclosure where they have a suspicion of criminal property that is "more than merely fanciful".[5] This is a low bar and contributes to the high volume of reports submitted to the UKFIU. Thirdly, a reporter bears criminal responsibility for a failure to make a disclosure, meaning that they, the individual, are exposed to the significant maximum penalty that a principal money laundering offence[6] carries. Fourthly, some reporters misunderstand their legal obligations under POCA. This is compounded by conflicting interpretations of these concepts in guidance produced by supervisors with a responsibility for ensuring compliance, which is designed to complement the legislative regime.

The Commission's task was to make realistic recommendations that balance the competing interests of stakeholders. In other words, to improve the quality of suspicious activity reports sent to law enforcement agencies, thereby maximising opportunities to disrupt and detect criminal activity, while reducing the burdens on those who submit and assess suspicious activity reports. At the same time, giving due regard to the potential impacts of a disclosure on its subject.

The Law Commission's key proposals

Guidance

The structure of the anti-money laundering regime, at present, means that there is an overlap between supervisory bodies and regulators who, in some circumstances, have differing interpretations of concepts underpinning the regime. The Law Commission recommends that a single source of statutory guidance be produced to develop a joint understanding of key legal concepts. In particular, it is recommended that the Secretary of State produce guidance on:

(1) **Suspicion:** to assist the reporters in understanding what "more than merely fanciful" means in the context of suspicous activity reporting.[7]

(2) "**Appropriate consent"; and "arrangements with prior consent":** to clarify the effect of consent and allay confusion about the terminology.

(3) **The reasonable excuse exemption:** to clarify what may amount to a reasonable excuse and address any sectoral inconsistencies.

(4) **Ringfencing:** to complement an additional recommendation which would enable a different approach to dealing with identifiable criminal property held in a bank account.

To successfully reduce the number of defensive reports the Law Commission suggests that guidance needs to be on a statutory footing. This would assure reporters that there is a clear basis for relying on the guidance when interpreting their obligation to submit an authorised disclosure under POCA.

The Commission hopes that statutory guidance will promote greater consistency in the application of POCA across and within regulated sector industries and assist the UKFIU and other law enforcement agencies by reducing the need for follow-up requests for information from reporters.

Advisory Board

The Law Commission's key recommendation is the creation of an Advisory Board, with a remit to oversee:

- the drafting of statutory guidance;
- a continuation, or development, of the Law Commission's empirical research into the effectiveness of the consent regime; and
- an advisory function to make further recommendations to the Secretary of State on ways to improve the regime as and where appropriate.

Part of the Law Commission's task was to ensure that the regime is futureproofed; a board with oversight of the re-

4 Anti-Money Laundering: the SARs Regime, Law Commission Consultation Paper 236 (2018).

5 *Da Silva* [2006] EWCA Crim 1654, [2007] 1 W.L.R 303.

6 Proceeds of Crime Act 2002, ss 372–329.

7 "A possibility, which was more than fanciful, that the relevant fact existed" *Da Silva* [2006] EWCA Crim 1654, [2007] 1 W.L.R 303.

gime could respond to developments in the legislative landscape and make recommendations for dealing with newly emerging threats. In effect, an Advisory Board would ensure that the operation of the consent regime remains proportionate to its aims and objectives beyond the conclusion of the Commission's review.

Ringfencing

Given that credit and financial institutions are by far the largest contributors of authorised disclosures,[8] the Commission looked specifically at ways to reduce the administrative burdens on these entities and their customers. In recognition of the need for the regime to operate proportionately, it is recommended that POCA be amended to include a provision enabling financial and credit institutions to "ringfence" suspected criminal property within accounts containing larger sums. Supplementary to this, it is recommended that the subject of a disclosure whose account has been frozen be able to apply to a judge sitting in the Crown Court for funds to be released for reasonable living expenses when an application for an extension to the moratorium period[9] is made.

