



**JUSTICE**  
Annual Review 2013



Advancing access to justice, human rights and the rule of law



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London  
August 2013



Dear Reader

JUSTICE is on the brink of significant and exciting change. This annual review represents the first tremors in a seismic shift as the organisation re-aligns itself to meet the grave challenges facing our justice system today.

The catalyst for change has been the appointment of Andrea Coomber as our new Director. With enormous energy, Andrea has swept into JUSTICE and, with the insight only a fresh pair of eyes can bring, has carried out a comprehensive and thoughtful strategic review. The speed of the process – Andrea only took up her post in February – has in no way compromised its thoroughness. She has consulted widely and wisely, and it is a testament to her analysis that there was unanimous approval of the recommendations she presented to JUSTICE Council in June.

Like a critic reviewing a Hollywood blockbuster, I'm wary about revealing the details (turn to page 4 if you can't wait!). But I will say that Andrea's plans involve a return to elements of the high points of JUSTICE's past, and place our members and supporters firmly at the centre of the organisation.

Remarkably, all this activity has not detracted from JUSTICE's 'everyday' work. Consistent, persistent and incisive as ever, JUSTICE has been at the forefront of key debates on the often worrying state of justice today. From the gloom of the vicious attacks on legal aid to the relative optimism of developments in defendants' rights under EU law, JUSTICE has been – in the words of Lord Kerr, commenting on our intervention in *Rahmatullah* – 'powerful and significant'.

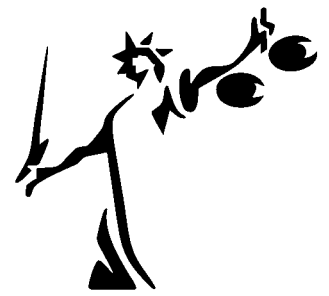
Powerful and significant is a wonderful tribute to any organisation. That JUSTICE is held in such high regard is astonishing when you consider its size. It is tiny. JUSTICE achieves all this on a staff of only six. And, for a large part of the period covered by this review, it was down to five, when Andrea's predecessor, Roger Smith, left at the end of October 2012. I'd like to record my thanks – both personal and on behalf of JUSTICE and the wider legal community – to Roger for his eleven years of dedicated service to the cause and wish him every success in the future.

As to the future, I hope you'll share my excitement at the prospect of a resurgent and growing organisation. I hope, too, that you will feel moved to rise to the challenge that Andrea's model presents and answer her call to get involved in any way you can.

A handwritten signature in cursive script that reads "Helena Kennedy".

Baroness Helena Kennedy of the Shaws QC  
Chair  
JUSTICE Council

# A REVIEW OF THE YEAR'S WORK



The past year has been one of transition for JUSTICE.

After over a decade at the helm, Roger Smith left JUSTICE in October 2012. His are big shoes to fill and, when I mention that I am the Director of JUSTICE, more often than not the response is 'oh, you're the new Roger'. We are enormously grateful to Roger for all of his energy and hard work as Director.

A long admirer of JUSTICE from afar, upon joining I have been struck by the enormous commitment and hard work of our staff. The staff complement at JUSTICE is currently only six, with two policy staff, and yet the volume and quality of output is that of a much larger organisation. The staff are strongly supported by Council and by our members – individual and corporate – whose good will towards JUSTICE is demonstrated repeatedly.

It has been another busy year for JUSTICE. A high volume of consultations have emerged from the Ministry of Justice, with critical issues at stake. Key among these have been the challenges presented by the entry into force of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) and more recently the proposals in *Transforming legal aid*. While the former cut the scope of legal aid apparently to save money, the latter foreshadows a seismic shift in the way in which legal services are delivered, across both civil and criminal justice. In the past six months, there have also been two separate assaults on judicial review. JUSTICE has worked to highlight what the proposed changes will mean for the delivery of quality legal services to ordinary people and their impact on the rule of law more broadly. We are braced to continue this work in the months and years to come.

Over the past 18 months, JUSTICE has focused on the Justice and Security Bill, now Act. Our 2009 report, *Secret Evidence*, highlighted many of the problems that have come to pass with the passage of this legislation, which has seen the adoption of closed material procedures (CMP) in civil proceedings. JUSTICE considers the expanded use of CMP to be unnecessary, unjustified and unfair, serving to shield government from effective scrutiny and acting to undermine the integrity of our civil justice system. Beyond our work with Westminster on CMP, we await judgment of the European Court of Human Rights in *Tariq* and *Gulamhussein v United Kingdom*, which will assess whether the use of CMP in the employment tribunal is consistent with fair trial guarantees in Article 6 of the European Convention on Human Rights.

*Tariq* is one of a number of our third party interventions. We remain the lead intervener before the UK Supreme Court, where we have intervened in one in 12 of all cases. In the past year, we have intervened and received a positive judgment in *Smith v. Ministry of Justice* (concerning soldiers killed in Snatch Landrovers in Iraq and raising issues of the territorial scope of the European Convention on Human Rights) and received a positive judgment in *Rahmatullah*, which concerned the extent of the UK courts' habeas corpus jurisdiction.

Our work on criminal justice and within the EU continues apace. For more than a decade, JUSTICE has been actively engaged in work on the European Arrest Warrant (EAW), encouraging reform from within the system. At the end of last year we completed a project on achieving best practice in EAW cases, an issue very much at the forefront of both the crime and European agendas. The project made various recommendations, including the training of defence lawyers at both EU and domestic levels, which we will follow up in the coming year. Our project on suspects' rights in police detention is drawing to a close, and will see recommendations for the inclusion of training focused on procedural rights for police station lawyers.

