Secret Hearings in ex-IRA Informer Martin McGartland Case *BBC News*

The Home Secretary has been granted the right by a judge to use secret court hearings to defend a damages claim brought by a former IRA informer. Martin McGartland survived a shooting in Whitley Bay on Tyneside in 1999, and was given a new identity afterwards. He is suing MI5 for breach of contract and negligence after the shooting. The High Court judge said because of sensitive evidence in the case, "closed material proceedings" (CMP) could be used in the interests of national security. The ruling means Mr McGartland and his lawyers will not be able to hear parts of the case or to see "sensitive material". Special advocates will be appointed to protect his interests.

Mr. MrGartland claims MI5 failed to provide care for post-traumatic stress disorder and access to disability benefits following the shooting, that left him unable to work. His book about his experiences, 50 Dead Men Walking, was made into a film in 2008. The judge said the case included a claim by Mr McGartland, together with his partner and carer Joanne Asher, that "their protection was mishandled". Powers to hold secret hearings were introduced in July 2013 so that trials using CMPs can take place in civil courts without damaging national security. Mr McGartland's lawyers have described such proceedings as "a serious aberration from the tradition of open justice". They argued that his claim for damages for personal injury did not pose a risk to national security and would not expose any aspect of his undercover work as an IRA informer.

At a two-day hearing last month, government lawyers told the court that an assurance of "secrecy forever" lies at the heart of the relationship between the British Security Service and its agents. The Home Secretary would "neither... confirm nor deny" (NCND) that he is a former agent. His lawyers have complained that, because of this, there has been no response to Mr McGartland's specific allegations that the Security Service withdrew funding for medical treatment, was negligent in the changing of "handlers" and broke promises with regard to financial payments, the installation of a phone line and access to state benefits. His legal team has argued that the NCND policy is unlawful as public statements naming Mr McGartland as an agent have already been made by official bodies including Crown authorities, the police, MPs and the Bloody Sunday Inquiry.

A barrister for the Home Secretary said in a written statement to the court: "An assurance of 'secrecy forever' lies at the heart of the relationship between the Security Service and its agents. "The strict maintenance of the NCND principle is one of the most important means by which the Security Service makes good that assurance." The judge said in his ruling that the "most difficult issue to be resolved will be how to deal with the detail of the claimant's case against his claimed handlers". While in an ordinary claim for damages, disputes are resolved by a direct confrontation between the claimant and witnesses, the judge said if that was not possible, "a decision will have to be made as to whether or not such an issue can be justly determined at all, and if so, how". He said the best way to deal with this was under the provision for closed material proceedings.

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 485 (10/07/2014)

Conrad Steven Jones - Conviction Quashed - Lamentable Failure by CPS

Mr Jones served years in jail after he was convicted of trying to derail a murder trial has had his conviction quashed after a 'lamentable failure' by prosecutors to disclose vital evidence. Following a trial in August 2007 before His Honour Judge ("HHJ") Orme at Birmingham Crown Court, the jury found the appellant guilty of doing acts tending and intended to pervert the course of public justice, contrary to common law. He was sentenced to a term of 12 years imprisonment; four hundred and thirty days were ordered to count towards the custodial term under section 240 of the Criminal Justice Act 2003. The prosecution case depended mainly upon the evidence of Maria Vervoort, who said that the appellant had, by threats and inducement, attempted to persuade her to absent herself as a witness from the trial of five defendants for murder and to make a false statement to a solicitor.he served the custodial portion of a 12-year sentence.

But he always denied any wrongdoing and, after taking his case to the Court of Appeal, has now had his name cleared by three top judges. His legal team, headed by senior QC, Joel Bennathan, said evidence only revealed recently cast serious doubts on the credibility of the chief prosecution witness. The prosecution alleged Jones had tried to help five men beat a murder charge after the shooting of Clinton Bailey at the Three Horseshoes pub, in Coventry, in April 2005. The chief witness became the target of a "professional and organised" attempt to prevent her giving evidence at the trial, it was alleged. She was offered money and threatened with serious violence. Mr Bennathan said the crucial evidence, which the prosecution had all along, showed that it was highly improbable that Mr Jones was in Nottingham when the witness claimed to have met him there. Had the jury been shown the evidence, they might have concluded that the meeting had been invented by the witness, he told the court.

Giving judgment, Lord Justice Pitchford spoke of a 'lamentable failure' by the prosecution to disclose the evidence in 2007. He continued: "The only occasion when she claimed to have been threatened face-to-face by the appellant was at a meeting on 1 or 2 June 2006. We do not consider that this was a peripheral issue in the context of the case against this appellant. On the contrary, it was central both to the witness' credibility on the issue of intimidation by the appellant and to the particulars of activity by the appellant on which the prosecution relied against him. If the jury had concluded that no such meeting had taken place, the impact upon her account of several other alleged events for which she claimed the appellant was responsible must, we conclude, have been significant. It is possible, if not probable, that the other evidence would have been sufficient to convict the appellant, but we cannot conclude that would have been the conclusion of the jury. We cannot conclude that the issue we have identified could be segregated from an assessment of her credibility in general. In our judgment, the verdict is unsafe and the conviction must be quashed. When reserving judgment we invited counsel to make submissions as to whether, if the appeal was allowed, a re-trial should be ordered. We are grateful to counsel for their timely written submissions. Having considered (i) the seriousness of the alleged offence, (ii) the history of the proceedings set out in this judgment and (iii) the release of the appellant from the custodial portion of his sentence in June 2012, we have concluded that it is not in the public interest to order a re-trial.Mr Jones was not present in court. - *Coventry Telegraph, 04/07/14*

Prisoner Secures Compensation for 88 Days Wrongful Imprisonment

A former prisoner has successfully secured substantial compensation as a result of being wrongfully imprisonment for 88 days. The man, known as Mr Y, was imprisoned in October 2007. At the time of his imprisonment, the Crown Court where he was convicted and sentenced, issued a Warrant of Commitment, which records the details of a person's conviction and sentence, and it gives a prison the legal authority to detain that person pursuant to its terms. The Warrant originally issued by the Court in Mr Y's case was correct. However, following a request from the prison, the Court subsequently amended the Warrant so that it became incorrect. The basis for this error was that the date of Mr Y's offence straddled the implementation of a new sentencing regime. The prison considered that he had been sentenced under the new regime, and, therefore, sought clarification from the Court.