Prescribing the form

To enhance the quality of reporting the Commission proposes that the Secretary of State capitalise on modern technology and prescribe a tailored form for the submission of suspicious activity reports. This would be a simple yet effective way to significantly improve the functioning of the consent regime. A prescribed form would direct reporters to provide only the essential information and ensure that it is presented consistently. Reporters would be more confident in the articulation of their suspicion, and staff within the UKFIU could ascertain more quickly the nature of a suspicion, thereby minimising delays within the regime.

8 Between April 2017 to March 2018 credit and financial institutions accounted for 96.45% of the total number of suspicious activity reports. In the same period, banks alone submitted 12,053 of the 22,619 authorised disclosures; National Crime Agency, Suspicious Activity Reports (SARs) Annual Report 2019, p 17-18.

9 If a request for consent is refused during the statutory seven-day notice period, a statutory moratorium period of 31 calendar days begins. This allows further time for investigation. The Criminal Finances Act 2017 amended Pt 7 of POCA to empower a Crown Court judge to grant an extension, on application, to the moratorium period up to a further 186 days in total.

Conclusion

The terms of reference of the review required the Commission to make recommendations within the existing legislative framework. The task at hand related predominantly to reducing the burden of making and processing authorised disclosures for both the regulated sector and the UKFIU. A secondary aim was to clarify the scope of reporting. Collectively, the Law Commission's recommendations should clarify legal obligations for reporters as they are crafted to reduce processing times by encouraging consistency in reporting styles. The emphasis on clarifying complex statutory concepts in guidance would be particularly valuable. Better reports, which are rich in intelligence, can only provide greater opportunities for law enforcement agencies to investigate and disrupt crime. Responsibility now lies with government to resolve the challenges identified in practice by implementing the Law Commission's recommendations so that the consent regime operates efficiently and proportionately. The full version of the Law Commission's report is available at https://www.lawcom.gov.uk/project/anti-money-laundering/.

What went wrong with attempts to outsource probation? Lessons from the Transforming Rehabilitation programme in England and Wales

By Dr Jake Phillips[1]

Introduction

In 2014 the Government pushed through significant reforms to probation. Known as Transforming Rehabilitation (TR) the reforms were supposed to result in around 70 per cent of the probation caseload being taken on by 21 newly created Community Rehabilitation Companies (CRC). Most CRCs are private companies working for a profit, the only exception to this being Durham and Tees Valley CRC which is run by a mutual company made up of local non-profit organisations. The remaining 30 per cent of the case-load was intended to move to the auspices of a newly formed National Probation Service (NPS). The caseload was split along the lines of risk of harm, with CRCs being responsible for managing low-medium risk offenders and the NPS taking responsibility for high-risk offenders as well as the initial risk assessment and court work (i.e. writing pre-sentence reports and prosecuting breaches). CRCs also provide some services to NPS cases if referred and are responsible for delivering Unpaid Work — thus, high-risk offenders sometimes come under the purview of CRCs. TR was implemented on 1 June 2014 as part of the Offender Rehabilitation Act 2014 (although the foundation stones were laid in the Offender Management Act 2008 which allowed for the outsourcing of probation services in the first place). The Act also extended post-release supervision to everyone sentenced to prison for one day or more which meant that the probation caseload grew by around 40,000 people within a year of the reforms being implemented[2].

1 Dr Jake Phillips is Reader in Criminology at Sheffield Hallam University. His research interests focus on the intersection between policy and practice in the field of probation and community sanctions. He is currently conducting research on the impact of inspection on probation, the emotional labour of probation practice and people who die whilst under probation supervision. Thanks to Rob Canton, Jane Dominey and Loraine Gelsthorpe for their comments on this piece.