In June 2012, we received judgment from the Supreme Court in *HH*, which concerned the interests of children of requested persons under the EAW, and confirmed the need to consider carefully the impact of extradition proceedings on children.

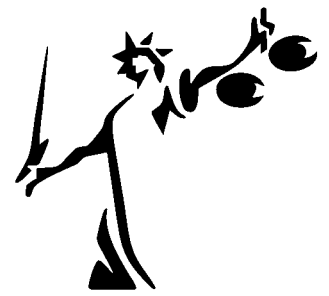
Most of my time at JUSTICE to date has involved a strategic review (see page 4). Central to the review is JUSTICE's relationship with its membership, not least how it communicates with members. Over the coming year we plan to open up a dialogue with our members and involve them more in our work. The review has provided the opportunity for me to meet many of our members and Council members and to understand better their expectations of JUSTICE. I am very grateful to everyone who has taken the time to meet with me, and for the incredible support that has been demonstrated. While there is much to be done, I am very excited by the challenges ahead.



Andrea Coomber  
Director  
August 2013



# STRATEGIC REVIEW



The job advertisement for the Directorship of JUSTICE noted that the successful applicant would be expected to undertake a strategy review upon appointment. I commenced the review in early March 2013. It has been a wide-ranging consultation exercise. I am greatly indebted to those members who took the time to write and, in some cases, to meet me to discuss their hopes for JUSTICE. I also spoke with many lapsed members, corporate members, former Council members, existing Council members, partner organisations and other supporters of JUSTICE.

My work was supported by a consultative group of Council – namely, Richard de Friend, Nicholas Aleksander, David Howarth, Walter Merricks, Sean Enright, Guy Mansfield, Amanda Finlay and Alexandra Marks. A student member, Michael Etienne, also served on the group. Throughout the review process, I was supported by a dedicated intern, Alastair Livesey, who provided invaluable input. Finally, our incredible staff provided support and a sounding-board throughout. Many thanks to everyone involved.

The review proceeded in two parts. The first considered the position of JUSTICE, and its niche, membership and profile; the second considered internal matters such as our systems and processes, finances and fundraising.

The first part of the strategic review was considered by Council on 18 June, and both parts were considered by the Executive Board on 9 July. The review was unanimously endorsed. In the coming months, it will be transformed into an affirmative strategy for JUSTICE, and that will mean change.

At present, the mission of JUSTICE is ‘advancing access to justice, human rights and the rule of law’. While these are vital guiding principles for JUSTICE, it was agreed that we need a more focused mission in order to distinguish ourselves from other organisations, build on our expertise and respond to external challenges.

In future, JUSTICE will focus on the effective and fair operation of the justice system – administrative, civil and criminal – and on the rights of individuals within that system. While we have never defined ourselves in these terms, this approach is faithful to JUSTICE’s history, where many of our greatest achievements have involved structural reform of the justice system (for example, the Ombudsman system, the Crown Prosecution Service and the Criminal Cases Review Commission). This new focus is obviously timely in light of the multitude of challenges to the way in which the justice system works, and with increasing fiscal constraints which we understand will remain regardless of the government of the day. We will continue to work on the place of human rights within our constitutional framework and on the Human Rights Act 1998, and will deepen our focus on the procedural rights of those within the justice system.

The new strategy will seek to position JUSTICE as the experts in the justice system, performing much as the King’s Fund does for health care.

In terms of working methods, we will continue to intervene in cases within the organisation’s priorities before the Court of Appeal, Supreme Court and European Court of Human Rights. We will increase our research and legal advocacy efforts, with an increased staff complement. Critically, the strategic review has recommended – and there has been unanimous endorsement for – a return to working parties of the JUSTICE membership.



One of JUSTICE's greatest assets is the experience, expertise and eminence of our members, and I am keen to capitalise on this much more in future. Over the coming year, we will be establishing a number of working parties to focus on priority challenges for the justice system (which will be agreed in the coming months) and I encourage members – both individual and corporate – to get involved.

I am generally very keen for JUSTICE to grow closer to our members, and to increase the 'offer' to the membership. The strategic review envisages free member-only evening events, which will see some of our more eminent members speak about issues of the day, to other members under Chatham House rules. In future, JUSTICE will also only be working with its members – whether on our third party interventions or speaking at our conferences – as part of the offer. I am also pleased to note that we have managed to substantially reduce the fee for our members to attend the Annual Human Rights Conference, which we are hosting with Sweet & Maxwell in October. While still much more expensive than I would like, we have negotiated an early bird ticket price of £250 for JUSTICE members, down from £390 last year.

Over the summer we will be fleshing out a membership strategy with a view to increasing our offer to members and the membership figures generally. More members means more authority to JUSTICE – please do encourage others to join up, or contact me if you have ideas on how we might expand our membership.

Much of the strategic review has covered matters such as governance, finance and fundraising. JUSTICE has generously benefited in recent years from a number of legacies, which we have spent down now to an appropriate level. Our expenditure is tight, and my focus from now on will be on generating more income. To this end, the Executive Board has agreed to the appointment of a trusts and foundations fundraiser to join our staff in the autumn.

