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Secret Material Used to Deny Compensation to Miscarriage of Justice Victims

Irish News: A west Belfast woman whose convictions for offences linked to the interrogation and killing of a police informer were quashed has lost a new legal battle for compensation. Veronica Ryan challenged a former secretary of state's decision to refuse a pay-out after she was cleared of aiding and abetting the false imprisonment of Special Branch agent Joe Fenton. But the Court of Appeal upheld a decision to dismiss the challenge brought over competing legal tests and amendments to a compensation scheme.

The case centred on attempts to establish that applicants should only have to show they suffered a miscarriage of justice, rather than the higher threshold of demonstrating innocence. Mr Fenton was shot dead after being lured to a house in Belfast in February 1989. Another informer, Sandy Lynch, was abducted in January the following year. Ms Ryan and her late husband, James Martin, were jailed for aiding and abetting the two men's false imprisonment and allowing their property to be used for terrorist purposes.

However, their convictions for both incidents were later overturned following interventions by the Criminal Cases Review Commission. The Court of Appeal quashed the guilty verdicts relating to Lynch in 2009. Mr Martin was subsequently awarded nearly £368,000 in compensation, with Ms Ryan receiving just under £187,000. In 2014 their convictions for the Fenton case were also quashed, without appeal judges disclosing why a confidential dossier rendered them unsafe.

Judicial review proceedings were launched after pay-outs for that incident were denied on the basis of the secret material. By that stage the scheme for compensation, under the Criminal Justice Act, had been amended due to the devolution of policing and justice powers to Stormont in 2010. Applications for compensation went to the secretary of state because the confidential material involved matters of national security. Those requests were turned down in 2017 because no new fact had emerged to demonstrate innocence beyond reasonable doubt - the test for cases in England and Wales.

Ms Ryan's lawyers claimed the lesser standard in Northern Ireland of showing a miscarriage of justice should have applied. But counsel for the secretary of state insisted that everyone whose convictions are overturned are not automatically entitled to a payout. Instead, he argued, a newly discovered fact showing innocence is required. Last year the High Court ruled the relevant amendments to the compensation scheme are compatible with the 1998 Northern Ireland Act. A judge held that the scheme also complied with the European Convention on Human Rights.

Ms Ryan appealed that verdict, but Lord Chief Justice Sir Declan Morgan held that any difference of treatment was due to the different administrations in the UK being democratically entitled to make their own political and financial arrangements. "The secretary of state retained responsibility for cases such as that of the appellant in 2010. That did not give rise to a difference of treatment," he said. Dismissing the appeal, Sir Declan added: "The fact that parliament changed the entitlement for all those for whom the secretary of state had responsibility prior to the acquittal of the appellant did not give rise to unlawful discrimination. "If he had treated the appellant differently he would have had to justify the approach he took to others for whom he was responsible." (Full transcription of Legal Decision: https://is.gd/ytkz5g)

Barely Legal? The Experience of Remote Tribunal Hearings

Transform Justice: Last week two experiences brought home how wary we should be of assuming that remote communication is as good as in person. I went to my first in-person conference for a long time in a hotel near Woking. It was a socially distanced conference on police custody. For the most part it felt like going back in time…in a good way. I had conversations with new people and with people I had not talked to (online or otherwise) since before the pandemic. I had unplanned, unexpected conversations. Even with break-out rooms, no online conference can recreate this. Later that week a teacher friend told me about a "team around the family" meeting she had attended. This family is in crisis, and social services, school staff and the family were meeting to discuss how the children could best be supported. The whole meeting was supposed to be online but the mother didn't understand this and turned up physically at the school (which she comes to twice a day). The school provided her with a laptop and sat her down alone in a room, while the teachers involved sat in a separate room on another laptop. During the online meeting the mother started weeping alone in the schoolroom, and her ex partner, who had joined the meeting on his mobile phone, was cut off half way through because he ran out of phone charge.

These scenarios illustrate that sometimes in person is superior – because it leads to better and more humane human interaction. This is supported by a new report on tribunal justice during the pandemic. The report was completed last summer but unpublished until recently, maybe prompted by my Freedom of Information request. Its findings are based on surveys of and interviews with judges – only one cohort of users – but it is the best insight we have yet into online tribunal hearings. Perhaps the strongest insight is "horses for courses" – remote actually did work well for some things. In tribunal hearings video and phones were used extensively, with judges acting remotely from their homes. The report suggests that where users were professionals and where litigants were represented by lawyers, remote generally worked fine, but where users were in any way socially excluded or vulnerable there were often problems…but not always.