2 The case-load rose from 217,886 to 258,748 between 30 June 2014 and 30 June 2016: https://data.justice.gov.uk/probation/offender-management/caseload-total

In the words of the Secretary of State for Justice Chris Grayling MP at the time:

> These reforms will make a significant change to the system, delivering the Government's commitment to real reform. Transforming rehabilitation will help to ensure that all of those sentenced to prison or community sentences are properly punished while being supported to turn their backs on crime for good – meaning lower crime, fewer victims and safer communities.[3]

The immediate aftermath

Grayling was correct (not something many people have written): the reforms did lead to a significant change in the system. Unfortunately, as has now been well documented and will be discussed in this article, not necessarily with the desired effect. As early as December 2014 there were signs that the reforms were not going as well as planned. In its first TR "early implementation report" Her Majesty's Inspectorate of Probation raised concerns about the implementation, especially around inadequate staffing in some areas, problems around information sharing and IT.[4] In subsequent reports, the Inspectorate found these issues persisted and raised concerns about the measurement of risk which was used being used to allocate cases to CRCs and the NPS. By the time of its fifth and final report in May 2016 the Inspectorate had considerable concerns about the work being done in courts, inconsistent supervision processes in place in CRCs as well as problems around the assessment of risk.[5] Meanwhile, the Parliamentary Justice Select Committee began to take an interest and discussed the possibility of an inquiry. A special issue of *Probation Journal* also drew attention to some of these early issues with researchers raising problems with the use of payment by results[6] in the justice sector especially in relation to women[7], the impact on staff of working solely with high-risk offenders[8] and the implications of using assessments of risk to allocate cases[9]. The Chief Inspector of Probation's annual report published in December 2017 said that the reforms had created a two-tier and fragmented system which was undermined by a series of problems inherent to the model itself.[10] In March 2018 the Public Accounts Committee published a report which revealed that in 2016 the Ministry had made additional payments of £342m to CRCs to keep them afloat.[11]

The results of the Justice Select Committee Inquiry were published in June 2018. The Committee had very little positive to say about the reforms: they had not reduced reoffending, had not opened up the market adequately, it was considered a mistake to implement TR without testing and piloting and they considered the use of risk as a way of allocating cases as fundamentally flawed. In July 2018, in the aftermath of the Justice Select Committee inquiry, the Secretary of State for Justice acknowledged that probation was not performing to expected levels and a consultation was launched with a view to further reforms. Whilst the Government acknowledged the issues, the consultation offered very little in the way of actual change: more NPS divisions and fewer CRCs were the only real change, and the Government was still set on using private companies to deliver a considerable element of probation provision. This became known as TR2 and represented more of an evolutionary than revolutionary approach to TR.

In February 2019 Working Links, owner of three CRCs, went into administration and operations were moved to a different owner; in the following month Interserve, owner of five CRCs, followed suit (although the CRCs were not transferred to new owners due to a contingency plan put in place by the Ministry of Justice). There then came three final nails in the coffin for the TR project. In March 2019 the National Audit Office published its report on TR in which it argued that the Ministry of Justice had "set itself up to fail in how it approached the Transforming Rehabilitation reforms".[12] On 3 May 2019, the Public Accounts Committee published its progress review on TR and was equally scathing, saying that "the Ministry's decision to split the probation service has let down offenders and those working in the justice system".[13] Just a few weeks later, the Chief Inspector of Probation published her final annual report in which the TR model was described as "irredeemably flawed".[14]

And so, in May 2019 the Ministry of Justice finally published its response to the consultation on probation reform.[15] Rather than persevering with the model proposed in the consultation, real change seems to be on the horizon. Under the next stage of probation reform entitled "Strengthening probation, building confidence" the NPS will take responsibility for the supervision of all offenders regardless of risk, something which was probably influenced by similar developments in Wales. This will include work that involves risk assessment, brokering services, case supervision and court work. HMPPS will commission services from outsourced providers with a mix of local and national procurement packages to which NPS officers can refer their service users depending on need. Thus, so-called "rehabilitative services", such as accredited programmes, Rehabilitation Activity Requirements (see below) and Unpaid Work, will be delivered by what the Ministry is calling "Innovation Partners". It is worth noting and questioning the implicit assumption here that rehabilitative services are seen to be in need of innovation and not "offender management". Nevertheless, this is a considerable roll-back from the original TR model although Government is clearly committed to some involvement of the private sector in the field of probation. Although this recent development is being lauded by some as the "renationalisation" of probation, it is not quite that. It is also interesting to note that if this model had been