With the adoption of recommendations in the review, over the summer a new strategy will be elaborated, and along with it organisational and work plans. It will take some time to build up our capacity and our staffing complement to be able to deliver on the new mission, but I am confident that, with the ongoing support of our members, JUSTICE will be the justice experts in no time.

Andrea Coomber  
Director



# HUMAN RIGHTS



**One of the primary goals of JUSTICE's work this year has been to defend the existing provision for the protection of individual rights within our justice system, whether in the common law, in the Human Rights Act 1998 or in the effective operation of the European Court of Human Rights as an important international remedy for us all.**

In 2012, we submitted further evidence to the Bill of Rights Commission established by the coalition government, stressing our view that the current mechanisms for protection must not be curtailed. We regret that the Commission's final report in 2013 concludes that the development of a Bill of Rights for the UK may be appropriate but provides no coherent or consistent rationale for the need for such a change or on how such a bill might improve existing protection.

JUSTICE also continued to help inform the debate about the future of the European Court of Human Rights. Together with the International Commission of Jurists we were actively involved in briefing during the passage of Protocols 15 and 16 of the European Convention on Human Rights (ECHR). Protocol 15 has now been opened for signature and we regret that – in keeping with the agreement in the Brighton Declaration – the deadline for submitting applications will be reduced from six to four months. However, while the Protocol emphasises the principle of subsidiarity and the margin of appreciation, it is accompanied by a clear indication that those principles must be interpreted consistently with the existing jurisprudence of the Court. JUSTICE continues to work to emphasise that subsidiarity means states working to implement the ECHR effectively at home, and getting it right first time.

We continue to inform the domestic human rights debate. For example, JUSTICE jointly hosted a high-level seminar with the Immigration Law Practitioners' Association and the Human Rights

Lawyers' Association on the practical impact of changes to the immigration rules designed by the government to restrict the application of the right to respect for private and family life in Article 8 ECHR. In June 2013, we gave evidence on the Draft Voting Eligibility (Prisoners) Bill, emphasising the importance of UK observance of its international obligation to implement the judgments of the European Court of Human Rights (in Article 46 ECHR) for the rule of law.

JUSTICE intervened in the case of *Smith & Others v Ministry of Defence* to ensure that our framework of rights works effectively for everyone within the UK's jurisdiction. In this case, the government argued that troops serving overseas, but operating away from base, would always be outside the jurisdiction of the ECHR and the protection of the Human Rights Act 1998 (HRA). JUSTICE intervened to argue that this interpretation of the law was not only inconsistent with the application of jurisdiction by the European Court, but incompatible with the relationship between our armed forces and the state. *Al-Skeini v United Kingdom* makes clear that Convention rights can be divided and tailored, and their application would not hinder the operation of troops in the field. The Supreme Court Justices unanimously adopted the analysis supported by JUSTICE and confirmed the application of the HRA.

We are grateful to the pro bono team which represented JUSTICE in *Smith* – Alex Bailin QC and Eddie Craven of Matrix Chambers, Iain Steele of Blackstone Chambers and Herbert Smith Freehills.





## Torture, accountability and complicity

JUSTICE's work to highlight the continuing need for vigilance in the operation of national security services and, specifically, counter-terror operations continued with our work on the Justice and Security Act (also known as the 'Secret Courts Act', considered on page 12).

This year also saw the UK examined by the UN Committee Against Torture (CAT) in Geneva. JUSTICE submitted evidence and worked with a broad coalition of domestic and international NGOs to provide an objective perspective on the UK's progress to meet its obligations in the CAT over recent years. Many of JUSTICE's concerns were reflected in the final observations of the CAT, including concern over the treatment of detainees during the war on terror, the failure to establish a proper inquiry to consider historical allegations of complicity in torture and the need for the government to publish the interim findings of the Gibson inquiry without delay. The CAT also made critical observations about the compatibility of deportations made on the basis of diplomatic assurances with the international prohibition on torture.

In October 2012, the Supreme Court gave judgment in *Rahmatullah*. JUSTICE intervened in this case to highlight the importance of the court's jurisdiction of habeas corpus and to highlight the inconsistencies between the government's arguments in this case and its wider claims about the effectiveness of diplomatic assurances. Following capture by the UK, Mr Rahmatullah was delivered to US forces subject to various diplomatic assurances and memoranda of understanding. He sought habeas corpus to help bring to an end his detention at Bagram Airbase. The government argued that habeas corpus jurisdiction was not available as the UK did not have control over Mr Rahmatullah's detention – acting on the memoranda or the assurances of the US was said to be 'futile'. The Supreme Court confirmed that habeas corpus jurisdiction continued and a writ could be issued in order to better determine the fact of control. Although the writ was ultimately discharged, the case was significant in terms of the

principles of habeas corpus and the right to liberty in the common law.

We are grateful to those who represented JUSTICE in *Rahmatullah* – Tom de la Mare QC and Fraser Campbell of Blackstone Chambers and Allen & Overy.