The Judge who sentenced Mr Y had been very clear that he was sentenced under the old regime. However, despite this, the Court acted on the prison's request and amended the Warrant to record that Mr Y was sentenced under the new regime. The consequence of this error was that Mr Y's automatic date of release was changed from two-thirds of his sentence to the whole of his sentence. As a result of the amended Warrant, he was not released from prison until April 2013, having been wrongfully imprisoned for 88 days' beyond his correct date of release.

Following his release from prison, Mr Y approached Benjamin Burrows, a solicitor in the prison law team at Leigh Day, to act for him against the Court in respect of his wrongful imprisonment. Following a pre-action letter, the Court agreed to settle Mr Y's claim and to pay him substantial compensation in respect of their error, as well as his reasonable legal costs.

Commenting on the settlement, Benjamin Burrows from Leigh Day said: "Mistakes are in many ways a part of day-to-day life. However, when the Courts make a mistake, the consequences can be serious. Therefore, they must be held to a higher standard. In Mr Y's case, they failed to meet that standard. For many years the Courts have been protected from claims for compensation in respect of these mistakes. However, Mr Y's case shows that Courts are not necessarily afforded that protection in every case, and that they, like the people they a judging, can be held to account for their mistakes". Adam Straw of Doughty Street Chambers, a recognised expert in prison and human rights law represented Mr Y in his claim. He was also in receipt of legal aid funding.

Karl Carson Found Dead 'After Escaping From Police Vehicle'!

The police watchdog has been informed after Karl Carson was found dead at the bottom of cliffs moments after escaping from a police vehicle. Northumbria police said the man's body was discovered at the bottom of Marsden Grotto cliffs in South Shields just after 1am on Sunday. The force had been called to the area at 12.34am after receiving a report of a group of people fighting in the car park of the Marsden Grotto pub.

They arrested a man in connection with the fight and he was placed inside a police vehicle. "Officers were in the process of arresting a second man in connection with the disorder when the prisoner inside the police vehicle escaped and ran off from officers," police said. Enquiries were carried out to locate him and at 1.03am his body was found at the bottom of Marsden Grotto cliffs."

The air ambulance was called and the man was given CPR treatment by officers until paramedics arrived. Despite efforts to save him, he was pronounced dead at the scene. The area around the cliffs has been cordoned off while an investigation is carried out. The force confirmed the incident had been referred to the Independent Police Complaints Commission due to the contact between officers and the man before he died. theguardian.com,

In R (West) v Parole Board [2005] 1 WLR 350, Mr West and Mr Smith were recalled after their mandatory release. As with the more recent case of R (Osborn) v Parole Board [2013] UKSC 61, [2013] 3 WLR 1020, the case was concerned with the procedures to be adopted by the Parole Board when considering whether they should be re-released, and specifically whether the prisoner should be given an oral hearing. Although the opinions concentrate upon the common law requirements of fairness, I do not find it at all surprising that Lord Bingham appears to have taken it for granted that article 5(4) applied. Lord Slynn required to be convinced of that, but was persuaded by the analogy with the recall of a prisoner serving an indeterminate sentence. In Weeks v United Kingdom (1988) 10 EHRR 293, the Strasbourg court had held that article 5(4) applied. While I entirely accept that there is no analogy between a determinate and an indeterminate sentence, so as to require a review while the prisoner is still in prison, the analogy between the recall of a determinate sentence prisoner who was entitled to be released and the recall of an indeterminate sentence prisoner is much closer.

In R (Black) v SSJ [2009] UKHL 1 AC 949, Mr Black had not yet reached the point in his sentence when he was entitled to be released on licence. He was arguing that article 5(4) applied once he became eligible for discretionary release, so that it was a violation of his rights for the Secretary of State to reject the Parole Board's recommendation that he be released. So his too was not a case of recall after mandatory release. Once again, I do not find it surprising that Lord Brown considered that West was correctly decided; he was well aware of the difference between discretionary and mandatory release, but did not think that the opinions in West drew any distinction between them (para 73). I now think that this was a distinction which ought to have been given greater prominence and that it is a good reason for holding that their Lordships in West were correct in taking the view that article 5(4) applied.

The only case which is not consistent with this analysis is Strasbourg's admissibility decision in Brown. Lord Neuberger is, of course, correct to say that the decision was based on the fundamental distinction between determinate and indeterminate sentences; but the court appears not to have considered whether there might be a distinction between recall after mandatory and discretionary release; further, the case had been considered by the Parole Board, which had the power to order his release, although this was before West, and so there had not been an oral hearing. Ganusauskas v Lithuania (unreported, Application No 47922/99, 7 September 1999), in contrast, not only appears to be a case of a proposed discretionary early release, but also one which was considered by a court. In this case, Mr Whiston was still serving the period of imprisonment which resulted from the sentence imposed upon him by the court: it is called "the requisite custodial period". He was not yet entitled to release. Discretionary release subject a home detention curfew enforced by electronic monitoring may or may not be regarded as a continued deprivation of liberty, depending upon the length of the curfew, but it is very close to it. The prisoner may be recalled for the purely practical reason that it is not possible to monitor him at his address, which is nothing to do with whether he still constitutes a risk. It is the original sentence which means that he is still a prisoner.

Hence it seems to me that our domestic law, which gives the Parole Board the power to decide upon the continued detention of a prisoner recalled after mandatory release on licence, but not after release on home detention curfew, draws a principled distinction. It is a distinction which is certainly consistent with the principles contained in article 5(1) and (4) of the European Convention. It is for that reason that, although agreeing with the ratio of the decision in this case, I would prefer it not to be taken further than the situation with which this case is concerned. I comfort myself that the views to the contrary expressed in Lord Neuberger's judgment are, strictly speaking, obiter dicta. Refs in [ ] brackets are to paragraphs in the judgment

conclusion. In my view, the present law draws a principled distinction between those determinate prisoners who have reached the point in their sentence at which they are entitled to be released on licence and those who have not. If the former are recalled from their licence, and their representations to the Secretary of State fall on deaf ears, they are entitled to have their case referred to the Parole Board. The latter, whose release on licence was discretionary, are not.