The contrast between the SEND (*Special Educational Needs*) tribunal and the mental health tribunal illustrates the differences. The SEND tribunal hears cases about whether children should be assessed as SEN and how their needs should be supported. The families of the children involved are often vulnerable and often unrepresented. SEND judges felt that remote hearings were more accessible – families could take part from home – and parties often found them less stressful online. The majority of judges felt it was easy to communicate with parties to SEND hearings, though counter-intuitively they felt phone communication was easier than video.

But judges who presided over mental health tribunals were pretty damning about the move to remote. Mental health tribunals make decisions as to whether individuals should have their liberty or not – should they be detained in the first place and should their detention continue? If sectioned how should they be treated? Access to the hearing itself was often difficult since mental health patients did not have their own equipment or did not have adequate access to the internet. Also technical problems beset hearings – a judge said that only one in 19 hearings had no technical issues.

"It was concerning to have a patient who was not able to continue attendance via phone as they ran out of credit on their mobile and their benefits had not been sorted. At least in physical hearings patients are likely to be able to attend (especially for Community Treatment Order cases) as they may well get a lift from the care coordinator if no other means- however regarding remote hearings really vulnerable patients are at the mercy of digital poverty issues- and hence the hearing can be inequitable. In the case described above, the judge called the patient (anonymising their number) which was the only way the patient could continue participating in

their hearing- this needs to be addressed." (Respondent 120, Mental Health Tribunal)

Mental health patients in secure settings had to borrow iPhones or share laptops with their own doctors to take part in hearings. Not surprisingly, this led to patients leaving hearings early, or not turning up in the first place. Judges couldn't work out whether the patients were understanding the hearing and whether they needed reasonable adjustments: "Hard to know how the patient is reacting and read cues. Sometimes the actual technology adds to the patient's paranoia as they are suspicious about electrical devices to begin with. There have been proportionately more walk outs compared to normal face to face hearings. Also, many patients have not met their reps in person, which can add to their anxiety and lack of trust.".

Many participants in tribunal hearings are vulnerable whether because of physical disability, mental health issues or difficulties with language. Significant proportions of judges surveyed felt that vulnerability was more difficult to identify remotely, particularly if the participants were on the phone. Where there was no relevant information in the papers and no representative, how could they judge whether a party was at a disadvantage?

"Whilst respondents considered that remote hearings had reduced psychological barriers to attending hearings for some, these had been amplified for others: particularly those with low levels of digital literacy and confidence; English as an additional language; those on low incomes; parties experiencing mental health problems; and parties with hearing and learning difficulties".

What is slightly surprising is that so many hearings have continued when it's doubtful they were legal. If reasonable adjustments are not made for a disabled person, that service is breaking the law. Continuing to hold remote mental health tribunals seems particularly risky, given the High Court in January ruled that mental health assessments used to detain mentally ill people must be done in person not on video. There are many parallels between the experience of remote justice in tribunals and in criminal courts. But we sorely lack the solid evidence in criminal. No one was brave or foolhardy enough to commission a study such as this one on tribunals – to let hundreds of judges give their views. Let's hope this report leads to an open debate about what to keep and what to jettison of pandemic justice.

SRA Pays Out £10m to Cover Losses From Dishonest Solicitors

John Hyde, Law Gazette: Solicitors Regulation Authority (SRA): Payments from the compensation fund rose by 37% in value last year as dishonest solicitors cost the profession £10.3m in total. Accounts for the 2019/20 year ending 31 October 2020, released this week, show the fund received 1,120 claims (a fall of 21%) but faced higher-value claims than in previous years. There remained 637 open claims by October 2020 (up from 536 a year before) with a total potential value of £84.6m. In 2020, grant recoveries from solicitors found to have been dishonest were £5.3m – a 40% decrease. Recoveries are often received months or even years after the initial grant has been paid to wronged clients, so may not relate to payments made in the same financial year.

Current assets in the fund fell overall by £6m, leaving £60.7m in reserve. The balance of the fund has been deliberately increased to allow the payment of high value, exceptional claims, and the majority of those are expected to be paid out in the current year. The fund makes discretionary grants to people who have lost money or suffered hardship as a result of the dishonesty of a solicitor or law firm owner. The SRA, which published the accounts, said the pandemic has not yet had a significant impact.