## The state, surveillance and privacy

This year has seen the recent work of JUSTICE on the outdated and unacceptable framework for the governance of public surveillance by the state in the Regulation of Investigatory Powers Act 2000 (RIPA) come to the fore. As revelations on the operation of the US and UK surveillance programmes emerge, the effectiveness of the oversight mechanism in RIPA has been subject to renewed debate. JUSTICE's work in *Freedom from Suspicion: Surveillance reform for a digital age* provides a solid case for reform. We have continued this work in 2013, contributing to a multi-disciplinary review of the operation of UK surveillance law and practice in *Digital Surveillance* (Open Rights Group, 2013). That most authorisations for surveillance are made administratively by ministers or officials with little effective post-hoc scrutiny is no longer acceptable. The role of the Investigatory Powers Tribunal, as an effective means for individuals subject to intrusive and disproportionate surveillance to secure a remedy, must be revisited. As high-profile cases head to the Tribunal in 2013-14 – notably with the negligence and human rights claims brought by women deceived into sexual relationships by undercover officers of the Metropolitan Police one of the first and most challenging – the spotlight will remain on its work and secretive processes.

These revelations helped highlight the inadequacies of government proposals, in the Draft Communications Data Bill, to legislate for the generation, collection and retention of communications data about how we all use the internet. While targeted surveillance can be justified and may save lives, this bill presented another shift away from targeted operations towards mass surveillance of the population. Building on the RIPA model, the safeguards for effective oversight of this vastly expanded pool of personal information were far from adequate. JUSTICE briefed MPs and



Peers on the bill and was called to give evidence to the Joint Committee established to conduct pre-legislative scrutiny. We welcomed that Committee's call for the Home Office to go back to the drawing board, and worked with Home Office officials, ministers and the Office of the Deputy Prime Minister to urge caution. After an announcement that the bill would not be included in the Queen's Speech, political manoeuvres were made to resurrect its provisions in the aftermath of the killing of Lee Rigby in Woolwich. US PRISM revelations and ensuing public concern have chilled the call for expanded powers and create a unique opportunity for the UK to revisit RIPA.

### Life and law online

Our work on the Draft Communications Data Bill and the outdated provisions of RIPA was at the cornerstone of the development of a new theme in JUSTICE's work. As our on- and off-line lives are increasingly integrated, the law has failed to keep pace. With social media and other forms of online communication expanding and many routinely carrying powerful hand-held computers – capable not only of communicating with others, but also of carrying vast amounts of personal data and tracking our movements with extreme accuracy – the law has been found conspicuously wanting. In November 2012, we hosted a training seminar on the application of defamation and privacy law to communications through social media and other online publications. Following the Defamation Bill and the Lord McAlpine Twitter scandal, this provided a lively forum for debate. We are grateful to Hunton & Williams for hosting the event.

Our work continued as the Director of Public Prosecutions published draft guidelines on the prosecution of offences committed through the use of social media. JUSTICE welcomed the guidance as timely. We recommended changes to provide clearer assistance to the public and to the Crown Prosecution Service on the proper dividing line between offences which would be prosecuted in the public interest (including administration of justice offences and those intended to harm individuals) and the need to avoid a chilling effect on free speech and the use of online communication as a force for public good.

### Policing and public order

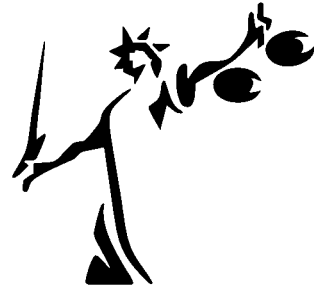
2013 saw the culmination of many years of JUSTICE's work to highlight the unfair operation of Section 5 of the Public Order Act 1986. The criminalisation of 'insulting and abusive' words or behaviour by that legislation, without any specific safeguards for the protection of speech (such as a specific need for intent) had been subject to abuse and arbitrary application to low level anti-social behaviour for many years. Work to highlight the incompatibility of the criminalisation of expression considered merely 'insulting' with the right to free expression bore fruit as the offence was amended in the Crime and Courts Act 2013. JUSTICE highlighted the need for guidance and training for police to ensure that the trigger of 'abusive' behaviour will be interpreted compatibly with Article 10 ECHR.

### The 14th Annual Human Rights Law Conference

The 14th Annual Human Rights Law Conference was held in October 2012. Always a highlight of the human rights year, JUSTICE brought together exceptional speakers and participants from across the range of legal practice and from all areas of the profession. The highlight of the day was the keynote speech of Lord Kerr of Tonaghmore, who described as 'powerful and significant' JUSTICE's intervention in *Rahmatullah*.



# CRIMINAL JUSTICE



**Much of our work in this area involved detailed scrutiny of two major bills passing through Parliament. There are also significant criminal justice implications in the changes to legal aid (see 'Access to Justice' section).**

## Effective community sentences

In March 2012, the Ministry of Justice published a consultation on community sentencing entitled *Punishment and Reform: Effective Community Sentences*. It sought views on a set of proposed reforms to the way sentences served in the community operate in England and Wales. Although the consultation looked at how the further use of restorative justice might reduce offending rates, it also sought support for increasing the punitive element of community sentences and making better use of electronic monitoring.

In responding, JUSTICE cautioned against attempting to make what is already a punishment appear more punitive, whilst welcoming measures to ensure that sentences both reflect the circumstances of the individual offender and aim, through rehabilitative measures, to reduce recidivism.

## Crime and Courts Bill

This complex and wide-ranging piece of legislation has dominated our year in the field of criminal justice.