3 Ministry of Justice, "Transforming Rehabilitation: A Strategy for Reform." (Ministry of Justice 2013) Cm 8619 5 https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation/results/transforming-rehabilitation-response.pdf.

4 HMI Probation, "Transforming Rehabilitation. Early Implementation" (HMI Probation 2016).

5 HMI Probation, "Transforming Rehabilitation. Early Implementation 5" (HMI Probation 2014).

6 Discussed below.

7 Emily Evans, "The Expected Impacts of Transforming Rehabilitation on Working Relationships with Offenders" (2016) 63 Probation Journal 153.

8 Jake Phillips, Chalen Westaby and Andrew Fowler, "'It's Relentless" The Impact of Working Primarily with High-Risk Offenders" (2016) 63 *Probation Journal*.

9 Christopher Kay, "Good Cop, Bad Cop, Both? Examining the Implications of Risk-Based Allocation on the Desistance Narratives of Intensive Probationers" (2016) 63 *Probation Journal* 162.

10 HMI Probation, "2017 Annual Report" (HMI Probation 2017).

11 Public Accounts Committee, "Transforming Rehabilitation" (House of Commons 2018) HC 484 https://publications.parliament.uk/pa/cm201617/cmselect/cmpubacc/484/48402.htm accessed 8 July 2019.

12 National Audit Office, "Transforming Rehabilitation: Progress Review" (National Audit Office 2019) HC 1986.

13 Public Accounts Committee, "Transforming Rehabilitation: Progress Review" (House of Commons 2019) HC 484 https://publications.parliament.uk/pa/cm201617/cmselect/cmpubacc/484/48402.htm, accessed 8 July 2019.

14 HMI Probation, "Report of the Chief Inspector of Probation" (HMI Probation 2019).

15 "Strengthening Probation, Building Confidence" (*GOV.UK*) https://www.gov.uk/guidance/strengthening-probation-improving-confidence, accessed 8 July 2019.

proposed from the outset it would have been strongly criticised for strengthening a central grip on probation and the wholesale privatisation of interventions: it would seem that TR has shifted the "Overton window" of what is now seen as acceptable in probation.

The reasons for the conclusions of the myriad reports and pieces of research described above are manifold. In addition to the issues raised above, inspection reports consistently called out inadequate forms of supervision including a very heavy reliance on telephone contacts in CRCs. The Offender Rehabilitation Act 2014 introduced a new requirement, the Rehabilitation Activity Requirement (RAR), which replaced the old Supervision Requirement and the Specified Activity requirement. Measured in days, people on probation are sentenced to do a certain amount of activities as specified by their supervising officer. It was not until February 2019 that full guidance for what a "RAR day" might look like was published. This meant that sentencers found it difficult to know exactly what someone might actually be doing as part of a Community Order or Suspended Sentence Order. "Through the Gate support" – a flagship element of the reforms which were supposed to increase the level of support provided to people leaving prison – were considered wholly inadequate in inspection reports[16] and academic research.[17] Whilst much of the criticism was directed at the CRCs, the NPS also faced severe issues. Low staffing levels meant that probation officers were struggling with high caseloads of people who pose a high risk of harm.[18] Since 2014 there has been a clear decline in the use of Community Orders which some have put down to declining confidence in community sanctions amongst sentencers, which stems from a perception that probation is less effective than it used to be. We have also seen an increase in the number of serious further offences. In addition to this, there has been a sharp increase in the number of people being recalled to prison as a result of the extension of post-release supervision[19] as well as an increase in the number of people dying after release from prison: which increased fourfold compared to a caseload which "only" doubled.[20]

Why did it go so wrong?