The funding and burden of the fund has been a contentious issue in recent years. Contributions from solicitors and firms have risen in some years to ward off potential spikes in high-value claims. They currently stand at £50 for individuals and £950 for firms. The SRA

was forced to abandon plans for a £500,000 cap on single claims after it became clear the Legal Services Board, the oversight regulator, would not support the change. The LSB did formally approve other less contentious reforms of the fund earlier this week, including a charities and trusts threshold which will stop those with more than £2m in assets from making claims. The SRA says that larger charities and trusts have strong governance, are likely to be regular users of legal services, make sophisticated purchasing decisions and understand the risks involved. The new threshold will still allow 90% of charities to make a claim for a grant. The LSB had initially said there was insufficient evidence to support the proposal but has now backed it, saying that any potential risk of detriment to the charities is 'outweighed by the need for the [fund] to provide consistent and fair outcomes which prioritises those that are most in need'.

Scotland: Extra £90,000 to Support Women Involved in Sex Work

Ash Denham, Scottish Legal News: An extra £90,000 is being invested by the Scottish government to support women involved in Sex Work. The money will help fund services run by Victim Support Scotland, the Scottish Women's Rights Centre and the Encompass Network. The funding – which brings the total spent during the pandemic to £170,000 – was announced as the findings of Scotland's first ever consultation on Sex Work are published. The Equally Safe consultation – which attracted over 4,000 responses – found the pandemic had exacerbated the harms experienced by women involved in Sex Work and underlined the importance of a wide range of support to address their multiple, underlying needs. Community safety minister Ash Denham, said: "As this consultation shows, the Covid-19 pandemic has had a profoundly negative impact on women involved in Sex Work. There was clear evidence that in many situations women were already experiencing poverty or additional challenges, such as immigration status. The pandemic put women into further precarious positions with some reporting that they had no choice but to continue to sell sex. The stigma and the hidden nature of Sex Work has created a further barrier to getting help through mainstream services. I am therefore pleased to announce this additional funding for specialist services designed specifically for women involved in prostitution. The Scottish government will build on the findings of the consultation and develop a model for Scotland to challenge men's demand for Sex Workers, learning from other jurisdictions and international approaches. We will also bring forward a programme of work to engage with those with lived experience to help shape and strengthen services." Co-ordinator at the Scottish Women's Rights Centre Katy Mathieson said: "Women who sell or exchange sex often face immeasurable barriers, stigma and discrimination when it comes to seeking justice after an experience of abuse or violence. With this funding we will develop a pilot project which will enable us to identify the specific legal and advocacy needs of women involved in selling or exchanging sex and support them to exercise their rights."

Sandor Varga and Others v. Hungary - Violation of Article 3

The applicants are four Hungarian nationals, Sándor Varga, Á.K., I.K. and Henrik Rostás, born between 1967 and 1987. The cases concern the applicants' life sentences without the possibility of release on parole. The first applicant was sentenced for the premeditated murder for financial gain of four people and a series of armed robberies committed in a criminal organisation. The second and third applicants' sentences were for the premeditated murder of six people, including a four-and-a-half-year-old child, committed with special cruelty with racist motives and in a criminal organisation, and for a series of related crimes (armed robbery and firearms offences). The fourth applicant was sentenced for the attempted murder of several people, for financial gain

and committed with special cruelty, as well as for several counts of robberies and assault. The applicants complain that their sentences constitute inhuman and degrading punishment, in breach of Article 3 (prohibition of inhuman or degrading punishment or treatment). Violation of Article 3, Just satisfaction: Non-pecuniary damage: the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the second and third applicants; Costs and expenses: 2,000 euros (EUR) jointly to the second and third applicants. The first and fourth applicants did not submit any claims for just satisfaction.

Steps Prisons are Taking to Tackle Violence, Self-Harm, on Youth Secure Estate

MOJ: We are committed to reducing violence in youth custody. Whilst there are fewer young people in custody than ever before – those in the youth estate are a cohort with complex needs. Children and young people (including 18-year olds) serving sentences for violence against the person offences accounted for more than half (55%) of the youth custody population in 2019/20. We are investing in staff, education, psychology services and mental health support, alongside a package of interventions within the Behaviour Management Strategy that address the needs of children and young people through early intervention and multi-agency work. This is underpinned by 'SECURE STAIRS' - the framework of integrated care jointly led by the NHS and Youth Custody Service (YCS), which provides the foundations as to how the YCS works with children – which has adapted its approach during the COVID-19 pandemic to take into account the vulnerabilities of children at this time. In addition, the YCS has been progressing work with a focus on some of the most vulnerable and challenging young people in custody alongside NHS colleagues through the Critical Case Pathway. This provides a greater level of oversight and support to professionals working with children who self-harm, and those with the most complex needs to ensure effective assessment, planning and co-ordination. Additionally the 'COVID-19 Support Plan', a less intensive and physically distanced version of the Custody Support Plan (which provides children with a named officer to work with on a weekly basis) is also being delivered, to maintain key relationships between staff and children.