The bill, introduced via a first reading in the House of Lords on 10 May 2012, was divided into three parts:

- Part 1 sought to replace the Serious Organised Crime Agency and the National Policing Improvement Agency with a new National Crime Agency (NCA)
- Part 2 aimed to reform judicial appointments; streamline the courts system; allow Court of Appeal proceedings to be broadcast; amend the community sentencing regime; and tighten the law of self defence in relation to burglary

- Part 3 strengthened attempts to combat drug driving; enhanced immigration officers' powers; reformed aspects of the immigration appeals system; and significantly narrowed the public order offence of causing harassment, alarm or distress

Our concerns were both general and specific. The widespread use of 'Henry VIII clauses' to allow the executive to use secondary legislation to bypass Parliamentary scrutiny was of general concern. This is particularly so in the cases of the NCA's counter-terrorism functions and the broadcasting of court proceedings. In our view, a presumption in favour of broadcasting hearings must be balanced by safeguards that ensure only appropriate proceedings are recorded. It was suggested during debate that broadcasting would be limited to the appellate courts – but the legislation opens the door to wider televising and JUSTICE fears that this could impact on the fairness of proceedings.

On community sentencing, JUSTICE argued that, if new punitive requirements were introduced, they should not be at the expense of beneficial rehabilitation elements. And electronic monitoring should not be extended to a blanket default – instead, it should attach to specific and justified requirements already imposed as part of a community sentence.

On reforms to immigration, we argued that removing the right of appeal from the family visit visa system was an unjustified infringement of due process. We were equally concerned about the potentially dangerous effect on refugees of denying an in-country right of appeal to certain immigration applicants.



Like many others, JUSTICE did not consider a change to the law on self-defence was necessary, and the legislation's endorsement of disproportionate force is concerning.

Amendments placed at the bill's final stage proposed a forum bar in extradition proceedings. This is something JUSTICE has called for in the past, but the proposals would make it more difficult to obtain (through a prosecutor's certificate and an exhaustive list of what would be deemed in the interests of justice) than is currently the case. We argued that any amendment must not fetter a judge's discretion to impose a forum bar, and that the Secretary of State's decision-making must comply with her obligations under the Human Rights Act once an extradition request has been made.

Our widespread criticism of the bill was leavened by one welcome measure – the removal of a criminal sanction for using insulting words or behaviour causing or likely to cause 'harassment, alarm, or distress', given that in recent cases trivial comments have unfairly led to criminal proceedings.

Despite lengthy debate over many of these issues (though hardly any for the extradition amendments), the bill received Royal Assent on 25 April 2013 and the Act passed in its entirety.

## The Anti-Social Behaviour, Crime and Policing Bill

The bill was introduced in the House of Commons following the Queen's Speech of 9 May 2013. JUSTICE submitted a briefing at the second reading stage, mirroring our submission to the House of Commons Home Affairs Committee inquiry on the draft Anti-Social Behaviour Bill in February 2013. We also gave written evidence to the Public Bill Committee and the Joint Committee on Human Rights, both of which will consider the bill over the summer before it passes to the Lords.

In parts 1 to 6 of the bill, the government is attempting to overhaul the statutory powers available to tackle anti-social behaviour and disorderly conduct. The 19 powers currently available will be replaced by six new powers: Injunction to Prevent Nuisance and Annoyance; Criminal Behaviour Order; Dispersal

Power; Community Protection Notice; Public Spaces Protection Order; and Closure Power. JUSTICE is concerned that, as currently formulated, the bill creates a number of overly broad, imprecisely defined and easily triggered coercive orders. There is a danger that the legislation might unjustifiably restrict lawful behaviour and disproportionately penalise young people.

The remainder of the bill considers arrangements for policing, new offences, changes to extradition appeals and compensation for miscarriages of justice.

Whilst we welcome discretion to extend the time for notice in extradition appeals, we are concerned by the intention to create a leave requirement. In complex cases, where many people are unrepresented at the initial appeal stage, this requirement may lead to extradition in spite of the existence of genuine grounds for refusal of the request.

The bill also proposes to reverse the decision in *Adams* (in which JUSTICE intervened in 2011), concerning compensation for miscarriages of justice, limiting pay outs to cases where new evidence shows beyond reasonable doubt that the person is innocent. This is an impossible test for most to satisfy. We argue that the current test – that compensation is payable where no reasonable jury could convict on the new evidence – should remain.

## Other work

At our International Crime Conference (held with Sweet & Maxwell in March 2013) expert speakers analysed the role of international courts, extradition proceedings and cross border offences in the context of the increasing globalisation of crime. We are grateful to all the speakers, in particular to Sir Geoffrey Nice QC for an incredibly engaging keynote address on trends in international crime, and Edward Fitzgerald QC who reviewed – in his inimitable style – key international crime cases of the last year.

We continued to remain engaged with the Criminal Justice Alliance and Standing Committee on Youth Justice and contributed to their work where appropriate, as well as attending the War Crimes Community Involvement Panel.



# ACCESS TO JUSTICE



JUSTICE's priority work in this area has focused on three issues:

- Legal aid, access to justice and individual rights
- Restrictions on access to judicial review
- The expansion of 'closed material procedures'

## Legal aid, access to justice and individual rights

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) – described in our last Annual Review as one of the most disappointing bills of modern times – came fully into force in April 2013. LASPO drastically cut the scope of civil legal aid and abolished the Legal Services Commission in favour of an in-house Legal Aid Agency, now based at the Ministry of Justice.

Mere days after LASPO took full effect, the government published *Transforming legal aid: delivering a more credible and efficient system*. The proposals in this consultation paper will have far reaching consequences for the accessibility and credibility of our justice system and for the rule of law. JUSTICE considers that the changes proposed are rushed, ill-considered and unsupported by evidence.