In Brown v United Kingdom (unreported, Application No 986/04, 26 October 2004) the Strasbourg court pointed out that there was a crucial distinction between prisoners serving a determinate sentence of imprisonment and those serving a life sentence. Once the latter had served the punishment part of their sentences, the reason for detaining them was not to punish them for their original offence but because they posed a continuing risk to the public. Hence article 5(4) required that their continued imprisonment had be subject to periodic judicial scrutiny. A determinate sentence, on the other hand, had been imposed by a court as punishment for the offence and that justification continued for its duration. "The lawfulness of his detention does not depend, in Convention law terms, on whether or not he ceases to be at risk of re-offending" (page 5).

The court went on to say that "The fact that the applicant before the end of the sentence may expect to be released on licence does not affect this analysis" (page 5). However, the position in our law is rather stronger than an expectation of release on licence. The prisoner is legally entitled to be released at a certain point in his sentence. This is irrespective of the risk that those responsible for his imprisonment may consider that he poses to the public. In a very real sense, therefore, the sentence imposed by the court as punishment for the offence is half the actual term pronounced by the judge (and indeed the judge has to explain this to him when imposing it). I appreciate, of course, that the judge imposes the sentence which he or she thinks correct, without regard to the right to early release. The whole of the sentence is intended as punishment. Once released at the nine month point, the prisoner remains liable to recall for the remainder of the term. However, the reasons for his recall could then be subject to scrutiny by the Parole Board, which will focus upon whether or not he poses a risk of re-offending or otherwise endangering the public. Thus it can be said that, once a prisoner has passed the point of mandatory release on licence, the basis for any later recall and detention is the risk of reoffending rather than the original order of the court, and article 5(4) applies.

Drawing this distinction is in fact consistent with the results of the domestic authorities. In R (Giles) v Parole Board [2004] 1 AC 1, Mr Giles had been sentenced to term of imprisonment totalling seven years which was "longer than commensurate" with the offences he had committed. He was entitled to be considered for parole after he had served half of this and to be granted parole after he had served two-thirds. His complaint related to the absence of automatic reviews once he had served whatever period the judge had thought commensurate with the gravity of his offending (which the judge was not required to and did not specify). The issue was whether a determinate sentence which was partly punitive and partly preventative was in the same category as an indeterminate sentence and thus incompatible with article 5(4) unless (at least after the commensurate part had been served) there was a review before a judicial body with power to order release. The issue was not whether a prisoner who had been released, still less a prisoner with the right to be released, had the same rights as an indeterminate prisoner if recalled. Furthermore, it is difficult to characterise the position after a prisoner has reached the point of mandatory release as simply the administration of the sentence which has been imposed by the court. Parliament has decided that the prisoner is entitled to release and the criteria for recall and re-release are quite different from those which led the judge to impose the original sentence.

06/07/14

What's in a Name? - HMP Hewell Prisoner 'Freed by Mistake'

A prisoner was freed in error because he had the same surname as a convict due for release, it has emerged. Anthony Douglas was released from HMP Hewell, near Redditch, on Wednesday instead of another offender who had completed his sentence. Douglas, in his 20s and originally from Burton upon Trent, was arrested on Thursday after police were notified of the mistake. He is now back in jail. The Prison Service said it had started an investigation. "We take public protection extremely seriously and this type of incident is a very rare but regrettable occurrence," a spokesperson said. The Ministry of Justice refused to confirm how long Douglas had left to serve on his sentence, or the details of his conviction.

Dale Farm Protestor Given £15,000 Compensation From Essex Police

Ellen Yianni, 29, from Hounslow, claimed she was assaulted after being wrongly arrested and then held in poor conditions by police during the mass eviction at the Crays Hilll site in October 2011. Ms Yianni also said she was maliciously prosecuted and had her details made public in breach of the Data Protection Act which led to online threats and abuse. A court case against Ms Yianni was dismissed in January 2012 and afterwards she launched a complaint and civil case against Essex Police. Essex Police have not admitted liability, but have given Ms Yianni £15,000 in compensation. Ms Yianni said: “The court made it clear that I had no case to answer, but the ordeal really took its toll on me and my family. I am pleased that the case has been settled and I am now able to move on.” Ms Yianna said she was grabbed by two officers after scaling scaffolding, who threw her down a steep ramp. When she tried to get up she alleged she was hit with a shield before being hauled from the ground by police. She was then later arrested for refusing to remove a scarf, which was allegedly covering her face. Ms Yianni said she was wearing it because of the cold weather. Police are only allowed to make the request to remove a scarf if they reasonably believe the person is trying to conceal their identity. She alleged she was then held in a police van for several hours before being taken to Basildon Police Station where she was held for a further five hours without being allowed to call anyone to tell them where she was.

Natalie Sedacca, solicitor at Hodge Jones & Allen, which fought her case, said: “There will obviously be situations where real criminality arises and the police need to act, but in this case my client was a peaceful protestor who had not committed any acts of violence or disorder and simply declined a request to remove a scarf. The fact that this young woman of good character spent nearly 13 hours in police custody and a further three months being subject to a stressful prosecution as a result, is in our view unacceptable.” Echo News.com, 02/07/14

Number of Northern Ireland Prisoner Complaints up 11%

The number of complaints from Northern Ireland prisoners rose by 11% in the last year, according to the prisoner ombudsman. In 2013-14, the ombudsman investigated 450 new complaints, four deaths in custody and three post-release deaths. Eighty per cent of the complaints came from Maghaberry Prison. Overall, 46% of the complaints were upheld. Property and cash, visits, staff attitudes, and accommodation accounted for 40% of the complaints.

Prisoner Ombudsman Tom McGonigle said his office made 323 recommendations for improvement. Ninety per cent of these were accepted by the prison service, he added. "Throughout the year we heard of several situations where prisoners almost died in each prison, but were saved by prompt and effective staff intervention," Mr McGonigle said. "We

made 99 recommendations for improvement in relation to the care of prisoners."

