James II commanded the navy, as lord high admiral, to support the company. New York was named in his honour, following the capture of New Amsterdam. His initials DY were branded on slaves to mark his power and property. The scale of the Royal African Company's trade was subsequently overshadowed by the market entry of many other slave traders in the 18th century. Nevertheless, its heyday under James was a key historic moment when the Crown actively moved to assert the global leadership of England over the slave economy. James II is commemorated by a notable statue in our most celebrated national public space, Trafalgar Square, on the lawn in front of the National Gallery. Finely sculpted by Grinling Gibbons, and initially erected in 1686 behind the Whitehall Banqueting House, it was lucky to survive the Glorious Revolution. Less fortunate was a sister statue of him in Newcastle that was thrown into the Tyne by a mob in May 1689. This is an unmissable moment to create an imaginative counter-monument of national contrition for our central role in the slave trade The London statue ended up being moved from site to site over the years. The decision to locate it in Trafalgar Square in 1947 was met with vocal opposition. A contributor to The Times in the 1950s called it a statue of an "apostle of chicanery", which should be "dropped into the Thames" but the controversy never touched upon his historic role in slavery. Paradoxically, the internationally known location of his statue has created an extraordinary opportunity to confront his slave-trading legacy. Earlier this year, the National Gallery announced a competition to redesign its Sainsbury Wing and to 'reimagine the external public realm' at its doorstep. At the heart of this 'realm' is the statue of James II.

This is an unmissable moment to share this setting with an imaginative counter-monument of national contrition for our central role in the slave trade. This does not mean the removal of the statue. Quite the opposite. The statue's very presence is what makes it such a suitable and sensitive site. But it needs a striking and visible counter-monument to tell a national story which is inclusive and honest. Here is an opportunity to show that the country is ready to acknowledge the darker side of its colonial past. It begs to be an exemplary mission for the London Mayor's new Commission for Diversity in the Public Realm. We need a powerful cultural counterpoint that speaks directly to this statue of James II as a pivotal creator of the slave trade. A statue of 'the unknown slave' could be one option but who can guess what might arise from the public's imaginations if given the chance. No doubt the right-wing, anti-woke culture warriors will scoff. Yet this proposal clearly fits the new official government policy to 'retain and explain' a contested statue. A meaningful effort 'to explain' deserves an original and inspiring material tribute to the black lives devastated by slavery. It demands a stature and presence with far greater visual impact than a textual plaque. Will the National Gallery step up to the challenge? And will Downing Street and the Palace speak out in support?

Serving Prisoners Supported by MOJUK: Derek Patterson, Walib Habid, Giovanni Di Stefano, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, 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, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan.

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MOJUK: Newsletter 'Inside Out' No 842(14/04/2021) - Cost £1

Do Not Force Serving Prisoners Onto Courses Which Don't Work

Transform Justice: Let's support prisoners to turn their lives around. When Transform Justice was researching courses for those who committed domestic abuse, we asked what proof there was that they changed behaviour. In the case of the main statutory course – Building Better Relationships (BBR) – there was no evaluation which measured its impact on offending. 9 years since the course started, and with 15,180 people having completed it, there still isn't. The course is accredited, but the accreditation process is totally opaque, with no public information on the panel or the process. Nearly all offender behaviour courses run by prison and probation are accredited, but this gives little reassurance that they work. Accreditation involves approving the theory behind the course, and the manual. People became concerned when they heard that the sex offender treatment programme was counter-productive – that the reoffending of those who completed it was higher than those who didn't. Subsequently a researcher who tried to whistleblow about this sued the MoJ for discrimination. Kathryn Hopkins revealed that evidence showing the programme was ineffective was available years before it was halted.

You would have thought this experience would prompt the Ministry of Justice (or rather HMPPS, which runs prisons and probation) to evaluate all their programmes ASAP and to publish the results. But they seem to have become paralysed – most prison and probation accredited programmes still don't have impact evaluations, and HMPPS has suppressed the evaluation of the OPD pathway. This is an approach to those with a personality disorder which involves prison 'therapeutic communities', and classroom-based cognitive-behavioural psychological courses. Professor Paul Moran was commissioned to assess whether those assigned to this pathway were more or less likely to reoffend. Unfortunately he found those who follow the OPD pathway are more likely to offend. That research was finished in 2019 and presented at a conference a year ago but attendees were not allowed copies of the slides. HMPPS still hasn't published the research.

In the case of another programme – Resolve – they have published research which indicates that it doesn't seem to work. The course was designed for medium and high-risk prisoners convicted of violent crimes. It reduced general offending but made no impact on whether people committed further violent crimes after release. It wasn't counter-productive but was ineffective. It's not clear whether HMPPS is going to stop it. I've been concerned about the lack of evaluation of the programmes for a while and have regularly asked HMPPS for an update; most recently in January this year. Amy Rees, Director General for Probation pointed out that "a substantial amount of [evaluation] work was initially paused or delayed to support the Department's response to COVID-19 during the first lockdown and subsequent Tiers". Fair enough, but incredibly little progress seemed to have been made since her previous letter in July 2019 – bar the publication of two studies including the unsuccessful Resolve. Against a number of studies the January letter says "Scoping has been delayed due to Covid-19 issues and restrictions and is planned to restart during 2021/22" (this document details the evaluation situation in July 2019 and January 2021). Call me churlish but I can't quite see how scoping could not be done by researchers working from home? Nor why evaluations which have been done could not be published? In the case of BBR, HMPPS wrote in early 2018 that "Timings for evaluations of BBR and Kaizen have not yet been finalised; plans will be developed following scoping work to establish the most appropriate methods and timing for evaluation". We are still waiting for that scoping document.

I'm sure few prisoners have done courses during the pandemic, but they will soon restart and we'll again be making prisoners and those on probation do courses which may not work and may be counter-productive. And some of these courses have been running for years. Justin Russell, Chief Inspector of Probation, has said he is pleased that BBR has continued running during the pandemic but, without an impact evaluation, we have no idea whether it is doing any good. For fear of getting technical, many of these programmes do have process evaluations, but these are about implementation, not about whether a programme has an impact on reoffending. I also want to emphasise that many, many programmes and interventions do have a positive impact on reoffending. Many of the most successful are not offender behaviour programmes – for instance the Justice Data Lab found that grants from PET (the Prisoners' Education Trust) had a positive impact on reoffending. So some things do work.