The changes proposed to the provision of criminal legal aid – including further significant cuts to fees and the introduction of competitive tendering based on price alone – will drastically limit the ability of people accused of crimes by the state to access quality legal advice that they can trust. This will increase the likelihood of miscarriages of justice and may make the criminal justice system as a whole more expensive and less fair, as more people attempt to represent themselves.

The removal of prison complaints from the scope of legal aid, the introduction of a residence test for eligibility and the proposal to limit access to legal aid for judicial review will all shield public

authorities from legitimate challenge. Cases affected will engage the protection of individual rights, for example, challenges to family separation, removal of access to services to support independent living for people with disabilities and access to support for victims of domestic violence.

JUSTICE has joined many individuals and legal organisations, including the Law Society and the Bar Council, to provide a detailed and comprehensive response. This was particularly demanding given the short time frame for consultation – less than 40 working days. The timescale for this work is extremely tight, with a government response expected in the Autumn, and a deadline for implementation set for mid-2014.

We have worked hard to brief MPs, Peers and officials on our concerns and to try to shift the focus of the debate away from the remuneration of individual lawyers or the sustainability of individual sections of the profession to the impact on an individual's access to justice, the constitutional significance of legal aid and the potential for the proposals to undermine the credibility and effectiveness of our courts. JUSTICE worked with a number of Parliamentary Committees including the Joint Committee on Human Rights and the House of Commons Justice Select Committee. We will work over the summer to highlight alternatives to the proposals and to suggest the potential costs to the justice system and to other parts of the public purse.

In our future work, alternative mechanisms for the provision of advice, redress and resolution of disputes will be an important priority.



## Access to judicial review

The proposals to restrict access to judicial review in *Transforming legal aid* appeared to confirm a determined intention by the government to limit administrative challenges and to make it increasingly difficult for people to challenge official decision making. In December 2012, the Ministry of Justice published *Judicial Review: proposals for reform* (CP25/2012) for consultation. Its publication followed statements in late November by the Prime Minister and the Secretary of State for Justice to the effect that judicial review – particularly in connection with planning decisions – was ripe for reform to deal with cases which were ‘time-wasting’.

The government proposed to reduce the time limit for judicial review, to increase the cost of claims and to reduce access to oral permission hearings. The consultation closed in January 2013. In our detailed response, JUSTICE regretted the government’s decision to consult on restricting access to judicial review without recognising its essential constitutional function and its importance in promoting good government, transparency and accountability. We raised serious concerns about the impact of the proposals on the rule of law. In Spring, the government confirmed its intention to proceed with a reduction in the time available to bring planning and procurement claims to six weeks, to increase the fees payable and to allow judges considering claims on the paper to bar further consideration of claims certified ‘totally without merit’. JUSTICE considers that the justification for these changes was not based in evidence drawn from the progress of claims in the Administrative Court. However, we welcomed the government’s decision not to further restrict the renewal of applications refused on the papers and not to change the way the time from which any claim for judicial review is calculated for the purpose of the deadline for bringing an action.

## Secret justice and the Justice and Security Act 2013

The operative parts of the Justice and Security Act 2013 – popularly known as the Secret Courts Bill – came into force in June 2013. Part 2 of the Act introduces closed material procedures (CMP) – where one party, his lawyers, the public and the press may be excluded from a case in whole or in

part – into ordinary civil proceedings for the first time. It also effectively removes *Norwich Pharmacal* jurisdiction in any case involving the activities of the security services or raising any wider risk to the interests of national security.

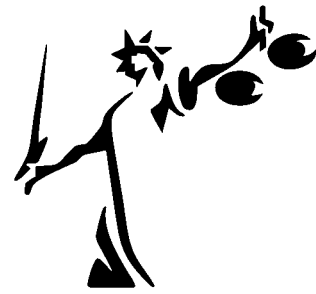
JUSTICE considers that that the operation of CMP is inherently unfair and that normalising the use of these controversial and previously exceptional hearings risks undermining the credibility of our judges and public confidence in the civil justice system. They are unfair, unnecessary and unjustified. We briefed both Houses of Parliament at each stage of the bill’s passage, working with practitioners acting as Special Advocates (the security vetted lawyers at the heart of CMP) and other organisations to raise awareness of their inherent unfairness.

JUSTICE continues to highlight how these proposals will in practice shield government from effective scrutiny, even in cases of serious alleged abuse and wrongdoing. In the Autumn we briefed MPs and Peers on the ‘cut-and-paste’ Rules of Court introduced by the Ministry of Justice which will leave claimants and the courts ill-equipped to deal with the many knock-on effects of dropping CMP into ordinary civil litigation. How, for example, will solicitors be able to advise professionally on a Part 36 settlement offer if the meat of a government defence is considered behind closed doors? What about advice to the Legal Aid Agency on the merits of a claim? The ministry has not addressed any of these concerns. Indeed, it had determined that the court must set aside the overriding objective to do justice in favour of secrecy in any case where the interests of national security are endangered.

We continued our focus on CMP in our third party intervention work. We await judgment of the European Court of Human Rights in the cases of *Tariq* and *Gulamhussein v UK*. We intervened in these cases to argue that the Supreme Court’s approval of the current practice of CMP operating in the employment tribunal without need for applicants to be provided with even a bare summary of the case against them is incompatible with the right to a fair hearing under Article 6 ECHR. We are grateful for the pro-bono representation of Eric Metcalfe of Monckton Chambers and John Howell QC of Blackstone Chambers.