The roll out of the youth justice specialist roles has continued with funding provided for every prison officer to take up a degree level qualification in youth justice. As of March, there were 201 youth justice specialist officers already in post. A further 319 staff are currently signed up or undertaking the learning, with the last cohort due to start in October 2022 with up to 110 more frontline staff participating. We are continuing to look to further open up regime opportunities in a manner that is safe and sustainable, to provide further support to children. Given the uncertainty this period has presented, it has been encouraging to see that levels of self-harm have fallen during the pandemic with - the annualised rate of self-harming per 100 children falling by 56% in the three months to December 2020. We are also carrying out work to ensure that lessons learned from the COVID-19 period are taken into account going forwards, and the YCS has commissioned a programme of research, in collaboration with academics, to evaluate these lessons with the results used to further inform recovery planning.

HMP & YOI Sudbury – Urgent Improvements Needed

The primary purpose of Sudbury, Charlie Taylor, HM Chief Inspector of Prisons, said, was to prepare prisoners for their successful return to the community on release. At the last full inspection, in 2017, inspectors reported that outcomes in this regard were improving. "The pandemic, however, had disrupted the prison's ability to maintain this progress and although it was

encouraging that around 50 prisoners had continued to use release on temporary licence (ROTL) to access external key work employment, the numbers generally had greatly reduced."

For prisoners classed as a high risk to the public, probation service prison offender managers (POMs) had maintained onsite provision, including face-to-face support. However, most of the population were allocated prison officer POMs (around 60%), and many had not had adequate contact for several months. Mr Taylor commented: "It was clear that prisoners' lack of access to offender management was a source of considerable frustration." The prison had announced the welcome resumption of social visits. Prison leaders were also planning to increase the number of opportunities for ROTL to maintain family ties from mid-May 2021, although a cautious approach meant that very few prisoners would initially benefit from this. Similarly, Mr Taylor added, the reintroduction of face-to-face teaching was to be limited to small numbers, even though inspectors had identified that classroom space was available.

Sudbury remained generally safe with few incidents of violence or self-harm. However, Mr Taylor said, the use of segregation and incidents of force were far higher than inspectors have seen in other open prisons. "While most force involved just the use of ratchet handcuffs to escort prisoners to segregation, this high usage could be tracked back to 2019 and had continued through the period of restrictions. Leaders needed to review this to understand the reasons." Many communal areas, particularly on the older units, were dilapidated and grubby and significant investment was needed.

Inspectors were also concerned that they received many negative comments about staff. Only 61% said that staff treated them with respect and a third said that they had been subjected to some victimisation from staff. Mr Taylor added: "Prisoner perceptions on the use of segregation, the high number of prisoners returned to closed conditions, as well as the inconsistent support from POMs, had been further compounded by a local dispute with staff associations that was affecting the progress of the personal officer scheme. These issues combined to contribute to some poor prisoner perceptions and undermined the rehabilitative purpose of the prison."

The report noted many reports of staff being abrupt, unhelpful and having a punitive approach. It added: "Nevertheless, some prisoners were able to name some good staff and we found some committed, energetic staff doing positive, and in some cases innovative, work with prisoners", particularly in the areas of physical education and horticulture. Overall, Mr Taylor said: "Many aspects of daily life, including the high use of force, poor staff-prisoner relationships and the management of some key aspects of offender management, needed urgent improvement, while much of the living accommodation required significant investment."

All Children to be Taken From Privately Run Rainsbrook Youth Jail

Guardian: All children will be removed from a privately run youth jail because of serious ongoing safety concerns, the government has announced. Work is under way to find alternative accommodation for 33 children at Rainsbrook secure training centre, the Ministry of Justice (MoJ) said, after calls for urgent action to address problems at the unit. The government was urged to step in after it emerged children were being locked up for more than 23 hours a day at the site near Rugby in Warwickshire during the coronavirus pandemic.

The justice secretary, Robert Buckland, previously described the situation as an "unacceptable failure" and MPs increased pressure for the site to be taken back under public control from the US-based contractor MTC. Such a move is under consideration, the MoJ said on Wednesday. Another possibility would be to shut the centre and find another use for it. Buckland said: "Six months ago, I demanded that MTC take immediate action to fix the very

serious failings at Rainsbrook. They have failed to deliver and I have been left with no choice but to ask that all children are moved elsewhere as soon as possible. This move will help protect the public by ensuring often vulnerable children get the support they need to turn their lives around, ultimately resulting in fewer victims and safer streets."