Mental Health Disposals: A Practical Approach

Daniella Waddoup, Doughty Street Chambers: The Court of Appeal continues to grapple with the difficult and nuanced questions that arise in the sentencing of people with mental illness and/or disability who have committed serious criminal offences. In the two most recent of these cases, R v Nelson [2020] EWCA Crim 1615, and R v Sowerby [2020] EWCA Crim 898, [2021] 1 Cr. App. R. (S.) 14, the Court engaged in particular with the important "practical differences between, and advantages and disadvantages of, a 'hybrid order' under s.45A of the Mental Health Act 1983"[1] as compared with a hospital order with restrictions pursuant to ss. 37 and 41 of the 1983 Act.

The different outcomes reached – in Nelson, a hospital order was substituted, whilst in Sowerby a life sentence coupled with a hybrid order was upheld – illustrate that deeply individualised consideration of these issues is called for. In approaching the question of disposal in such cases, the guidance set out in R (Vowles) v Secretary of State for Justice and another [2015] EWCA Crim 45 & 56, [2015] 1 W.L.R. 5131 (and subsequently clarified in R v Edwards and others [2018] EWCA Crim 595, [2018] 4 W.L.R. 64; see also R v Cleland [2020] EWCA Crim 906) remains relevant.

Sentencers must address the following questions: (1) The extent to which the offender requires treatment for their mental disorder. This was a decisive factor in Nelson, in which the Court concluded that the appellant (who had pleaded guilty to making threats to kill and offences of assault, and had anti-social personality disorder and a delusional disorder) would always suffer from some form of mental disorder. A linked consideration was that he had responded well to treatment and supervision in the nine years that he had spent in hospital since conviction, giving the Court a realistic hope that "with treatment and effective management and supervision he should progress to live as risk free as is reasonably achievable in society".[2] By contrast, while Mr Sowerby plainly required treatment for his schizophrenia, a perhaps unusual aspect of his case was that he had been subject to two previous hospital orders with restrictions, and in both instances had gone on to re-offend upon being absolutely discharged by the Mental Health Tribunal.

(2) The extent to which the offending is attributable to mental disorder. The Sentencing Council's Guideline on "Sentencing offenders with mental disorders, developmental disorders or neurological impairment" (which came into effect on 1 October 2020) sets out, at section two, factors that may provide a useful starting point. These include careful consideration of: (a) the precise way in which an offender's impairment or disorder may have affected their understanding, judgment, choices and behaviour relevant to the offence; (b) whether non-compliance with medication was wilful or attributable to a lack of insight; and (c) the extent to which any self-medication through alcohol or illicit drug use was accompanied by an awareness of the potentially risky effects.

provide a supervised, safe environment. Most prisoners who were able to work were employed, which was impressive, Mr Taylor said. The number of reported incidents of violence and self-harm remained low and absconds from the prison had reduced since the start of national restrictions. Despite this relatively positive picture, Mr Taylor added, "we received many negative comments from prisoners in response to our survey. Less than two-thirds said that staff treated them with respect and almost a third reported that staff bullied or victimised them. Black and minority ethnic prisoners reported even poorer perceptions of treatment."

The lack of Release On Temporary Licence (ROTL) was also a source of much frustration. Although leaders had rightly taken a cautious approach, given the vulnerability of the prison population to the virus, only three prisoners were in essential work placements outside the prison at the time of the visit. Employer links were far too limited and, even before the start of the pandemic, were too few to fulfil the resettlement purpose of an open prison. In summary, Mr Taylor said: "The prison had managed well in shielding its ageing population from the virus. It had remained safe and continued to provide a decent daily regime. However, prison leaders had been too slow to address concerns, including deteriorating staff–prisoner relationships, poor perceptions of treatment among those from a black and minority ethnic background and frustration at the lack of progression opportunities during the pandemic. The management of public protection arrangements for the release of some high-risk prisoners also needed urgently to improve."

UK Needs to Build a Memorial for the People we Enslaved

Fred Steward, Open Democracy: In the UK, there have been calls for several years for a national monument of atonement for the victims of transatlantic slavery. The case is compelling – our nation was by far the biggest trader in slaves shipped to North America and the Caribbean. It was directly responsible for the forced and brutal migration of more than three million enslaved Africans across the north Atlantic between the 17th and 19th centuries. Half a million died on the journey. Yet this reality remains largely hidden from history. Our national story has been much less focused on contrition for our responsibility in the formation of the slave trade than on celebration of its abolition. We cannot continue to gloss over our past.

Monuments matter. That's why the current debate about statues is important. They are material expressions of memory in the public realm. Some are potent national symbols of celebration or commemoration, such as the statue of Nelson in Trafalgar Square or the Cenotaph war memorial in Whitehall. Less common are monuments of national contrition. The Holocaust memorial in Berlin is one of the best known. Hiding slavery behind philanthropy: Redressing this imbalance underpins the welcome initiatives by the National Trust and other cultural custodians to reveal the hidden links between our heritage and this trade. A failure to acknowledge such culpability was the backdrop to the toppling of the Bristol statue of Edward Colston. This monument celebrated his philanthropy but hid his leading role in the slave trading Royal African Company in the 1680s.

When the Black Lives Matter movement toppled the Bristol monument in June last year, it beamed a spotlight on this murky national history. Yet the subsequent debate has wandered off into disputes over the statues of little known philanthropists, who were relatively minor figures in the Royal African Company. Surprisingly, the crucial central figure in England's early conquest of the global slave trade has escaped unnoticed. The Royal African Company secured its dominant role in the slave trade under James Stuart, Duke of York, (who went on to have a short-lived reign as King James II), who acted as its governor for 16 years. Under his leadership, the company more than doubled a minority English share to achieve an overwhelming 74% of the market by outcompeting the Dutch and French.

point in the future, but where there are no restrictions on that individual, such as a curfew or bail conditions. Those who are RUI retain the right to travel, although it is in their best interests to notify the police of any intention to do so. The unsettling reality of being RUI is that there are no set timelines. Where bail cases have particular milestones which must be met, and which serve as regular prompts for action, RUI cases have no such prompts and as a result the cases sit at the bottom of a growing pile and are addressed only when resources allow.