# JUSTICE IN THE EUROPEAN UNION



**JUSTICE has a reputation as a leading UK expert on EU justice matters. We have sought to improve procedural justice – both at source, via the formulation of legislation, and on the ground, by seeking to ensure best practice.**

## Improving procedural justice – new EU legislation

Once again, the EU ‘roadmap’ for strengthening safeguards in criminal proceedings has been a major priority for JUSTICE. This year’s work has been dominated by intensive work on Measure C, the right of access to a lawyer and to consular assistance. This crucial measure has been the subject of complex and lengthy negotiations, first within the EU Parliament, then between the EU Parliament, Council and Commission – a process that ran from June 2012 until a compromise text was agreed in May 2013.

JUSTICE has been at the heart of that process. As part of a coalition of NGOs, we submitted briefings throughout the negotiations and met with representatives of each body a number of times. At the first stage, we briefed MEPs and our contacts in the Parliament, highlighting areas of concern and suggesting improvements. We kept up the pressure as the negotiations continued, adopting a ‘carrot and stick’ approach – welcoming improvements, but also pointing out weaknesses, such as the exclusion of minor offences and insufficient confidentiality of lawyer-client consultations.

At a time when there is so little to cheer about, it is pleasing to report that there is a lot to welcome in the instrument. It gives access to a lawyer – from the moment a person is made aware that they are a suspect until the final appeal in their case. Defendants are allowed a lawyer’s assistance during any questioning, their communications with their lawyer remain confidential and derogations are

narrowly defined. A particular strength relates to the European Arrest Warrant (EAW) and the right to legal assistance in both issuing and executing countries – something our own work has shown to be essential.

Although the instrument is a significant achievement for the EU in an area where research has repeatedly shown deficiencies, JUSTICE still has some concerns and will remain vigilant. We note that much of the detail is left to the recitals, which are not necessarily binding, and may make uniform application of the rights less likely. We also note that the UK has not yet signed up to the instrument. Failure to do so may betray a lack of willingness to protect the right to a lawyer in criminal cases when proposed cuts to legal aid are already threatening this right.

## Improving procedural justice – in practice

Our long-standing and ground-breaking work on the EAW has continued. The ambition of our project, to achieve best practice in EAW cases via a review of cases and practitioner opinions in ten EU member states, has been matched by the quality and impact of its results. We published a weighty and practical report – *European Arrest Warrants: ensuring an effective defence* – in August 2012; held a seminar in the European Parliament in October; and presented our findings at the European Criminal Bar Association (ECBA) conference in Tallinn the same month. And, in May 2013, we presented our conclusions at an Academy of European Law conference in Brussels, held to consider whether the remedies in EU instruments were adequate.



Our key recommendations are

1. practical training for defence lawyers should be provided at both EU and domestic levels
2. representation is necessary in both executing and issuing states
3. a peer reviewed database should be created, allowing access to issuing state lawyers
4. the legal framework of the Schengen Information System should be updated, to allow removal of EAW alerts following refusal of surrender
5. appropriate interpretation and translation for EAW proceedings should be provided.

We are currently working with the ECBA to draft a handbook on defending EAW cases, for inexperienced lawyers assigned to these cases as part of a duty scheme.

A second project, on suspects' rights in police detention, is also drawing to a close. We held training workshops and a conference in May 2013 to discuss our ideas with relevant experts, practitioners and law makers. We are currently working with our partners to analyse the data obtained. Our final report – *Inside Police Custody: Investigating Procedural Rights of Suspects in the EU*, due to be published by Intersentia in the autumn – will include training guidance and will recommend the inclusion of further procedural rights focused training for police and lawyers in existing programmes.

### UK opt-out of EU criminal justice

Under the Lisbon Treaty, the UK negotiated an option to withdraw from co-operation in EU criminal matters. In July 2013 the government announced its desire to adopt the block opt-out which was later ratified by Parliament. The decision is very significant with some 135 legal measures affected, including the UK's role in organisations such as Europol and Eurojust; access to data such as previous convictions and the Schengen Information System; and facilitation of our requests for assistance through the EAW.

What are the implications of the opt-out? The UK will need to negotiate alternative arrangements with the EU member states, and there will be significant uncertainty with regards the investigation,

prosecution and maintenance of procedures to ensure a fair trial. It is still unclear what measures the UK will chose to opt back into but the government has stated its preference for 35 measures, including the EAW. The measures we opt into will invoke the jurisdiction of the European Commission to bring infringement proceedings and the Court of Justice of the European Union (CJEU) to rule on the UK's method of implementing the measures.

JUSTICE has been very active on this issue. We gave evidence to the House of Lords EU Sub-Committees on Justice and Home Affairs; in conjunction with the European Movement and Queen Mary University we held and spoke at an expert seminar; we also spoke at a Law Society debate and the specialist panel at our International Crime Conference (see 'Criminal Justice' section) examined the implications.

Our strong view is that the UK is in a far better position to review the problems in this area by remaining involved than by exiting altogether. We remain concerned about the potential loss of procedural safeguards in this area.

### EU Charter of Fundamental Rights

We have kept a watch on the Charter's development through the actions of the EU institutions and judgments of the CJEU. And we have continued to keep lawyers informed of its practical implications, running 'hands on' seminars in Glasgow and London. We also gave a presentation at an Academy of European Law conference in Edinburgh on the Charter in the context of criminal proceedings in June 2013.