Negotiations about the future of the contract with MTC are ongoing. Rainsbrook can hold up to 87 children aged between 12 and 17, whether serving a custodial sentence or on remand from the courts. The schools watchdog, Ofsted, the Inspectorate of Prisons (HMIP) and the Care Quality Commission (CQC) issued a rare urgent notification to Buckland in December over "continued poor care and leadership" at the site and concerns that vulnerable children were being subjected to a "bleak regime". The inspectors issued the notification after finding that little progress had been made, despite assurances two months earlier that immediate action would be taken, and over concerns that newly admitted children, some as young as 15, were being locked in their bedrooms for 14 days and only allowed out for 30 minutes. MTC's managing director, Ian Mulholland, who took over the role in January and was not in charge at the time of the inspections, has previously apologised "unreservedly" for the "very obvious failings" but said efforts were being made to rectify the situation. The Commons justice committee described MTC's promises of improvement as "worth less than the paper they are written on".

Why the Cops Are Corrupt To the Core

The inquiry into the investigations into the murder of Daniel Morgan declared last week that the Metropolitan Police is 'institutionally corrupt'. Simon Basketter explains why fraud is built into the police. One of many internal investigations into Metropolitan Police corruption was called Operation Othona in 1993. Most of its files were shredded in 2003, except a single A4 ring binder. The file was called "The Dark Side of the Moon—everyone knows it is there but not many can see it". It listed examples of corruption, including unauthorised police computer checks, providing criminals with details of police operations and documents, "losing" evidence, offering protection from arrest and prosecution, and conspiring with criminals and informants in criminality. It said, "Paranoia about what might be revealed if corruption was investigated with vigour is running high in some very powerful and influential circles." Othona was an investigation of, among other things, corruption among south London cops. Around the time of Daniel Morgan's murder, gangsters there paid detectives to report on police operations and then lose or weaken evidence. Drugs and goods seized from informers were being handed back for them to sell and share the proceeds. Detectives carried a "First Aid kit". It contained a balaclava, drugs and a gun. It was used to plant evidence.

So it is not surprising that the inquiry into the 1987 murder of Daniel Morgan slammed the police for "institutional corruption". The panel said it had not found enough evidence to definitely prove police involvement in Morgan's murder. But it did find all police inquiries into the murder were flawed or compromised by corruption. Successive police investigations were, as one senior officer put it, "pathetic". A raft of connected prosecutions failed. The police admitted corruption in the first investigation. But as the panel pointed out, they have never said what that corruption was. Suspects were warned of their impending arrest—the details were published in the Daily Mirror newspaper—giving them time to dispose of incriminating material. The crime scene was not properly secured. Suspects and witnesses were drinking buddies with cops and members of the same Freemason lodge who then took their statements. Eleven cops at least who investigated the case were masons. Officers moonlighted as private investigators and "security" for crooks, and were passed "brown

envelopes". Obvious witnesses were not spoken to until months after the murder, once their memories and any clues they might provide had long gone cold. No log "containing any coherent lines of enquiry" appeared to have been kept, or more likely went missing. Exhibit bags were left open and contaminated. Sensitive information was repeatedly leaked to the press. When a murder prosecution was eventually brought it collapsed in 2011 amid catastrophic evidence disclosure failures and the flaws of a supergrass informants system. The panel points out that policies and procedures relating to the use of informants still allow "scope for corrupt practices". After all that the cops promised to cooperate with the inquiry. The promise was empty. The panel found itself obstructed at every turn. And further the institutional corruption consisted of dishonestly "concealing or denying failings, for the sake of the organisation's public image". The panel said the corruption continues "to the present". For seven years the Met denied the panel access to evidence, and in particular to the "Holmes" computer system.

The officer primarily responsible for what the panel called disreputable delaying tactics was Cressida Dick, now boss of the Met. The panel also found evidence of corrupt links between police officers and private investigators who were selling sensitive police information to the media. The panel heard officers who tried to report wrongdoing were ostracised, transferred to different units, encouraged to resign or faced disciplinary action When the cops tackle corruption, as the Morgan inquiry shows, it is to "protect the reputation of the force". Being "bent for themselves"—cops taking bribes from criminals to suppress evidence and skimming off profits from rackets—is supposedly frowned on. Though as the panel shows it is rife.