At present, resources are not allowing for much. Indeed there have been cases where, by the time the case is concluded, it is not feasible to prosecute the subject so the case is dropped. This is a stress-inducing prospect for those with a potential criminal charge hanging over their heads yet with no timeline to emotionally or physically prepare for a potentially life-altering trial. The police also retain the right to keep the personal property of those RUI if that property is relevant to the investigation, and there is similarly no timeframe within which the police are under a duty to return it. Thus those personal possessions often face the same uncertain fate as do their owners.

This uncertainty can, however, be met with action. Legal representations can be made to prosecution lawyers at the CPS against charges in certain circumstances. These representations can demonstrate that either there is insufficient evidence to prosecute or that it is no longer in the public interest to bring charges against the suspect. A successful outcome can result in charges being dropped and RUI status being revoked. Alternatively, where a suspect has lost contact with their original lawyers and the officer who had conduct of their matter, new solicitors can make enquiries on their behalf to see what representations can be made or check the status of the investigation.

HMP Leyhill – Serious Concerns About Public Protection Weaknesses

An open prison in Gloucestershire holding many men convicted of sexual offences, was assessed by inspectors in 2021 as requiring urgent improvements in its work to release high-risk prisoners. Leyhill held almost 500 adult male prisoners in preparation for their release back into the community. With two-thirds convicted of sexual offences and the majority serving long sentences, half of which were indeterminate or for life, "this is a complex population requiring careful management of risk." However, inspectors from HM Inspectorate of Prisons, who visited in February and March 2021, were concerned by serious weaknesses in the planning for release of high-risk prisoners. The report noted: "Poor management oversight of public protection arrangements for those prisoners approaching release was a serious concern. The planning was not sufficiently robust or timely, particularly for those convicted of sexual offences. "Prisoners had had virtually no opportunity to demonstrate their level of risk on ROTL (release on temporary licence) for the last 12 months. Additionally, prisoners were being transferred into Leyhill from closed prisons with just weeks until their release, and the probation staff overseeing the riskiest prisoners had been predominantly off-site for the last 12 months."

"The lack of progression opportunities had prevented some prisoners from demonstrating their suitability for release to the parole board. Over half of the parole hearings held in 2020 had been deferred. About half of prisoners went to approved premises owing to risk concerns, but a lack of places in such accommodation meant that some prisoners waited months for release after being granted parole." Extraordinarily, one prisoner with disabilities was still being held more than a year beyond the date that his release had been approved.

Inspectors found considerably fewer restrictions on daily life than in closed prisons. As before the pandemic, prisoners were unlocked for more than 11 hours a day and could access the open air during this time, with free movement around the site. Workshops had been kept open to

The decision in Sowerby appears to have turned in large part on the "high culpability" of the offender. The medical evidence that he would not have committed the "brutal and frenzied" killing of his mother[3] but for his mental illness appears to have been accepted; so too the fact that his illness contributed to his failure to comply with his medication regime. The Court also acknowledged that there had been a lack of effective support and/or supervision in the community which meant that, in the days before the killing, a medication review that the appellant had asked for with a view to recommencing his medication did not happen. Yet the Court upheld the sentencing judge's overall conclusion that Mr Sowerby had "allowed the schizophrenia to deteriorate by refusing to take medication and also by using illicit drugs and alcohol",[4] and this over a period of years. His attempts to seek help in the days leading up to the killing had to be seen in this broader context.

(3) The extent to which punishment is required is closely linked to the second question: punishment is more likely to be required where, notwithstanding a relevant mental disorder, residual responsibility and thus culpability remains. Although Mr Nelson's offending had caused "real harm" to the victims, there was less need for punishment precisely because his culpability "was so much adversely affected by [his] mental disorder".[5] By contrast, a penal element was found to be necessary in Mr Sowerby's case. This flowed from the sentencing judge's finding that he had planned to kill his mother for some time. Although his illness "played its part" in his distorted thinking that he needed to exact revenge on her for her perceived ill treatment of him, he remained "aware of his actions and of the consequences for his mother", and bore responsibility for not taking steps to address the risks posed by an untreated and self-medicated mental disorder.[6]

(4) Which regime for deciding release will best protect the public. This is perhaps the most important of the practical differences between the two disposals. In Nelson, the Court had two real concerns about the practical effect of the hybrid order that had been imposed on the appellant by the sentencing judge. The first concern arose from the fact that once well enough to be considered for release from hospital, he would be returned to prison. The Court heard evidence that this was likely to lead to a relapse of his delusional disorder because he would not take his anti-psychotic medicine. The reality, readily accepted by the Court, is that there may be no obvious advantage to an offender in taking medication once back in prison; indeed, there may be disadvantages in that the side-effects of medication may make a prisoner more vulnerable in a custodial environment. [7] Failure to take medication would result in the prisoner's return to hospital and then, once better, transfer back to hospital – resulting in an undesirable "yo-yo" between hospital and prison.[8] The second concern was that release from prison pursuant to a hybrid order would result in Mr Nelson's supervision not by a team of mental health experts who would report to the hospital and Secretary of State for Justice, but instead by a probation officer who would not have the equivalent training to spot the subtle signs of mental health deterioration and ability to intervene accordingly. This was particularly relevant given the Court's earlier finding that the appellant would always suffer some form of mental disorder.

In Sowerby, by contrast, the Court, perhaps influenced by the history of two previous unsuccessful discharges back into the community overseen by the Mental Health Tribunal, stressed that the s.37/41 regime does not necessarily offer greater protection to the public than a life sentence and hybrid order. Each case will turn on its own facts. Not unsurprisingly in light of the conclusion that the appellant carried a high degree of responsibility notwithstanding his mental disorder, the Court in Sowerby plainly felt more comfortable with release being considered by the Parole Board and the life-long possibility of recall to prison for reasons not only linked to a relapse in his medical condition.