Closed Material Procedures (CMP) Tribunals of Injustice and Whitewash

The common misconception that British Justice is blind, impartial and one of the most advanced and fair in the developed world should surely be uncovered for the myth that it is, with the increased use of 'closed material procedure' (CMP). It is the opinion of Justice Watch Ireland (JWI) that this is yet another example of the tiered justice system in play, when dealing with those individuals that are deemed indifferent to the state.

By virtue of the Justice Security Act, alongside executive interference; the government are increasingly invoking the wrath of inequity, as they use CMPs to permit the judge and one party to a legal dispute to see evidence, but prevent claimants including their own legal teams and the public from knowing precisely what is being alleged and who has been alleged by. No right to quiz the accuser, no right to question the evidence. Sounds like a kangaroo court? Unfortunately not; this is now the reality for an increased number of citizens. This ensures a limited or even zero degree of disclosure that could be made in any trial.

CMPs unsurprisingly were heavily advocated by de-facto intelegence agency, MI5. Manningham-Buller, the former Director General of MI5, argued that CMP is the only way that Judges can make a judgment on the accusations of 'wicked iniquities' levelled against the service which she said they could not defend themselves against under the current law.

That said, Senior Law Lord, Phillips has stated that he was 'reluctantly persuaded of the need, in the interests of justice, for a closed material procedure in exceptional cases.' But he pointed out that it is inevitable that if CMP is brought in to law it will 'undoubtedly be challenged in the Supreme Court and in Strasbourg and that it will be necessary for the Government to demonstrate that the inroads into fair trial rights are the minimum necessary and are subject to available safeguards.'

Phillips has not had to wait too long, as recent judicial events here has illustrated, that there are no safe guards in place, as the British SOS and trained barrister; Theresa Villers seems to be unaware of the understanding to be used as last resort. In fact she has fallen into the trap that was raised by respected legal academic Tom Hickman, detailing the flaws of this process, he stated; 'Absence any such balance CMP operates like a black box from which no information of any use or interest emerges. All information of even marginal sensitivity is immune from disclosure even if this is overwhelmingly in the interests of justice for it to be disclosed. Entire classes of information regarded as of some sensitivity, such as any information relating to activities of the Intelligence Services, for example, are considered to be non-disclosable.'

These concerns have been backed by leading human rights lawyer, Kevin Winters of KRW law in Belfast, who has the unfortunate task of working at the coal face of CMP implementation. He stated 'We are concerned about the developing pattern of CMPs being used as the norm to defend legal actions rather than being used as exceptions in extreme cases.'

The Guardian's Henry McDonald highlights that 'CMPs add a more versatile legal weapon to the government's armory, permitting intelligence to be introduced into a case while withholding it in full from a claimant. Supporters – including the cabinet minister Ken Clarke, who ushered the act through parliament – argue that it enables the government to resist ill-founded claims.'

Justice Campaigners have always believed this type of behavior was always at play behind closed doors, in courts within this jurisdiction, and that secret evidence given to obliging judges, no disclosure, no facing the accuser, no fair trial and all backed up by having no access to a jury. The same campaigners have always warned if this type of injustice remained unchallenged it would become part of normal procedure. Now that the Justice and Security

with whom Lord Kerr, Lord Carnwath and Lord Hughes agree, gives the main judgment. Lady Hale gives a concurring judgment. Under Strasbourg jurisprudence, where a person is lawfully sentenced to a determinate term of imprisonment by a competent court, he is not, at least in the absence of unusual circumstances, able to challenge his loss of liberty during that term on the ground that it infringes article 5(4). Where the Secretary of State exercises her discretion to release a prisoner before the end of the requisite custodial period of their sentence, article 5(4) is not infringed if that licence is subsequently revoked.

Reasons for the judgment: All the statutory provisions relevant to this appeal are in the 2003 Act, as amended most recently by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Where a person has been convicted and given a determinate prison sentence of twelve months or more (a "sentence period"), section 244(1) provides that, subject to certain specified exceptions, once he has served half his sentence it is the duty of the Secretary of State to release him on licence. A prisoner may also be released on licence during the requisite custodial period under section 246(1). A licence, whether under section 244 or 246, remains in place until the end of the sentence period, unless the licence is revoked and the person subject to the licence (the 'licensee') is recalled. The Secretary of State has the power to revoke a licence and recall a licensee back to prison pursuant to two different statutory provisions [3-8].

First, section 254(1) of the 2003 Act gives the Secretary of State a general power to revoke any licence and to recall the licensee to prison. Where the power of revocation is exercised under section 254(1), the licensee is entitled to be told the reasons for his recall and to make representations to the Secretary of State, and, ultimately, to the Parole Board. Secondly, section 255(1) confers a specific power on the Secretary of State to revoke a section 246 licence. This power of recall can only be exercised until the end of the requisite custodial period, when the licensee would have been entitled to be let out on licence as of right. Unlike the position in relation to the section 254 power of recall, there is no provision for review by the Parole Board of the exercise of the Secretary of State's section 255 power of recall [9-10].

Under Strasbourg jurisprudence, where a person is lawfully sentenced to a determinate term of imprisonment by a competent court, there is (at least in the absence of unusual circumstances) no question of his being able to challenge his loss of liberty during that term on the ground that it infringes article 5(4). This is because, for the duration of the sentence period, "the lawfulness of his detention" has been "decided…by a court", namely the court which sentenced him to the term of imprisonment [38].

On this approach, article 5(4) could not normally be invoked in a case where, in relation to those serving determinate terms, domestic discretionary early release provisions are operated by the executive. The notion that article 5(4) is satisfied by the original sentence appears entirely principled, and the consequence that a person under such a regime has to rely on his domestic remedies, at least unless other Convention rights are engaged, is not unreasonable in practice [40]. The common law should be well able to afford appropriate protection to the rights of people in the position of Mr Whiston without recourse to the Convention [45]. Consequently, in so far as it held that article 5(4) was engaged by the revocation of a mandatory licence, the House of Lords in Smith and West [2005] 1 WLR 350 were incorrect and the observations of Lord Brown in R (Black) v Secretary of State for Justice [2009] 1 AC 949 are wrong in so far as they suggest that the law of the United Kingdom in relation to article 5(4) differs from the Strasbourg jurisprudence [46].