All of this begs the question: why did it go so wrong? Were the reforms "irredeemably flawed" or was the failure merely a case of poor and rushed implementation? Certainly, things were not helped by the speed of the reforms and the lack of piloting but there were undoubtedly more issues at play than this.

The flaw of delineating services along risk

Risk is measured in a range of ways with risk assessment tools which use of a combination of static (such as age at first conviction) and dynamic factors (such as drug use or accommodation status) to calculate the risk of someone reoffending and the risk of someone causing significant harm. There is a degree of disagreement about how accurate such tools are but it is well accepted that however you measure risk it is subject to change. Thus, using risk to allocate cases to a CRC or the NPS means that there will have to be movement between the two organisations as people's risk increases and decreases. Indeed, in cases where risk has escalated and a move to the NPS is necessary, the model creates disruption when continuity is most needed. On a practical level, TR increases the need for administrative support to facilitate the moves between CRCs and the NPS. It also increases the chances of information going missing or not being passed on when people are transferred. Relatedly, placing the responsibility for court work in the NPS means that NPS staff are prosecuting people for the breach of an Order even though the organisation has, possibly, had no contact with them for up to three years. Anecdotally, this has led to poor quality breach reports. This method of case allocation also fails to take into account the fact that people originally assessed as low or medium risk also commit serious further offences[21]: another example of the fallacy of using risk in such inflexible ways to allocate resources. More fundamentally, the model undermines one of the key principles of "good" supervision: a long-lasting and consistent professional relationship between the person under supervision and their officer. This professional relationship – if allowed to develop – can facilitate a reduction in reoffending and longer-term desistance from offending.[22] It is always difficult to ensure that people on supervision have continuity in terms of who their supervisor is, but TR made this aspiration considerably more difficult to achieve.

A lack of regard for proportionality and due process

The move to extend post-release supervision to those serving short prison sentences was a good idea in principle. After all, the previous situation - whereby people were released from prison with nothing more than a £46 discharge grant to get them through to their first pay cheque or benefit payment – was far from ideal. However, the way this new form of supervision was set up created two key problems. Firstly, it increased the number of recalls to prison significantly. As mentioned above, the number of recalls to prison has risen in recent years and this has largely been driven by recalls of people sentenced to short prison sentences with women being recalled at a disproportionately worrying rate.[23] Whereas short term sentenced people made up 3 per cent of recalls prior to TR they now make up 36 per cent of recalls.[24] This has implications for the prison population and places a greater demand on prisons and probation services in terms of processing these recalls. The extension to post-sentence supervision also raises considerable concerns in terms of proportionality and legitimacy. Prior to TR someone sentenced to, for example, a six-month prison sentence would spend three months in prison and three months in the community with little more than the threat of recall should they commit a further offence. Post-ORA 2014 a six-month sentence becomes three months in prison, three months in the commu-

16 HM Inspectorate of Probation, "An Inspection of Through the Gate Resettlement Services for Short-Term Prisoners: A Joint Inspection by HM Inspectorate of Probation and HM Inspectorate of Prisons." (HM Inspectorate of Probation 2016) https://nls.ldls.org.uk/welcome.html?ark:/81055/vdc_100042640528.0x000001, accessed 14 May 2018.

17 Stuart Taylor and others, "Transforming Rehabilitation during a Penal Crisis: A Case Study of Through the Gate Services in a Resettlement Prison in England and Wales" (2017) 9 *European Journal of Probation* 115.

18 Phillips, Westaby and Fowler (n 8).

19 Mary Bulman, "Number of Offenders Recalled to Prison Surges Following 'disastrous' Probation Reforms The *Independent*" The *Independent*, 17 January 2019. https://www.independent.co.uk/news/uk/home-news/prison-probation-reform-recalls-women-chris-grayling-jail-overcrowding-stewart-ministry-justice-a8732486.html, accessed 8 July 2019.