The following points may be of particular interest to appellate practitioners: First, medical opinion, while highly significant in cases of this nature, (a) may change and (b) is never determinative. In Nelson, the unanimous judgment of the doctors who gave evidence at the time of sentence was that a hybrid s.45A order was required. At the appeal, fresh medical evidence made clear that the concerns raised at sentencing had not been borne out. The evidence also highlighted the practical difficulties that would arise upon release if the s.45A order were to continue. In Sowerby, the psychiatrists at first instance had been in agreement in recommending a hospital order. In upholding the sentencing judge's decision to instead impose a s.45A order, the Court stressed that it was "in no way circumscribed by the opinions of psychiatrists as to the best way of dealing with this case".[9]

Secondly, can the answers to the Vowles questions discussed above be deployed more widely than in the s.45A/hospital order context? A focus on the precise impact of mental disorder on culpability – and so also on questions of punishment – will be relevant in a large number of sentencing appeals. But can sentencers be encouraged to adopt a more practical approach in considering questions of public protection in other areas too?

Three British-Bangladeshis Win Appeal Against Removal of UK Citizenship

Jamie Grierson, Guardian: Three British-Bangladeshis said to have travelled to Syria to join Islamic State (Isis) have won a legal challenge against the stripping of their British citizenship after a tribunal ruled the move left them stateless. Two women who were born in the UK, known only as C3 and C4, had their British citizenship removed in November 2019 on the grounds of national security. C7, a man born in Bangladesh who became a British citizen at birth, also had his British citizenship revoked in March 2020 on the basis that he had "aligned" with Isis and was a threat to UK national security. All three appealed against the removal of their British citizenship at the Special Immigration Appeals Commission – a specialist tribunal that hears challenges to decisions to remove someone's British citizenship on national security grounds.

In a ruling, Mr Justice Chamberlain said: "C3, C4 and C7 have persuaded us that, on the dates when the decisions and the orders in their cases were made, they were not nationals of Bangladesh or any other state apart from the UK. This means that orders depriving them of their British citizenship would make them stateless." The judge added: "The secretary of state had no power to make orders with that effect. For that reason – and that reason alone – the appeals against the decisions to make those orders succeed." The Home Office will comply with the terms of the court's decision, the Guardian understands.

The case will probably draw comparisons with that of Shamima Begum, who fled Britain as a 15-year-old schoolgirl to join Isis in Syria and ultimately failed in her legal bid to restore her British citizenship. The UK government, in stripping her citizenship, said she was eligible for Bangladeshi citizenship, the birth country of her parents. The key difference between Begum and C3, C4 and C7 that had a bearing on the outcome of the case is the claimants' ages. The Home Office argued that all three were dual British-Bangladeshi nationals at the time their British citizenship was removed, and so the decision did not render them stateless. But their lawyers said all three lost their Bangladeshi citizenship when they turned 21, meaning the decision did leave them stateless and was therefore unlawful. Begum was under 21.

A Home Office spokesman said: "We are extremely disappointed with this judgment and the court's decision that deprivation cannot stand in these cases. The government's priority remains maintaining the safety and security of the UK."

Justice Act 1988 in 2014. The Committee noted its concern that the new test" may not be in compliance with article 14(6) of the Covenant" and called on the UK to "review the new test for miscarriage of Justice with a view to ensuring its compatibility with article 14(6) of the Covenant. 'Justice' notes that for those states that had requirements to differing extents for an applicant to prove innocence, each has altered its test so that it is not incompatible with the presumption of innocence. In the writer's previous articles, he made the point that how we treat the wrongfully convicted says everything about the sort of society we want to be.

Baroness Kennedy QC put it far more eloquently, saying: *"When a case has gone wrong, and new material comes to light which changes the whole complexion of the case, and it becomes clear that a jury in possession of all the evidence would have reached a different verdict, those who have suffered should have some compensation. To expect them to prove that they were innocent beyond a reasonable doubt adds to the injustice they have already suffered. Miscarriages of Justice lead to ruined lives. Families are destroyed. People often end up without partners when they come out of prison. They lose jobs and homes. The mental despair and anguish is never fully resolved. That is why they need to have such real help afterwards. People's lives never go back to how they were. This is where we find, as a decent society, that we have to make amends."*

One of the fundamental problems with the Government's test is it ascribes a test which the Court of Appeal Criminal Division can never meet, thereby removing the prospect of any applicant gaining any significant support during their appeal process. As Lord Kerr observed in Adams: *"I cannot accept that the section imposes a requirement to prove innocence. In the first place, not only does such a requirement involve an exercise that is alien to our system of criminal Justice, that system of Justice does not provide a forum in which assertion of innocence may be advanced. An appeal against conviction heard by the Court of Appeal (Criminal Division) is statutorily required to focus on the question of whether the conviction under challenge is safe. In a number of cases, evidence may emerge which conclusively demonstrates that the appellant was wholly innocent of the crime of which he or she was convicted, but that will inevitably be incidental to the primary purpose of the appeal. The Court of Appeal has no function or power to make a pronouncement of innocence. It may observe that the effect of the material considered in the course of the appeal is demonstrative of innocence, but it has no statutory function to make a finding to that effect: R v McIlkenny (1991) 93 Cr App R 287."*

'Justce' now await the Governments submission in response with an expectation that we can then get on and hear this case as soon as the Court can practically accommodate it; time moves at a very different pace, however, for those awaiting justice in the ECHR.

*'Justice' an all-party law reform and human rights organisation working to strengthen the justice system – administrative, civil and criminal – in the United Kingdom.

"Released Under Investigation" – Ominous and Uncertain Status

Gherson: The pandemic has left the woefully underfunded criminal justice system stretched even further, and over 45,000 cases remain in line to be heard. The impact of this has been that thousands of people have been *"Released Under Investigation"* ("RUI"). Since the reforms carried out on the back of the Policing and Crime Act 2017, the Government has seen a fall in pre-charge bail but an increase in the number of individuals RUI. This surge in RUIs is now bringing distress and uncertainty to a growing number of individuals across the UK.