Lady Hale [51 through 59] I agree that this appeal should be dismissed but I wish to sound a note of caution about some of the reasoning which has led Lord Neuberger to reach that

ed. - Inspectors made 98 recommendations

Report on an Unannounced Inspection of Haslar Immigration Removal Centre

Inspection 10/11 and 17/21 February 2014 by HMCIP, published 08/07/14. Haslar is the UK's oldest IRC and one of the smallest. It is run by the Prison Service. Inspectors found that the centre continued to operate reasonably well and further improvements had been achieved since its last inspection in 2011. However inspectors were concerned to find that: - although security arrangements were generally reasonable, some were disproportionate to the risks posed by the population, such as detainees routinely being escorted to outside medical appointments in handcuffs; - the special accommodation unit was not routinely staffed when used to hold detainees who had been separated or when they were at risk of self-harm; - increasing numbers of detainees did not have a lawyer to assist with their immigration cases; - some detainees were held for unreasonably long periods; - not all detainees were prepared for what came after leaving the centre, and some were only told the day before that they were being moved to another centre; and - most detainees had a mobile telephone but poor reception and the lack of access to Skype hindered their ability to keep in touch with the outside world. - the Home Office continued to prevent detainees from working if they did not comply with immigration processes. - Inspectors made 71 recommendations. Nick Hardwick said: “Despite some criticisms, Haslar is one of the better immigration removal centres that we have inspected. Its strengths are derived in a large part by the sound relationship between staff and detainees, which in turn are driven by the active and visible management team. We have identified areas for improvement but, overall, this is a good report.”

Stuart Whiston v Secretary of State for Justice

[2014] UKSC 39 On appeal from: [2012] EWCA Civ 1374 - Justices: Lord Neuberger (President), Lady Hale (Deputy President), Lord Kerr, Lord Carnwath, Lord Hughes

Background to the appeal: The question raised on this appeal is whether a person released from prison on a home detention curfew, and then recalled to prison under section 255 of the Criminal Justice Act 2003, has rights pursuant to article 5(4) of the European Convention of Human Rights. Article 5 protects the right to liberty, and article 5(4) confers on an individual who has been deprived of their liberty an associated right to challenge that deprivation before a judicial body.

On 5 October 2010, the appellant, Stuart Whiston, was sentenced to 18 months in prison for robbery. He was entitled to automatic release on licence after serving half his sentence on 5 July 2011. However, on 21 February 2011, he was released on licence under a so-called home detention curfew pursuant to section 246 of the 2003 Act. On 7 April 2011, the Secretary of State decided to revoke the licence under section 255 of the 2003 Act, because the appellant’s whereabouts could no longer be monitored in the community, and he was recalled to prison. The decision of the Secretary of State was not subject to any statutory judicial control or review.

The appellant contends that, as a result of the licence granted on 21 February 2011, he regained his liberty, and the subsequent revocation of his licence and his consequent recall to prison on 7 April 2011 therefore constituted a deprivation of his liberty which infringed article 5(4). The Secretary of State argues that, at least where the sentence in question is determinate, in any case where a prisoner who has been released on licence is recalled to prison during the currency of his requisite custodial period, the requirements of article 5(4) are satisfied by the original sentence lawfully passed by the court by which he was originally imprisoned.

Judgment: The Supreme Court unanimously dismisses the appeal. Lord Neuberger,

Act has codified and authorized the CMP process, the chicken has come home to roost. If this remains unchallenged it will without doubt, add to the increasing number of miscarriages of justice and should highlight the true nature of the Justice system when dealing with those subjects that it is not willing to tolerate or afford the right to a fair trial. JWI calls for the CMP project to be officially and unofficially ended. Injustice of any kind destroys the fabric of any society and would strongly appeal to all advocates of human rights protections, especially those in Britain to voice their opposition to this unjust process. *Justice Watch Ireland*

Detective Accused of Misconduct Over Sex Offence Inquiries *BBC News, 05/06/14*

A detective has been charged with misconduct in public office over allegations relating to the way he handled rape and sexual assault cases. Carl Ryan faces six counts relating to a two-year period when he worked at Scotland Yard's Sapphire unit, which deals with serious sexual offences. He is accused of signing witness statements himself and falsifying entries on the crime report system. Mr Ryan is due to appear at Westminster Magistrates' Court on 18 July.

'Prospect of conviction' - The Crown Prosecution Service (CPS) authorised the Independent Police Complaints Commission (IPCC) to charge Mr Ryan after an investigation into his behaviour was carried out by the police watchdog. Sally Walsh, a senior lawyer with the Crown Prosecution Service's special crime division said: "It is alleged that between 2010 and 2012, Mr Ryan, who at the time was an officer in the Sapphire unit dealing with rape and sexual assault cases, failed to properly advance the forensic side of investigations on a number of occasions. "It is also alleged that Mr Ryan signed the statements of witnesses himself and incorrectly informed a suspect of a decision to prosecute when no such decision had been made."

'Public expectation' - The IPCC said the charges relate to a period when Mr Ryan served as a detective constable on the Met's Sapphire command in Islington, north London, and was "leading a number of investigations into allegations of rape and serious sexual offences". In a statement, it said of the decision to charge Mr Ryan: "It follows an independent investigation by the IPCC which included examining concerns about how he had conducted crime investigations and allegations that he had falsified entries on the crime report system in relation to the submission of exhibits and advice from the CPS." Concerns with Mr Ryan's work were initially raised by one of his supervisors in May 2012. It is not known if he is still employed by the Met.

Crime Scene Interpretation: The Dangers of Contextual Bias *Peter Ellis, Police Oracle*

In recent years there has been much debate regarding the impact of contextual information on the cognitive process relating to fingerprint comparison. The highly controversial fingerprint identifications relating to Shirley McKie in 1997 at the scene of a murder in Scotland and Brandon Mayfield regarding the Madrid terrorist bombing in 2004 provided a platform for debate on contextual bias within fingerprint evidence. In both cases serious concerns existed with regard to the validity of the identifications made. In the case of Brandon Mayfield, an American attorney, it was acknowledged, that the identification made was erroneous and a formal apology was issued by the American government. The Scottish Fingerprint Inquiry Report published in 2011 concluded that fingerprint comparison, as a cognitive process, may be influenced by contextual information. However, the wider impact of contextual information and perception within forensic science has not been subjected to the same degree of scrutiny. Should more consideration be given to the impact of contextual information and individualistic perceptions in other areas where circumstance permits subjective analysis and interpretation in order to rationalise the unknown.