20 Jake Phillips, Loraine Gelsthorpe and Nicola Padfield, "Deaths While under Supervision: What Role for Human Rights Legislation?" [2019] *Political Quarterly*.

21 Jackie Craissati and Oliver Sindall, "Serious Further Offences: An Exploration of Risk and Typologies" (2009) 56 *Probation Journal* 9.

22 R Burnett and F McNeill, "The Place of the Officer-Offender Relationship in Assisting Offenders to Desist from Crime" (2005) 52 *Probation Journal* 221.

23 Prison Reform Trust, "Broken Trust" (Prison Reform Trust 2018).

24 HMI Probation, "Post-Release Supervision for Short-Term Prisoners: The Work Undertaken by Community Rehabilitation Companies" (HMI Probation 2019).

nity on licence, plus nine months on post-sentence supervision all the time subject to enforceable requirements – with the threat of breach action for both failure to comply and further offending. Thus, the sentence becomes 15 months long instead of six months, raising a considerable issue in terms of proportionality and fairness. A consequentialist *might* be able to justify this additional supervision if adequate support were provided to help people reduce their offending. It is very difficult to justify this development from a just deserts or ontological perspective.

Doing more with less

Although ostensibly about rehabilitating offenders more effectively – TR had its origins in a so-called "rehabilitation revolution" first initiated by Ken Clarke MP in 2010 – it is worth remembering TR was also an important part of the government's austerity agenda. At the time of its implementation, the Ministry of Justice was facing a budget cut of around 30 per cent. Thus, the move was undoubtedly part of the government's drive to do "more with less". In this case, there was a lot more to be done with a lot less money. This proved problematic on several levels. Firstly, when the "split" occurred staff were allocated according to a prediction by the MoJ on how many people would be assessed as low-medium and high-risk. Thus, CRCs had more staff than the NPS. As it turned out, this calculation was wrong and in reality, about 59 per cent of people were allocated to CRCs – much less than the anticipated 70 per cent.[25] Thus, CRCs were not profitable due to lower caseloads and the NPS was understaffed and overworked. In conjunction with the tight profit margins built into contracts, the CRCs' solution to this was to make people redundant – some CRCs made one-third of their staff redundant. In the NPS, meanwhile, levels of sickness absence and people leaving the service rose making the situation even worse. This is not to criticise those who suffered from stress due to high workloads, but to highlight the increasingly pressured environment in which they were working.

This inaccurate prediction of allocation had ramifications for the budgets of the CRCs leading to the bailout mentioned above as well as playing a part in the eventual liquidation of Working Links (see above). There was clear short-sightedness in believing that probation providers could deliver good quality services to an additional 40,000 people with no extra resources. This was made even more difficult by asking them to do so immediately after such significant structural reform and in the context of contracts which were not fit for purpose.

Add in a profit motive and PbR

As mentioned above, CRCs were commissioned on a Payment by Results (PbR) bonus payment mechanism. This means that they are given a fixed fee for the delivery of a service and can earn a bonus payment if they meet certain targets around reducing reoffending. They also face penalties for not meeting targets and performance indicators including being penalised if they initiate breach proceedings against a service user. Many problems arose from this funding mechanism.