Not to be mistaken with being released on bail, being Released Under Investigation is where an individual remains under suspicion by the police and their case will be reviewed at some

When communicating the case the Court posed the following questions to the UK government and the Applicant: 1. If the applicant were to be extradited to the United States of America, would there be a real risk that he would be subjected to inhuman and degrading punishment through the imposition of an "irreducible" life sentence? In particular, would his extradition, in circumstances where he risks the imposition of a life sentence without parole, be consistent with the requirements of Article 3 of the Convention (see in particular Harkins and Edwards v. the United Kingdom, nos. 9146/07 and 32650/07, 17 January 2012, Vinter and Others v. the United Kingdom [GC], nos. 66069/09, 130/10 and 3896/10, ECHR 2013 (extracts) and Trabelsi v. Belgium, no. 140/10, ECHR 2014 (extracts))? 2. Having particular regard to the ongoing Covid-19 pandemic, if the applicant were to be extradited would there be a real risk of a breach of Article 3 of the Convention on account of the conditions of detention he would face on arrival? As a consequence of granting rule 39 relief for Mr Hafeez the Court has since granted the same protection on the same grounds for Mr Sanchez.

'Justice' Join Strasbourg Fight to End Nightmare of the Wrongfully Convicted

Mark Newby Jordons Quality Solicitors: Following the refusal of the Supreme Court on 30th January 2019 to declare the Governments statutory test for compensation as unlawful, the cases of Victor Nealon and Sam Hallam have been slowly navigating their way to determination by the European Court of Human Rights. We previously intervened in the UK Supreme Court, which by a majority, found against the appellants in 2019. The case concerns whether the amended compensation scheme for England, Wales and Northern Ireland is incompatible with the presumption of innocence, protected by Article 6(2) ECHR. The test, amended in 2014, requires an applicant to demonstrate beyond reasonable doubt that they did not commit the offence for which their conviction has been quashed. This is an almost impossible task.

Moreover, as our intervention makes clear, this requires applicants to fulfil yet another hurdle to receiving the recognition that they should never have been convicted – a position that by this stage in the case the Criminal Cases Review Commission and Court of Appeal have accepted. Compensation cannot undo the harm caused through years of wrongful incarceration. Nevertheless, it can offer some recompense. By requiring innocence to be proved, the Government is casting doubt on whether the conviction should have been quashed. This clearly interferes with the right to be presumed innocent until proven guilty. Our intervention draws attention to how international instruments and other jurisdictions interpret the right to compensation and, most importantly, that almost all Contracting Parties to the ECHR (including Scotland and Ireland) have managed to establish tests that do not offend the presumption of innocence.

The issues at stake could not be greater. As Lord Kerr said in the Hallam case: "The opportunity to proclaim one's innocence and the right to benefit from the recognition and acceptance of that condition lies at the heart of much of the dispute in this case and much of the case law of the Strasbourg court on the subject. However, an inevitable sub-text is that establishing innocence as a positive fact can be an impossible task. This is especially so if conventional court proceedings do not provide the occasion to address, much less resolve, the issue."

Accordingly, as 'Justice' rightly point out, this then places an essential burden on any state scheme for compensation to get the balance right and not to impose an obligation on the person declared wrongfully convicted to have to prove their innocence a second time. The UN Human Rights Committee, when considering the Governments new test concluded that the new definition of "miscarriage of justice" inserted by section 133(1ZA) of the Criminal

MPs 'Horrified at Treatment of Children in Rainsbrook Secure Training Centre

Scottish Legal News: Members of the House of Commons Justice Committee are "shocked and appalled" by the treatment of children at a privately run detention centre in Northamptonshire, they said in a report published today. The committee has called on the Ministry of Justice (MoJ) to consider taking back direct control of the Rainsbrook Secure Training Centre unless the private company currently in charge, MTC, makes substantial improvements. The committee also questioned why the MoJ has given MTC two more years to run the centre despite its poor performance in managing the five-year, £50.4 million contract.

The committee report said: children at the secure training centre, just south of Rugby, were locked in their cells for 23.5 hours a day for 14 days; - one boy was only allowed out of his room for a total of four hours over a fortnight; - the children (defined as up to their 18th birthday) received little encouragement to get up in the mornings and education provision was poor – some spent much of the day in their pyjamas; - senior Rainsbrook management, and MoJ monitors working there, were unaware of these conditions, despite having offices just two minutes' walk from the cells; - the Justice Secretary was at one point wrongly informed improvements had taken place and subsequently reported this improvement in good faith – in his own words he was "played for a fool", and; - the management of the private, US-headquartered contractor, MTC, were not the only ones at fault – the MoJ also "failed in their management and oversight of Rainsbrook", the committee said. A public session of the committee was held on March 9, where evidence was taken from the managing director of MTC's UK arm, Ian Mulholland, three inspectors of conditions at the facility and Justice Secretary Robert Buckland QC MP.

Rainsbrook Secure Training Centre can hold up to 87 male and female children aged 12 to 17. It has been run by MTC since 2016 and concerns have been raised about the quality of its services since then. The most recent concerns began to surface in February 2020 when inspectors found poor education provision, with many children refusing to attend lessons, high staff turnover and low levels of staff experience. The inspectors made 19 recommendations but, the report says, these were largely ignored. In October 2020, the inspectors from Ofsted, the Care Quality Commission and HM Inspectorate of Prisons returned to Rainsbrook and found new and serious concerns. Newly-admitted children were being locked in their rooms for 14 days and allowed out only for 30 minutes each day for fresh air. The inspectors said this was "tantamount to solitary confinement" and "highly likely to be damaging to children's emotional and physical well-being." The inspectors informed the MoJ. In November, Mr Buckland told Ofsted in a letter that improvements were underway. He had, the committee report said, been misinformed.

In December 2020, the inspectors went to Rainsbrook again, unannounced. They found that only limited progress had been made so they took the unusual step of invoking an 'urgent notification' which called attention to the situation. The Justice Committee said it was not confident in MTC's ability to deliver recommendations repeatedly made over a period of years by the three sets of inspectors. The committee recommended that MTC and the Youth Custody Service branch of the MoJ report to it by June 2021 setting out in detail what progress had been made. If by then substantial improvement was not apparent, the committee report said, the ministry should consider taking Rainsbrook "back in house."

Sir Bob Neill, the chair of the Justice Committee, said: "The children held at places like Rainsbrook have committed serious crimes and are not always easy to care for or handle. We know that. But these are children - and some of the most vulnerable members of our society. They deserve to be treated with dignity and respect. It is clear this was not happening, and

that is unacceptable in the extreme. The experience of the inspectors over the past year has shown that some of the promises made by MTC are worth less than the paper they are written on. This, too, is unacceptable. But even worse, in a way, is that the competent public authorities - from the Ministry of Justice down - have failed in their oversight of this private contractor. We welcome the work being done to address these failings. But the issues identified here are not new and a much greater sense of urgency is required. My Committee will be watching to try to ensure that change for the better takes place – and soon."