But being "bent for the job" is a different matter. Paul Condon, head of the Met during most of the 1990s, coined the phrase "noble cause corruption"—the idea that some police justifiably "bend the rules" to get a conviction when they "knew" the accused was guilty, but had no proof. Condon set up a secret anti-corruption squad known as the Untouchables. A number of senior officers—Andy Hayman, John Yates, Paul Stevens and Ian Blair—were in the squad. All are criticised in the Morgan report. To find out about corruption they again needed informers—whether crooks or crooked cops. The bigger the investigation the bigger the informer— so-called supergrasses. They tend to be offered a clean slate and in return offer enough information to make the deal worthwhile. They lied and fabricated, and the police encouraged them to do it. The very method of supposedly stamping out corruption is itself corrupt. Institutionally so.

HMP Full Sutton – Racist Prison Staff Cover up for Racist Attacker

Kevan Thakrar: On 23 December 2019, I was the victim of a cowardly racist attack at HMP Full Sutton's Close Supervision Centre (CSC). The perpetrator hid, waiting for me to pass his cell to collect my meal from the servery, which was staffed by five prison officers, and as I held out my plate for the food, he was allowed to approach me from behind, walking straight past the security, carrying a weapon and stabbing me repeatedly in the back while growling 'Die'. I turned around not fully aware of what was happening; he rapidly retreated from the room before the officers sought to prevent me from responding.

From the start, I called this as a set-up in which the officers worked with the perpetrator, Kevin McCarthy, against me, sharing the same racist ideology. It was evident, not only in the actual event, but in his preferential treatment following it - which included him not being removed from the unit for weeks and keeping in his possession his games console and a TV they supplied him with, and once eventually relocated to segregation, he was allowed to take the games console with him to a cushy cell. Contrasting this with them telling me that

games consoles are only allowed for 'enhanced' prisoners and my current position of detention in a segregation unit cell with no electricity, makes this clear. When I called this out, I was portrayed as an irrational complainer, but recent disclosure has proved my suspicions. In a document prepared by a government appointed lawyer, and signed by the CSC Operational Manager: 'It is admitted that Mr McCarthy had previously expressed frustration with and dislike of [Kevan Thakrar] and, on 10 December 2019, expressed thoughts of harming [him]… staff were aware of this information and dynamic risk assessments were carried out thereafter.'

Within the CSC, these Dynamic Risk Assessment Meetings (DRAMs) are carried out at least weekly for thorough review, and before every unlock period to consider such serious and emergency responses as should occur following threats like McCarthy made. That means at least two full DRAMs occurred between the threats being made and the cowardly attack, which were attended by what they call the Multi-Disciplinary Team (MDT) – who failed to take any action at all. This MDT included the specialist forensic psychologist contracted from Humberside mental health team to be the unit's 'clinical lead', to identify problems such as this, and McCarthy's allocated forensic psychologist, specifically appointed to reduce his risk of harm to others.

For no adjustments to be made to McCarthy's supervision, no attempt to separate him from anyone, including me, and for no mention of any of it to be made to me, so I could at least be aware of a potential threat to my life, evidences the intent, corruption and racist views of this MDT and Full Sutton CSC staff in general. They knew this clown had previously attacked others from behind, even within the CSC, and had to be deemed a high risk of harm to others to be a CSC prisoner in the first place – so there can be no excuse for any of them.

It comes as no surprise to me that this vindication of my claims has surfaced, especially when considering the routine discrimination that occurs at HMP Full Sutton. One incident which illustrates this occurred during the height of the Black Lives Matter publicity in 2020, when the BBC rightly, but only following pressure, removed some racist material from its online platform. A gang of around six officers, obstructing the corridor and ignoring social distancing as usual, openly discussed their vehement objections to the 'betrayal of the British public by the BBC'. The final contribution to this conversation, which they all concurred with, was that 'There's fuck all wrong with a bit of blackface' and those that don't like it 'can fuck off somewhere else or back to where they came from'. When I reported this, using a Discrimination Incident Reporting Form, the CSC Custodial Manager responded that he had reminded staff not to have such conversations on the landings and to be aware that some people may take offence. In other words 'it's ok to be racist, just don't let the n*****s and p***s hear you, boys' was basically his message. Anyway, that weasel McCarthy plea-bargained to GBH, as his actions in full view of multiple CCTV camera mandated prosecution, following which the same Custodial Manager wrote to tell me of the 'zero tolerance to violence' approach applied at Full Sutton which had enabled the criminal conviction. They subsequently kicked me off the unit in an 'emergency' transfer - so something must have happened more serious than a racially motivated attempted murder, right? Well, no. The reason given states:

'This decision has been taken due to your continued non-engagement with the multi-disciplinary team at Full Sutton. Despite consistent efforts by our team to promote an open channel of verbal communications, you continue to ignore the team other than to make general applications or meet your basic needs. Since your transfer to the unit at Full Sutton your level of engagement with a range of professionals has declined, including Chaplaincy and Gymnasium staff.' Ignoring the fact that both named services have been suspended as

part of the prison's Covid lockdown measures, or that I have been repeatedly requesting a transfer since the attack on me, where were the attempts at open channels of verbal communication prior to enabling the known racist to try to kill me? When this entire MDT is culpable for the attack, what could I possibly want to speak to them about beyond any 'immediate' basic needs and when would this occur, considering I am subject to 22-23 hour a day lockdown, purportedly due to Covid? The fact that, unlike McCarthy, I have been located in the downstairs cells in the segregation unit, known locally as 'the dungeon', which still lack in-cell electricity supply, contrary to HMP recommendations following an inspection many years ago, shows this unofficial punishment for what it is. Although, having said this, 100% of the people of colour in the seg are in 'the dungeon', with 'the penthouse' being the exclusive reserve of white prisoners, who sit watching TV and get made 'enhanced' for shouting racist abuse, so maybe I am just not white enough to not be treated like an animal.

Kevan Thakrar A4907AE, HMP Full Sutton, Moor Lane, York YO41 1PS

Criminal Purgatory – Release Under Investigation – is the End in Sight?

If a suspect is released under investigation (RUI) it means that the individual will be released from custody but unlike a pre-charge- bail, there will be no conditions placed upon them. Effectively they are free to return to their normal lives until the day that they receive a letter containing a ' postal requisition' to say that they are being charged or being informed that charges will not be pursued. The police, once they have released the individual, are at liberty to continue with their investigation without any time limits being placed upon them. Additionally, once released the police are not mandatorily forced to tell the suspect that the investigation is still ongoing or even that it has come to an end. Particular poor practices arose in regard to this.

What was the Impact of RUI? The Law Society in recent reports highlighted a significant decrease in the use of bail post-2017 and an upward trend in the use of RUI's. For example, the London Metropolitan Police Force in 2016- 2017 (Pre- Reform) bailed 67,838 individuals before being charged whereas post-reform 2017-2018 only 9881 were bailed but 46,674 were released under investigation. This pattern can be seen around the country, for example in Cleveland 2016-2017(Pre-Reform) 1693 individuals were bailed before being charged whereas in 2017-2018 only 78 were bailed and 4364 were released under investigation. Similarly, in Nottingham in 2016 -2017 (Pre-Reform) 7392 individuals were bailed before being charged, whereas 2017-2018 562 bailed and 4728 released under investigation.

What Are The Consequences Of Rui's To The Individual Involved? The current Law Society briefing highlights investigations where RUI's have been used which have been allowed to run on for months and years. They highlighted in the briefing that in Nottinghamshire the average individual released under RUI is under investigation status for 114 days and in Surrey 288 days. In my own firm we have seen cases left by the police in limbo under RUI for 12 months and above , furthermore, despite the fact that the National Police Chief's Council ("NPCC") issued guidance in 2019 which recommended that suspects be updated every 30 days, it can be seen that the majority of police officers fail to do this.

Inevitably the longevity of the investigation stage has negative impacts on both the victim and the suspect. They are both are left in a situation where they are placed under enormous stress without any real support. Victims are inevitably left in a situation where they do not know for a long period whether they are believed, when they may have to go to court, whether they will obtain justice, or if the accused will continue to be an immediate risk to them. Questions such

as can they go on holiday, can they move, what should they do if they come across the accused on the street or the supermarket all become major issues for them every day.

The suspect is equally left in a situation where they never know when the letter will arrive and therefore unable to move on in their lives. They may find it impacts on their employability , their family relationships , their reputation , their financial stability and it is extremely likely that this may cause a huge strain on their mental health and those around them in a process which at the end of the day could come to nothing. It can be particularly damaging in sexual offence cases where a suspected person may have children or access to them , as this may often then be restricted.

Quite apart from the enormous impact elongation of the process has on the key players, sight should not be lost of the increased cost of logistics in prolonging the process in order to release the pressure on the Police. Individuals move and for one reason or another may not provide addresses to the investigation force. When the postal requisition arrives it may well go to the last known address and as a result, the individual may not even know that they are charged until they are arrested and dragged to court for not meeting the requisition requirements, all adding to the cost and time involved in the process. Complainants and witnesses in such cases may be asked to give evidence in trials that are no longer fresh in their minds. Many investigations have themselves fallen into disarray as Officers go off sick as they are pressured to handle an increasing burden of cases under investigation.