Firstly, reconviction is an unsatisfactory measure of "success" for probation although, at least, the contracts do take frequency of offending into account; if a CRC service user re-offends less frequently the CRC can get some credit. Secondly, the change in reoffending is being measured against a benchmark reoffending rate from 2011. This has worked well for some but less well for others and so the law of diminishing returns and/or regression to the mean comes into play. In 2011, for example, the reoffending rate for South Yorkshire Probation Trust was lower than in other Trusts which means that South Yorkshire CRC has struggled to achieve a statistically significant reduction in reoffending hitherto. Thirdly, the incentives built into the system have shaped some poor decision making. For example, when HMI Probation uncovered evidence that pressure to meet targets was affecting risk assessment decisions, Dorset, Devon and Cornwall CRC were accused of crossing an "immutable line".[26]

There is a fundamental problem to this too. We know from the desistance literature that an individual's chances of successful "rehabalitation" depends as much upon their own agency and willingness to change as it does on the services provided by organisations such as probation.[27] Payment by Results places the emphasis for success on the provider rather than the service user (offender) who gets no credit. It is also worth remembering that service users frequently have multiple needs and are involved with many providers: the model takes no account of the role of other agencies. The TR model, then, potentially undermines service user agency which we know is key to success and fails to take other organisations' efforts into account.

The final problem to arise in this context is a reduction in services provided to people with specific needs. Consideration of the needs of different groups – for example, the needs of women or people of colour – was largely absent from any of the original TR documents. As such, specific services designed for these groups have all but disappeared. TR has had a significant impact on the voluntary sector that provides services to women in the criminal justice system with many women's centres closing down or no longer being funded to work with these groups.[28] Add to this the broader context of reduced public spending in areas like health, substance abuse treatments, and housing, and we can really begin to see why TR has had a significant impact on the level of service provided to certain groups.

What next and will it work?

TR has had a disastrous effect on probation services in England and Wales and so any change to reverse some of these effects is welcome. Under the new model – to be implemented in Spring 2021 – all "offender management" work will move to the NPS and newly created "innovation partners" will be responsible for delivering unpaid work and rehabilitative services. The new model will no longer require supervision to be allocated along lines of risk and payment by results will not be used as a payment mechanism – these positive developments overcome some of the issues discussed above.

But the next stage of reform is not going to solve everything. Unpaid Work and programmes are to remain in the private sector, yet if TR has shown us anything it is that it is hard to turn a profit from probation. One can only assume that someone, somewhere, disagrees and that Unpaid Work and

25 National Audit Office (n.12).

26 HMI Probation, "An Inspection of Dorset, Devon and Cornwall Community Rehabilitation Company" (HMI Probation).

27 Sam King, "Transformative Agency and Desistance from Crime" (2013) 13 *Criminology & Criminal Justice* 317.

28 All-Party Parliamentary Group on Women in the Penal System, "Is It the End of Women's Centres." (Howard League for Penal Reform 2016).

programmes are seen to have some profitability. It is also the case that government has an unwavering belief that market competition raises standards. I would hazard a guess that to make rehabilitative services profitable they have to be delivered at scale. They will probably also need to be organised at a regional rather than local level – a structure which favours larger contracts with private companies over commissioning smaller local third sector groups. Such structures and imperatives will require a heavy reliance on group work, a one size fits all approach and, potentially, an unwillingness to provide services to groups of people whose numbers are relatively low such as women on Unpaid Work, or the groups of people who have specific needs related to their ethnicity or sexuality, for example. Such a delivery model will also be less effective for people whose circumstances make groupwork inappropriate, such as those with mental health problems and learning difficulties – prevalent issues amongst people under probation supervision.

The public mood for outsourcing appears to be shifting in the aftermath of the high-profile collapse of Carillion and the liquidation of Interserve. Indeed, at the time of writing, one of the main items in the news is the fine given to Serco for defrauding the government by charging for electronically monitoring people who were dead, in jail or had left the country. Thus, even politically speaking, I would question the sense in persevering with this course of action.