Sewell Report Seeks to Sideline Structural Factors Attached to Racism

Institute of Race Relations: From what we have seen, both the findings and the recommendations of the government-commissioned Commission on Race and Ethnic Disparities report fit neatly with the government's attempts, post-Brexit, to portray the British nation as a beacon of good race relations and a diversity model, in the report's words, for 'white majority countries' across the globe. The methodology of the report appears to be one that, in severing issues of race from class and treating issues of structural racism as 'historic' but not contemporary, leads to the stigmatisation of some ethnic minorities on the back of the valorisation of others. Black Caribbeans, for instance, are contrasted with Black Africans, and deemed to have internalised past injustices to the detriment of their own social advancement.

While much is made of the differences between communities, primarily in educational attainment and elite employment, we can see no attempt here to address the common ethnic minority experience of structural racism within areas such as the criminal justice system. Where racism in Britain is acknowledged in the report, the emphasis is placed on online abuse, which is very much in line with the wider drift in British politics and society away from understanding racism in terms of structural factors and locating it instead in prejudice and bigotry. The pre-publicity for the report – borne out in the recommendations – suggested that the aggregating term 'BAME' will now be ditched in official government research reports.

The IRR would anticipate that it is the post-Macpherson narrative on institutional racism that the government, on the back of this report, will be most eager to sideline. We would further anticipate that future government research on inequality will be framed by issues of 'ethnic disadvantage', with differences in ethnic outcomes attributed to cultural and genetic factors, rather than the discriminatory hand of state institutions.

Home Office 'Presenting Opinion as Fact' on Immigration Issues

May Bulman, Independent: Prominent barristers have accused the Home Office of misleading the public on immigration issues in the UK in breach of the civil service code and equating "child rapists" with "failed asylum seekers". Twelve sets of chambers and a number of independent barristers have submitted a complaint to the department about a press release published on the Home Office website on 20 March, entitled "Alarming rise of abuse within modern slavery system", in which Priti Patel is quoted as stating that modern slavery safeguards are being "rampantly abused".

The press release claims there have been "major increases" in "child rapists, people who threaten national security and failed asylum seekers [...] taking advantage of modern slavery safeguards" in order to prevent their removal and enable them to stay in the UK. It goes on to state that the number of modern slavery protection claims has doubled in the period 2017 to 2020 – but it does not present any evidence to suggest that there has been a rise in failed or false claims. The barristers' letter, whose signatories include One Pump Court Chambers and Garden Court Chambers, accuses

dren. *Black and minority ethnic children were less likely than white children to report that they got daily showers (65 per cent vs 81 per cent) or clean sheets each week (72 per cent vs 86 per cent). *Forty-three per cent of Black and minority ethnic children reported that the shop/canteen sold the things they needed, compared to 56 per cent of white children.*Black and minority ethnic children were significantly less likely than white children to report that staff made them feel cared for, helped them to deal with problems and worries when they arrived or encouraged them to attend education. Despite the greater public consciousness of the need to tackle discrimination, it is troubling that this year Black and minority ethnic children were less likely to report that they were supported and encouraged by staff than they had been in 2018/19. In the last quarter, 60 per cent of the calls to our legal advice line were from young people from Black and minority ethnic backgrounds.

The concerns aired by children to the inspectorate resonate with what children tell us through our legal and policy work. In the last quarter, 60 per cent of the calls to our legal advice line were from young people from Black and minority ethnic backgrounds. We regularly deal with concerns from young people from minority backgrounds who have been unfairly restrained or feel they have nobody to turn to. Their experiences are not surprising: a recent analysis by the Youth Justice Board has shown that Black and minority ethnic children are significantly more likely to be remanded or sentenced to custody than white children. For Black children, this cannot be explained by demographic or offence-related factors.

In September, we raised the high proportion of Black and minority ethnic children and young adults who are remanded to custody in a letter to Robert Buckland about extensions to custody time limits. Alongside Just for Kids Law, we successfully campaigned against the custody time limits extension for children. There can be no doubt that there is a systemic and enduring racism that disadvantages children in the criminal justice system. I look forward to reading the 264-page report to be published today but there is still a lot of work to do and we must all play a part. That's why we are developing a guide for anti-racist lawyers, in collaboration with an expert advisory group. The guide aims to improve Black clients' experiences at the police station, in court and after court. We are also feeding into the Youth Justice Board's work on racial disproportionality, and working collaboratively with other organisations to highlight disproportionality in remand.

ECtHR Stays Extradition to the United States on Article 3 Grounds - Hafeez v UK

Doughty Street Chambers: Mr Hafeez was granted Rule 39 relief from the European Court on two grounds, firstly because he faced a federal sentence of life without parole and secondly on the basis of evidence of inhuman and degrading prison conditions in New York at the Metropolitan Correctional Centre (MCC) and Metropolitan Detention Centre (MDC) under the Coronavirus pandemic. In a line of case-law beginning with Vinter v UK in 2013, the European Court of Human Rights has found that sentences of imprisonment for life without parole, where there is no other transparent and realistic mechanism for review, amount to inhuman and degrading treatment in breach of Article 3 ECHR.

One issue in this case is whether the American mechanisms for review of life sentences without parole – Presidential clemency and compassionate release pursuant to Title 18, paragraph 3582 of the US Code – are sufficiently objective, transparent and fair. If not, extradition to that country would be in violation of Article 3 ECHR. The Divisional Court in Hafeez v Government of the USA [2020] EWHC 155 (Admin) found that there would be no such breach of Article 3 ECHR. Another issue is whether removal of the applicant to the US prison system, suffering from substantial outbreaks of COVID-19, would breach Article 3 ECHR in circumstances where he has relevant comorbidities.

In April 2019, David Pugh applied again to the commission in relation to the fresh evidence from the three experts which refuted the opinion evidence given by the forensic medical examiner at trial. Given the grounds to be reviewed were common to the co-accused, Meighan and Kane, they also applied to have their convictions reviewed in September 2020. One of the expert reports being used is from forensic pathologist Birgitte Schmidt Astrup, associate professor at the Institute of Forensic Medicine at the University of Southern Denmark, who published a study in 2012 suggesting vaginal injuries are just as common after voluntary sex as they are in rapes.