Knowledge and experience contribute to the cognitive process through which individuals interpret information. Human judgment and decision making may be distorted by an array of cognitive, perceptual, and motivational biases. Could contextual information, preconception, and confirmation bias be relevant factors within areas such as the interpretation of complex and emotive crime scenes? The Forensic Regulator has established quality assurance within the delivery of forensic science in order to meet the growing demand for increased scrutiny. The introduction of codes of conduct and accreditation for forensic science service providers and practitioners to comply with quality standards such as ISO 17025 and 17020 have established a benchmark for quality. There is now a requirement to demonstrate competence, independence, impartiality and integrity within forensic science.

Crime scene interpretation is fundamental to the formulation of a forensic strategy and recovery plan that govern the retention of exhibits from the crime scene. The decision as to whether a death was the result of criminal activity, tragic accident, or natural causes is one of the most difficult faced by crime scene investigators. This may be illustrated in cases where judgment is made as to whether the deceased was pushed in a criminal act or accidently fell to their death.

A simplistic example may be where the deceased is found with head injuries at the bottom of a staircase, crime scene interpretation would rely significantly on contextual information. Pressure may be placed upon crime scene investigators through the limited availability of resources, a need to release the crime scene, release police officers for reassignment, and to comply with the prevailing hypothesis. This pressure can be both tangible and influential, particularly when related to serious and emotive crimes. The wrong decision may result in delay and lost forensic and investigative opportunities.

Crime scene interpretation must focus on logical analysis with objective assessment throughout and with the prevailing hypothesis continually challenged. An undisciplined approach may result in involuntary bias, particularly with regard to subjective concepts such as corroboration and intent. The crime scene interpretation process should be approached with an independent open mind with variable focus and perspectives applied. Interpretation should be in context with physical evidence and indicators present within the crime scene. Independence, impartiality, and integrity must prevail to prevent the loss of forensic and investigative opportunities and the miscarriage of justice. - Peter Ellis worked at the Metropolitan Police Service Directorate of Forensic Services from 1980 to 2013. He is a member of Council of The Chartered Society of Forensic Sciences.

World Attorney Generals to Debate Role of Juries in Internet Age Owen Bowcott

The attorney generals of the UK, US, Canada, Australia and New Zealand, are meeting in London this week to discuss how to preserve the jury system in the internet age. They will also look at ways of improving the international fight against cybercrime and may consider the legal fallout from the Edward Snowden affair. Reviews of contempt of court procedures and the impact of social media are under way in several countries, including the UK.

In New Zealand, a recent high-profile manslaughter case involved a judge discharging five jurors after one researched a case on the internet and informed the others about what he had discovered. The following day a new jury was drawn from 36 people for the case, but five more of them had to be discharged because it was found they too had researched the case online. Jurors are supposed to consider only what is presented in court. The New Zealand law commission has proposed making it a criminal offence for a juror to disobey the instructions of a judge and research extra information.

prevalence of illicit drugs remained stubbornly high; - support for minority groups was mixed - foreign national prisoners were particularly negative about their experiences; - the number of education and work places had increased, although there were still not enough; - Complaints were poorly managed and prisoners had little faith in the process, - Muslim prisoners felt less positive that their concerns were being listened to. - high levels of mental health problems - needs of some disabled men were not met consistently - many cells were doubled up with unscreened toilets - public protection work required attention. - Inspectors made 83 recommendations - Inspection 24 Februaryby HMCIP – 7 March 2014, published 09/07/14

National Crime Agency Officers Granted New Powers

Under sections 9(2) and 10(1) of the Crime and Courts Act 2013 a National Crime Agency (NCA) officer can be designated as a person having the powers and privileges of a constable, the customs powers of an officer of Revenue and Customs and the powers of an immigration officer. This Order modifies the application of certain enactments which confer powers on the police (as well as constables) and immigration officers to enable such powers to be exercised by designated NCA officers. Part 2 of this Order modifies the application of the Police and Criminal Evidence Act 1984, the Anti-social Behaviour Act 2003 and the Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data)(Transitional, Transitory and Saving Provisions) Order 2013 in relation to NCA officers designated as persons with the powers and privileges of a constable. Part 3 modifies the application of the Immigration Act 1971 and the Immigration and Asylum Act 1999 in relation to NCA officers designated as persons with the powers of an immigration officer. Part 4 of this Order revokes the Serious Organised Crime and Police Act 2005 (Application and Modification of Certain Enactments to Designated Staff of Serious and Organised Crime Agency SOCA) Order 2006.

Report on an Unannounced Inspection of Dover Immigration Removal Centre

Inspection 3/14 March 2014 by HMCIP, published 07/07/14.Dover was working reasonably well in some respects, but needed to feel more like an immigration removal centre, not the prison it once was. Situated in a 19th century fort on the cliffs above the town, Dover has been an IRC since 2002. It is managed by the Prison Service and holds up to 280 adult and young adult men. At the time of the inspection, the centre was anticipating the arrival of a newly appointed centre manager. In recent years inspectors have described a satisfactory institution that was making steady progress. At this inspection there were many aspects of Dover that worked well but some significant shortcomings that needed to be addressed. The institution has not been a prison for over 12 years but in many respects it is still run like one. As indicated in previous reports, the centre needs to give greater emphasis to the specific needs of detainees and respond proportionately to the risks it faces." Inspectors were concerned to find: - a complacency and lack of direction to the centre, staff culture also needs to improve - some physical aspects of security were excessive and some house blocks had prison-like environments; - the reward scheme was inappropriate and its application was punitive; - immigration processes impacted on detainees' stress levels and their sense of safety and too many did not have an immigration lawyer; - the management of cases was too slow; - some uniformed staff were dismissive and unhelpful and in some cases, unprofessional; - Arrangements to help detainees through individual support plans were good in principle, but were hardly applied in practice. - arrangements to support detainees prior to removal or release were very limit-

Lord Lang of Monkton, chairman of the House of Lords constitution committee, said: "The office of lord chancellor is one of the oldest in the British constitution, but relatively recent changes have changed the role considerably. It is now approaching 10 years since the passing of the Constitutional Reform Act, which ended the lord chancellor's role as head of the judiciary and presiding officer of the House of Lords. This followed a hasty reshuffle in which it had been suggested that the office of lord chancellor would be abolished. We will look at the role as it is now. Does the lord chancellor still have any real powers? Is the position appropriately independent of government?"