TR has been deemed a "policy disaster"[29] and it is clear why from this, albeit brief, overview of the last five years. If the Government genuinely wants to create a more effective probation service it would do well to learn from these lessons. It will also need to learn from academic research which is consistent in its critique of short prison sentences which do not reduce reoffending, findings which are backed up by the Government's own analysis.[30] TR was supposed to reduce reoffending and introduce innovation to the delivery of community sanctions. On the whole, neither of these aims have been achieved, although there is still good practice going on and staff are dedicated and knowledgeable on how to work with people on probation. The evidence suggests such innovation would have been more effective had it begun with a reduction in the use of short sentences in the first instance. Instead, TR resulted in more people being punished, by under-resourced providers in a flawed system. One does not have to look too far to find examples of "good", or even bold, innovation – for example, Scotland is seeking to reduce the use of short prison sentences through a presumption against sentences of up to 12 months which was implemented in July 2019.[31] If government refuses to learn these lessons and continues to ignore the evidence, members of the public will be at risk due to poor supervision and inadequate rehabilitative services. Moreover, people on probation will not receive the support they require to successfully desist from offending. The next two years, although difficult and uncertain for those working in the field, is an opportunity for government to reverse some of its previous poor decisions. It is possible to create a system which improves the delivery of community sanctions: the evidence and ideas are there; the Government just needs to act on them.

29 Harry Annison, "Transforming Rehabilitation as 'Policy Disaster': Unbalanced Policy-Making and Probation Reform" (2019) 66 *Probation Journal* 43.

30 Aidan Mews and others, "The Impact of Short Custodial Sentences, Community Orders and Suspended Sentence Orders on Re-Offending" (Ministry of Justice 2015).

31 Dr Hannah Graham, "Pragmatic Plan and Cross-Party Consensus" *Press and Journal* (Aberdeen, 2 May 2019) https://www.pressandjournal.co.uk/fp/opinion/columnists/1738847/pragmatic-plan-and-cross-party-consensus/ accessed 8 July 2019.

Book Review

Dr. Elaine Freer, *A Practitioner's Guide to Ancillary Orders in Criminal Courts* (Bloomsbury Professional, 2019); viii-lxxiv + (including Index) 496 pages; £82 (rrp). As stated by no less than Sir Brian Leveson in his foreword, the aim of this book is to provide a clear analysis of the criteria and law surrounding the range of orders available to the lay and professional judges in the criminal courts. Its 29 chapters are split into four parts. Part 1 has 17 chapters. It details a comprehensive account of the now numerous orders that may be made following conviction, such as the more familiar compensation orders (chapter 4), costs orders against the convicted (chapter 15) to the more offence specific orders such as serious sexual harm prevention orders (chapter 9) and serious crime prevention orders (chapter 10).

Part 2 sets out the range of orders available without the need for a conviction (such as the less familiar slavery and trafficking prevention orders (chapter 23). Part 3 deals with reparation orders against young offenders whilst Part 4 is devoted to civil orders that can be made by criminal courts.

Dr. Freer in her Preface illustrates from a case in which she appeared as Counsel in the Court of Appeal, Criminal Division, how easily and perhaps how frequently judges fail to apply the law correctly when making (or indeed failing to make) ancillary orders in the courts. This reviewer acknowledges that the range and sometimes complexity of the law in this respect can too easily lead to error, particularly if the advocates' and judge's attention has been principally focused on the issues of guilt and sentence. Having said that, since the availability online from December 2018 of Part 2 the *Crown Court Compendium* dealing with sentencing and orders, much of the commonly encountered ancillary court powers and the applicable law and best practice has easily been available to practitioners and judges alike. However, this well-written book does provide a fuller account of all the potential ancillary orders that might be encountered and its text with its helpful citation of authority wisely could be consulted by those drafting sentencing notes or preparing mitigation or advising lay or professional clients, or by a judge checking to ensure that nothing has been missed or misstated. I would though wonder if a paperback costing £82 might be seen by poorly remunerated publicly funded lawyers, or judges with diminished personal library allowances, as expensive, not least when the *Compendium* now sets out on an updated basis many of the more commonly encountered provisions of the law. In fairness though to the book's author, unhappily such pricing is not unusual for similar publications and for those practitioners and others not troubled by its cost I would recommend its acquisition.

(HH) David Radford

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