The High Court in Edinburgh was told the woman was lured into a 14th floor flat in Little France House in November 1999. She told the court that she had been looking for a friend in Craigour Place at the time. When outside she called for her friend but got no reply and said she heard someone from the block of flats ask who she was looking for. The woman said she was told the friend she was seeking was in the flat where she found three strangers – Meighan, Kane and Pugh. The woman said she was worried after they got into a conversation about sex and tried to leave but was pushed into the bedroom and attacked. The three men claimed the woman was allowed to alter her 14-page police statement regarding where the attack was said to have taken place, changing it from the stairwell of a high-rise to one of the accused's flats. The men - aged 19, 23 and 24 at the time - also claimed police officers failed to test the woman for drug use and tried to suppress CCTV evidence. They insist the woman consented to group sex, and twice turned down the chance of parole by refusing to change their pleas to guilty.

Enduring Racism Disadvantages Children in the Criminal Justice System

Francis Cook, Howard League for Penal Reform: Media coverage trailing the report by Downing Street's Commission on Race and Ethnic Disparities quote the conclusion that claims of institutional racism are 'not borne out by the evidence'. It might be interesting to look at why children from Black and ethnic minority backgrounds in prison might not agree. It is well recognised that the extremely high number of children in prison from Black and ethnic minority backgrounds is one of the most acute manifestations of the disparity the Commission was tasked to consider. The latest data from the Ministry of Justice shows that over half the young people in child prisons are from Black and minority ethnic backgrounds. One in three children are Black. Nine out of ten children remanded to custody from London are Black. It is troubling that so many unsentenced Black and minority ethnic children are held in custody when two thirds of all children on remand do not go on to receive a custodial sentence.

In February the prison inspectorate published its annual survey of children's experiences in prison. This year's responses paint a bleak picture, especially for children from Black and minority ethnic backgrounds. The data was not broken down further so I cannot relay the specific experiences of different groups. The report shows that Black and minority ethnic children are more likely to report that staff do not care for, support or encourage them, that they have been restrained, and even that they do not have adequate access to showers and clean sheets. It would be hard to conclude that Black and minority ethnic children are anything other than systematically disadvantaged in the secure estate.

*Seventy-one per cent of Black and minority ethnic children reported that they had been physically restrained in custody, compared to 59 per cent of white children.*Twenty-eight per cent of Black and minority ethnic children reported that their complaints were usually dealt with fairly, compared to 45 per cent of white children. *Only one in five Black and minority children felt that the system of rewards and incentives was fair, compared to a third of white chil-

the department of "failing to take care to distinguish between unevidenced political opinions and facts grounded in evidence" and "creating or perpetuating a risk of misleading the public". It continues: "By permitting the ministry press office to become the mouthpiece for a political campaign, they failed to use resources only for the authorised public purposes for which they are provided."

Suspected modern slavery victims in the UK are referred to a framework called the National Referral Mechanism (NRM), which assesses whether there are reasonable grounds to believe they are a victim. If it is decided there are, they become eligible for financial support and housing and cannot be deported until a conclusive decision is made on their case. In the press release, the Home Office cites the alleged "major increase" in abuse of this system as a reason to consult on whether to "strengthen" the threshold on modern slavery identification so that fewer people are viewed as potential victims.

The lawyers say the Home Office's claim of an "alarming rise" in people abusing the modern slavery system by posing as victims to prevent their removal is "not supported by any evidence set out in the article". They add that the press release creates "false equivalence" between "child rapists, people who pose a threat to our national security and serious criminals" and "failed asylum seekers". "While the former three categories all contain people who have demonstrably posed a serious danger to the public in some way, the final category, 'failed asylum seekers', does not," states the letter. Any suggestion that the list is not implying an equivalence between failed asylum seekers and the other categories would be disingenuous."

The barristers claim the government's press release contravenes all of the "core values" in the civil service code: integrity, honesty, objectivity and impartiality. It was published days before the home secretary announced her new plan for immigration, which includes deporting asylum seekers who arrive in Britain via unauthorised routes and denying them rights if they cannot be deported. The new plans also include opening up the possibility of processing asylum seekers offshore, and "clarifying" the standard on what qualifies as a "well-founded fear of persecution" in asylum claims.

Rudolph Spurling of One Pump Court, who coordinated the letter, told The Independent that Ms Patel's "gratuitous attacks" against the asylum system in the press release were "particularly concerning" given that she launched her new immigration plan a few days later. "Lumping in failed asylum seekers with 'child rapists' and 'people who pose a threat to our national security and serious criminals' was an egregious attempt to demonise people who've not been shown to pose any danger to the public. Furthermore, there was no attempt to justify the rhetoric with relevant statistics," he added.

A Home Office spokesperson said: "Our asylum system is broken and open to abuse. That is why we launched our new plan for immigration. "Our position is supported by evidence, including published statistics and Home Office analysis."

50 Year Wait to Find Out if Our Loved Ones are Innocent

The 'Ballymurphy Massacre Families' welcome Justice Keegan's announcement that she will publish her findings of the Ballymurphy Massacre Inquests on May 11th 2021. It is apt that the findings will be published in this, the 50th Anniversary of the deaths of our loved ones. It has been a long and difficult road for all of us. Sadly, many family members, campaigners and civilian eye witnesses did not live to see this day and our thoughts are with them and their families. Families endured 100 days of evidence in court with final submissions being presented on 3rd March 2020. During the inquests families had to sit through horrific evidence about how their loved ones died as well as how they were treated both before and after their deaths. Gruesome details of their injuries and their last moments before death were revealed in evidence. Speaking on the announcement of the date of the findings John Teggart, son of Danny Teggart said " I grew

up searching for answers of why my daddy was murdered. Families have worked very hard to get to this stage when we will see the results of the many years of campaigning for truth. We have confidence that the coroner's findings will vindicate our loved one's innocence."