Responding to the inquiry, a Ministry of Justice spokesman said: "The lord chancellor takes all of his responsibilities extremely seriously. The Constitutional Reform Act clearly sets out this role and we believe the current arrangements are working well. We look forward to providing evidence to the committee in due course."

But Labour's justice spokesman, Andy Slaughter, said: "The timing of this inquiry is not overtly linked to Grayling's performance as lord chancellor but his conduct in the revised role has tested it to destruction. The inquiry looks like it will focus on maintaining the independence of the judiciary, upholding the rule of law as stated in the lord chancellor's oath and the ability of someone without legal training or a full understanding of the legal system to fill the post. These are exactly the areas in which Grayling has been found wanting."

Appeal in Prison Law Legal Aid Challenge

Court of Appeal has granted permission to appeal in the challenge to the prison law legal aid cuts being brought by the Howard League and the Prisoners' Advice Service. Permission to proceed with a judicial review was refused by the High Court earlier this year and this decision will now be reconsidered by the Court of Appeal. The challenges concern the decision to cut most aspects of prison law from legal aid funding, including cases involving mother and baby units, all resettlement and sentence planning cases and some parole board hearings. The charities are represented by Simon Creighton at Bhatt Murphy and Phillippa Kaufmann QC at Matrix Chambers, Martha Spurrier and Alex Gask of Doughty Street Chambers.

Report on an Unannounced Inspection of HMP Birmingham

Managed by G4S: HMP Birmingham is a very large inner city local prison serving the local courts and holding an unusually complex and challenging population. The prison manages a significant throughput of prisoners, with over 100 passing through reception every day. The operational challenges the prison faced in providing a safe and decent environment were not to be underestimated. Inspectors last visited HMP Birmingham in late 2011 when its management had recently transferred from the public sector to G4S following a competitive process. In 2011, inspectors recognised that Birmingham had been a failing prison over many years.

Many prisoners experienced a long wait in court cells before being moved to the prison, and this, along with regular overcrowding drafts, meant that they often arrived at reception late in the evening. Given the numbers of prisoners involved, this put first night and induction procedures under great strain with some important action inevitably missed. First night staff were caring and generally did a good job of keeping prisoners safe. Nevertheless, there had tragically been four self-inflicted deaths since the last inspection in 2011, with recent arrival at the prison a common feature. The safety of newly arrived prisoners was a significant risk that required ongoing and heightened attention.

Inspectors were concerned to find: - despite some good supply reduction work, the

The crime and courts bill going through parliament creates four new criminal offences, replacing the punishments that already exist as contempt of court. The new offences criminalise researching details of a case they are trying, sharing details of the research with other jurors, disclosing details of juror deliberation and engaging in other prohibited conduct. Judges will also gain the power to order searches for and confiscation of electronic devices for the duration of a trial in order to in order to prevent communications in the interest of justice.

The searches are to be conducted by court security officers. The British attorney general, Dominic Grieve, who has warned about the dangers of the public being in contempt of court by commenting on Twitter, Facebook or other social media, said: "Juror contempt is a serious risk to justice but people are often not aware of the consequences. The proposed criminal offence for jurors to search for information about their case on the internet or by other means would make the position absolutely clear and would, I hope, reduce the need for future prosecutions. I look forward to sharing the New Zealand experience." Such behaviour is currently dealt with under contempt of court regulations as a civil matter. A number of UK jurors have already been jailed for consulting the internet and communicating their findings.

'No Justice' Over Death of Kingsley Burrell *BBC News, 04/07/14*

The family of a man who died in police custody said "justice had been denied" after the Crown Prosecution Service (CPS) decided not to press charges. Kingsley Burrell, 29, from Hockley in Birmingham, was detained under the Mental Health Act in March 2011 and died four days later. His relatives claimed he was restrained using excessive force. But on Tuesday 02/07/14 the CPS announced there was insufficient evidence to secure a conviction.

At a news conference held on Friday 4th July, Mr Burrell's sister, Kadisha Burrell, said she was determined to continue campaigning for a criminal case to be brought against West Midlands Police. "Not to get justice is unbearable, for the family as well as the community. It doesn't matter how long it takes, we will get justice eventually."

In a statement, the CPS said: "Officers and medical staff were presented with an ongoing and difficult set of circumstances. We understand it is not the decision that Mr Burrell's family will necessarily have wanted and we have offered to meet them to discuss this matter." A date for an inquest into the death of Mr Burrell has not yet been set.

'Death Penalty has no Place in 21st Century

United Nations Secretary-General Ban Ki-moon declared today, calling on all States take concrete steps towards abolishing or no longer practicing this form of punishment. “Together, we can finally end this cruel and inhumane practice everywhere around the world,” said Mr. Ban in opening remarks to the special event “Best practices and challenges in implementing a moratorium on the death penalty,” co-organized at UN Headquarters by the Office of the UN High Commissioner for Human Rights (OHCHR) and the Permanent Mission of Italy to the UN. The special event held, according to a concept note on the proceedings, “in the spirit” of the aims of the annual resolution of the UN General Assembly on “Moratorium on the use of the death penalty” first adopted in 2007. That broad and inclusive text does not impose the abolition of the death penalty but rather proposes a moratorium on executions – de jure or de facto – with a view to abolishing the death penalty in the future.