What about the Lawyers? Firstly, the legal aid fee scheme is not fit for purpose and RUI's put an even greater strain on this. Solicitors who attend their clients on legal aid basis at the police station do so on a fixed fee and once they have been released on RUI's there is no additional funding to cover the subsequent issues that arise. Those on RUI's will inevitably need further support or advice in respect of chasing up their investigation. Acting Solicitors are left in a lose-lose situation. The advice they give to their client about chasing up an investigation whilst on a RUI is quite simply not clear cut and brings risks since chasing up after some time could result in the police restarting an investigation that had previously been forgotten about. 'Let sleeping dogs lie' can then seem attractive but equally fails to be cost effective or to bring a matter to a final conclusion. There is certainly no recompense of the inevitable extra resources needed to deal with a stressed and emotionally strained client who has been left in purgatory.

Claimant has £200k Costs Paid Despite Winning only £10 Damages

Law Gazette: A High Court judge has found that the county court was entitled to order costs in favour of a claimant who secured nominal damages of £10 at trial. Mrs Justice Collins Rice said the claimant in Shah & Anor v Shah & Anor had made a Part 36 offer to settle the case for £1 and payment of their costs, and the judge had correctly applied the resulting costs rules. She noted that the appellants disagreed with the costs judgment in the 'strongest terms' and said the intensity of their objection was a measure of their disappointment, the personal context the judge found to be driving the litigation, and the bill they would have to pay. But she found that the test for finding a Part 36 injustice was not whether she agreed with the judge or whether all his decisions were the only ones he could have taken. 'The test is whether in any respect he took a decision which it was not properly open to him to take at all, because he got the law wrong, went wrong in principle or reached a wholly unsustainable conclusion.'

The court heard that the parties were caught up in an 'intense and protracted' family dispute, including over a contractual obligation regarding an apartment in Goa. The claimants brought an action claiming breach of that obligation and sought £30,000 damages. At trial last October, His Honour Judge Saggerson found the defendants in breach and awarded the £10 damages. He then ruled that the Part 36 offer had been 'operative' and so the usual rules around costs penalties for rejecting it should apply. The court heard that both parties' budgets had been set above £100,000 and the claimants' costs now stood at more than £200,000.

In the costs hearing, the defendants had argued that the normal Part 36 consequences should not follow because the £1 proposal was 'not a genuine offer to settle the value of the claim; it is simply an attempt to game the system in terms of obtaining a costs order'. The judge acknowledged the 'sometimes harsh, even brutal' default consequences of civil procedure rules but said they should be applied in this case. The action was a disproportionate investment of time, energy and cost on both sides, but the claim itself was not an abuse or solely motivated by vindictiveness. He said the claimants were at least prepared to bend with their Part 36 offer, but the defendants had been 'unbendable'. In the event, the Part 36 was deemed a genuine offer to settle and got very close to the court's final conclusion. The judge had added: 'I cannot depart from the default position under CPR 36.17 simply because the rules themselves may appear harsh or produce a harsh result.'

Mighty Mouse Plague Forces Evacuation of Jail in Australia

The mouse plague that has cut a destructive swathe through western New South Wales for months is forcing the evacuation of a jail in the region. Up to 200 staff and 420 male and female prisoners at Wellington correctional centre will be transferred to other prisons in the next 10 days while cleaning and remediation work takes place. The Corrective Services NSW commissioner, Peter Severin, said operations at the jail would be scaled back to deal with the crisis and in-person visits had been suspended until the remediation work was completed. "The health, safety and wellbeing of staff and inmates is our number one priority so it's important for us to act now to carry out the vital remediation work," he said on Tuesday. "We need to take this step now to ensure the site is thoroughly cleaned and infrastructure is repaired." Most staff would be redeployed to other jails in the western region, while a skeleton crew would remain at Wellington to oversee and contribute to the repair work. The mice have caused damage to internal wiring and ceiling panels. The assistant commissioner custodial corrections, Kevin Corcoran, said the remediation work would include investigating ways to protect the centre from future mice plagues.

ECtHR Orders UK to Pay Damages Over Family Court Judge's Findings

The European Court of Human Rights has ordered the UK to pay €24,000 in respect of non-pecuniary damages and €60,000 in respect of costs and expenses, to a social worker who became aware of criticisms of her conduct only when a family court judge delivered an oral judgment at the end of a hearing. The social worker went to the Court of Appeal, which found that the process by which the judge arrived at his criticisms was 'manifestly unfair' and set aside the adverse findings. the Strasbourg court said the social worker suffered prejudice personally and professionally.

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.