The Massacre was a series of incidents between 9 and 11 August 1971, in which the Parachute Regiment of the British Army killed eleven civilians in Ballymurphy. For the purposes of the inquest the coroner examined five incidents as detailed below. Incident 1- Shooting on the evening of the 9th of August that resulted in the deaths of Father Hugh Mullan and Francis Quinn in an area of waste ground that lay between Springfield Park and Moyard Park. Incident 2 - Shooting on the 9th of August a short distance away and almost simultaneous with the first incident that resulted in the deaths of Joan Connolly, Joseph Murphy, Noel Phillips and Daniel Teggart. Those deaths occurred at a location known locally as "the Manse" on the Springfield Road opposite the army barracks, Mr. Murphy died later of his injuries on the 22nd of August 1971. Incident 3 – The shooting of Edward Doherty on the Whiterock Road in the late afternoon of the 10th of August 1971. Incident 4 - The shooting of Joseph Corr and John Laverty at another location in the Whiterock Road area, close to Dermot Hill Park, in the early hours of the 11th of August 1971. Mr. Corr died subsequently of his injuries on the 27th of August 1971. Incident 5 - The shooting of John McKerr on Westrock Drive, close to Corpus Christie Church, in the late morning of the 11th of August 1971. Mr. McKerr died of his injuries on 20th August 1971.

The death of Paddy McCarthy was not included in the inquests. Paddy was confronted by an army foot patrol while delivering milk and bread to the local community. He was brutalised and shots were fired over his head resulting in his death by a heart attack. Families will continue to campaign for Truth and Justice for Paddy and his family. Original inquests were held into each of the deaths in 1972 resulting in open Verdicts. Families always maintained that they were sham inquest as all eyewitnesses were not called to give evidence and RUC did not carry out any investigation into the 11 deaths In 1998 families began a campaign to have their loved one's names cleared and declared innocent. As part of that campaign families started to source eyewitnesses, collect evidence and witness's statements which would later be submitted to the Attorney General with a request for new inquests. Subsequently the Attorney General exercised his powers pursuant to Section 14 of the Coroner's Act (Northern Ireland) 1959 and having considered the submissions made to him, he directed in 2011 that new inquests should be held into the deaths of ten of the victims. The first preliminary hearing took place in Court 1 Old Townhall Street Building on 3rd March 2014 and the oral hearings began in Laganside Court 12 on 12th November 2018 with an opening statement from counsel for the coroner followed by family pen portraits in respect of our loved ones.

If You Do Not Succeed at First, Apeal Again and Again Untill You Get a Result

Scottish CCRC Refer David Pugh, Kevin Kane and Brian Meighan Scottish CoA: On 31 October 2000 the applicants were all convicted of rape after a trial at the High Court of Justiciary in Edinburgh. The Crown's case included reliance upon evidence of a forensic medical examiner in respect of injuries to the complainer. All the applicants gave evidence that the sexual activity engaged in with the complainer was consensual. After being convicted by the jury the applicants were sentenced to six years' imprisonment and detention respectively. The applicants appealed against their convictions and appeal was refused by the High Court of Justiciary in June 2002. The applicants applied to the Commission in 2004. The Commission decided not to refer their case to the High Court of Justiciary as it did not consider that the

grounds submitted to it met that the test that a miscarriage of justice may have occurred. The applicants subsequently sought to judicially review the Commissions' decisions. The petition for judicial review was dismissed in the Outer House in July 2006.

In April 2019 Mr Pugh applied again to the Commission, relying upon fresh evidence in the form of three expert reports which refuted the opinion evidence given by the forensic medical examiner at trial. Given the grounds to be reviewed were common to the coaccused Brian James Meighan and Kevin James Kane the Commission wrote to them to ask if they wished to make applications to have their convictions reviewed. They both applied in September 2020. The Commission has decided to refer the applicants' convictions to the High Court of Justiciary. The Commission considers that the fresh evidence now available, which arises from research and developments in medical science since the time of the original conviction, is of a kind and quality which was likely to have been of material assistance to the jury in its consideration of the critical issue of consent and there may have been a miscarriage of justice.

Comment, Jamie McKenzie, Edinburgh News: Mike Pringle, who served for eight years as Lib Dem MSP for Edinburgh South, believes David Pugh, Kevin Kane and Brian Meighan - known as the "Fernieside Three" - are innocent and have suffered a miscarriage of justice. In 2000, the trio were found guilty of detaining a woman against her will and raping her in a tower block in the south of the city in November 1999. The Crown Office relied on evidence from a police casualty surgeon in respect of injuries to the complainer. The three men denied the offence and claimed the 21-year-old woman had consented to group sex. They have always maintained their innocence.

Speaking to the Edinburgh Evening News, Mr Pringle revealed that he met the young woman's parents at their home in the south of the city around 2004, after visiting his constituent David Pugh in prison to hear of his concerns about the conviction. Mr Pringle said the complainer's father initially answered the door and was reluctant to talk but that her mother invited him in and he was shown into the lounge. He explained he was there to talk about the convictions because the three men were adamant it was consensual. Mr Pringle said: "She said 'I think that is right.'" He said she told him that her daughter said it "had been consensual," adding: "I said 'why not go to court and give evidence on their behalf?' and she said she could not because of her grandchildren. She said 'if I gave evidence against my daughter, her partner would stop me ever seeing my grandchildren again.'" Mr Pringle continued: "I spent a bit of time trying to persuade her and saying that these are three young men sentenced to six years in prison and that it will ruin their lives. "We talked about the subject for a good half hour. The father never said a word. She said 'I know that but that's not my problem.' She said I need to continue to see my grandchildren. I realised I was getting nowhere and thanked her and said I understand where you are coming from and the man showed me out." Mr Pringle said it was unclear why, if her daughter had said to her mother it was consensual, she went ahead with the accusation - but he suspects someone persuaded her to claim criminal compensation.

Other friends of the complainer have previously made similar claims about the rape allegation being made up. Mr Pringle said when he visited David Pugh in prison he saw he was "absolutely determined" to prove his innocence. He said: "It's the only miscarriage of justice I have ever come across. "It was only after I met the woman's mother that I believed these guys were absolutely innocent." The three men were each sentenced to six years in jail following conviction and released on licence in 2004. Initial appeals were refused in June 2002, and in 2004 the SCCRS refused to consider referring their cases back to the High Court. They also called for a judicial review to challenge the commission's refusal and this was turned down in July 2006.