At the event, which was moderated by Assistant Secretary-General for Human Rights Ivan Simonovic, Mr. Ban noted that the Assembly will soon take up the resolution again. The efforts

generated by the text have won a progressively broader margin of support from Member States, representing a variety of legal systems, traditions, cultures and religious backgrounds. "[Yet], I remain very concerned, however, about shortcomings with respect to international human rights standards in countries that still apply the death penalty," he said, adding that he is particularly troubled by the application of the death penalty for offences that do not meet the threshold under international human rights law of 'most serious crimes,' including drug-related offences, consensual sexual acts and apostasy.

The UN chief went on to express concern about legislation in 14 States that permits the death penalty on children as well as the new phenomenon of sentencing large groups of individuals to death in mass trials. Against such a backdrop, he said that over the past two years, OHCHR has convened a series of important global panel events on the death penalty, focusing on wrongful convictions, deterrence and public opinion, and discrimination. Specifically, discriminatory practices in the imposition of the death penalty further reinforce the calls for its universal abolition. Looking ahead to the next session of the General Assembly, he therefore called on all States to take action in three critical areas: ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty; support the resolution on the moratorium on the use of the death penalty; and take concrete steps towards abolishing or no longer practicing this form of punishment.

Probation Reform 'Train Crash' Poses a Risk to Public Safety' *Mark Leftly , Indpendent,*

Hundreds of criminal offenders across the country have not seen a probation officer for weeks, amid warnings from senior politicians that the coalition's reforms are a "train crash" that pose "a risk to public safety". The probation service has descended into chaos since it was reorganised at the start of last month in preparation for handing 70 per cent of the service's management to the private sector, according to Westminster and union sources. Experts say the crisis has deepened since The Independent on Sunday revealed last month that computer failures have led to thousands of offenders' case files being lost, frozen or wiped since IT changes were introduced on 2 June. This has resulted in huge backlogs of work and even in offenders being turned away from community service.

Many probation officers are now reporting serious instances of strain or illness caused by overwork, while at the start of last week as many as 500 were estimated to have not received proper pay. More disturbingly, hundreds of examples are emerging of people on probation who have not been assigned an officer, meaning that they are walking free without any assessments on whether they pose an increased risk to the public since sentencing. One source suggested as many as 2,500 offenders could be without a probation officer. In a briefing to MPs, Napo, the probation officers' union, said it had found 60 domestic violence cases "left in a cupboard with no offender manager" in the North Yorkshire region. A further 50, with at least one high-risk offender, have not been allocated in the South-west, while 291 cases in the South Yorkshire area have been passed to an officer "in name only".

Particularly problematic have been moves to divide the service in two, the report claims. High-risk offender files go to the National Probation Service, which will remain in state hands, and the rest go to community rehabilitation companies (CRCs) soon to be run by the private sector. In the Warwickshire and West Mercia area, the union says there is evidence that high-risk sex-offender cases have been incorrectly sent to the CRCs. IT restrictions introduced last month mean that tutors running sex-offender rehabilitation programmes cannot access individual files when they are with CRCs.

The Napo briefing recommends that MPs on the Justice Select Committee ask the Justice Secretary, Chris Grayling, how rapidly the issues will be resolved and who is accountable if further serious offences occur in the meantime. It concludes: "Why has this situation been allowed to happen?" By coincidence, Mr Grayling faces wider questioning about his role, on Wednesday. Elfyn Llwyd, a Plaid Cymru MP and member of the committee, says he plans to raise the probation issues at the hearing. "The most worrying feature of all this is that it was entirely predictable," said Mr Llwyd. "This is definitely a train crash in the making and is a risk to public safety. In fact, we're about at that point now – this is a privatisation too far." The unions have found around 500 examples of where officers have not been paid properly since the service was divided. Issues include not being paid for unsociable hours, which form a large slice of a probation officer's salary which can be as low as £22,000, and pension contributions taken even if the officers have opted out of the scheme. Tania Bassett, a Napo official and former probation officer, said: "Supervision is a critical part of risk management. It enables officers to discuss a person's circumstances and any changes that might be a risk trigger, such as increased alcohol use. Without it, huge amounts of work and information gathering isn't done and the person is just being left to continue their behaviour. This might mean they could be living with their victim and no one would know, or having contact with children when they pose a risk."

Mr Grayling believes that transforming 35 probation trusts into 21 CRCs run by the private sector will result in a more efficient and less costly service. Private-sector contractors and mutual companies formed by probation officers will be selected as preferred bidders for the £800m-a-year contracts by the end of 2014.

The shadow Justice Secretary, Sadiq Khan, said: "The chaos caused by the Government's reckless privatisation of probation is getting worse by the week, and still ministers are in denial about how bad things are getting. David Cameron needs to intervene personally and halt immediately Chris Grayling's crazy plans before someone gets hurt." A MoJ spokesman said: "With any change of this scale, it is normal to experience some issues, which is why we prepared so extensively for it. The vast majority of staff were paid without issue. We are implementing these reforms in a controlled and measured way. We will not take risks with public safety."

Lord Chancellor's Role Under Scrutiny From Lords' Inquiry Owen Bowcott, theguardian.com

Peers are to hold an inquiry into the ancient office of the lord chancellor, asking whether it should be held by a lawyer or combined with the post of justice secretary. The investigation, launched by the House of Lords constitution committee, is a direct challenge to Chris Grayling, who is believed to be the first person in 500 years without a legal background to hold the position. The role dates back to at least Norman times in the 11th century. After the Constitutional Reform Act was passed in 2005, the lord chancellor no longer took the role of head of the judiciary or presiding officer of the House of Lords. The lord chancellor does, however, retain some responsibilities for appointing judges and has a statutory duty to uphold judicial independence and the rule of law. Disputes over deep cuts to legal aid have highlighted what critics see as a contradiction in Grayling's dual role as justice secretary, and his duty as lord chancellor to maintain the integrity of the courts. The questions the committee will investigate will include: • What are the current functions of the lord chancellor and how are they different from the secretary of state for justice? • Is the combination of the roles of lord chancellor and secretary of state for justice appropriate? Should the lord chancellor be a more independent voice? • Should there be statutory criteria for appointment as lord chancellor? • Should the lord chancellor be a lawyer? Should he or she be a member of the House of Lords?