### Third party intervention – *HH & PH v Deputy Italian Prosecutor, Genoa*

Last year's Annual Review reported that we were awaiting the Supreme Court's judgment in this case, which concerned the interests of children of requested persons in joined EAW appeals. The court confirmed that these must be carefully considered prior to executing a warrant, and reasserted principles it had earlier stated in *Norris* (2010) concerning the right to family life under Article 8 ECHR. We are grateful to Alex Bailin QC, Mark Summers and Aaron Watkins of Matrix Chambers and Peters & Peters LLP for their pro bono representation in this case.





# SCOTLAND



**The Scottish branch of JUSTICE – JUSTICE Scotland – is now one year old, has charitable status and an active Executive Committee, Working Group and Council. With a number of events, and weighty responses to Scottish Government consultations concerning reform of the justice system, the profile of JUSTICE Scotland has increased along with its reputation.**

Although we do not yet have the funding for a dedicated staff member to support the work of volunteers in Scotland, this has not prevented us from engaging in considerable and important work. Our Executive Committee – comprising Tony Kelly (Chair), John Scott QC (Vice Chair), Gordon Dalyell (Treasurer) and Catherine Smith (Secretary) – has been particularly active in raising awareness of the branch through meetings with other organisations and MSPs, giving press statements and writing articles on issues of concern. We are grateful for their tireless efforts on behalf of JUSTICE in Scotland. JUSTICE Scotland now has a dedicated presence on the JUSTICE website where it is possible to see the work we have been undertaking.

## **Reforming Scots criminal law and practice**

Following Lord Carloway's 2011 report into the criminal justice system in Scotland, the Scottish Government issued an extensive consultation paper to which we responded with a 131 page submission in October 2012. The consultation covered procedures from arrest to final appeal, proposing root-and-branch reforms. Whilst some of these are welcome in regulating police practice and establishing greater human rights awareness, many are not supported by sufficient alternative safeguards, such as the proposal to abolish corroboration.

Further consultations at the beginning of 2013 concerned abolition of the corroboration rule and changes to the practice of sheriffs and juries.

Following the adoption of the EU directive on the right to information, which requires notification to suspects in police detention of their rights, a consultation was also issued on a draft letter of rights. JUSTICE Scotland responded to each of these with the assistance of the Working Group. The letter of rights was made available to suspects at police stations from the beginning of July. A Criminal Justice (Scotland) Bill was published at the end of June 2013, and the Justice Committee of the Scottish Parliament has sought evidence by the end of August. We will respond to this and follow the passage of the bill through each of its stages.

Our ability to respond to these consultations has been greatly aided by our EU Commission joint research projects, *Effective Defence Rights in Europe* (Intersentia, 2010) and through the current project *Inside Police Custody*. Once the results are finalised we intend to undertake dedicated follow up work with the police and legal profession in Scotland to highlight the need for procedural safeguards at the earliest stages of criminal cases.

## **Access to justice**

We submitted evidence to the Justice Committee on the Scottish Civil Justice Council and Criminal Legal Assistance Bill, which passed through the Scottish Parliament during the latter half of 2012. The Committee invited our evidence on whether the bill complied with Article 6 ECHR. We advised that, in order to comply, the criteria must not be drawn so wide as to exclude those with insufficient means.



We also raised concerns regarding the proposal that solicitors take responsibility for the collection of contributions from their clients since the risk of non-payment may lead solicitors to decline or withdraw from cases, leaving a person without representation despite their entitlement to it.

Consultation continued in the civil justice area in the second half of 2013 with the publication of *Making Justice Work: Courts Reform (Scotland) Bill*. This consultation sought views on proposals to restructure the way civil cases and summary criminal cases are dealt with by the courts in Scotland. The proposals include a redistribution of business from the Court of Session to the sheriff courts, creating a new lower tier of judiciary in the sheriff court. We responded with concerns about the impact on court users as well as specialised advocacy and judges, which could affect the quality of court procedures.

## Events

We are grateful to Sir David Edward QC, who delivered the inaugural Human Rights Day lecture on 10 December 2012 in Edinburgh. Sir David shared insights about bills of rights and whether the UK would benefit from such an instrument. It was a timely lecture, falling only a few days before the Commission on a Bill of Rights – of which Sir David was a member – reported. This year's lecture will be delivered by Lord Kerr, Justice of the Supreme Court, again on 10 December.

To assist our response to the government consultation on the criminal justice system, and in particular with regard to corroboration, we held a seminar bringing together academics and practitioners to discuss the implications of criminal trials without corroboration. The event demonstrated the value of bringing experts together and greatly assisted our response. We also held a training seminar on the Charter of Fundamental Rights in Glasgow in December, which was well received by the attendees.

## JUSTICE Scotland

The Office of the Scottish Charity Regulator awarded JUSTICE with charitable status under the Charities and Trustee Investment (Scotland) Act on 29 October 2012.

JUSTICE Scotland held its second AGM on 15 April 2013, where the Working Group and Executive Committee elections took place.

## JUSTICE Scotland Executive Committee

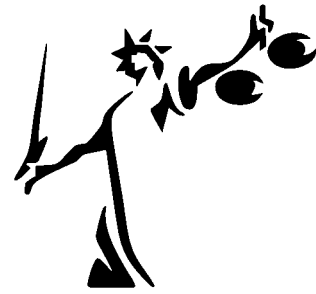
We welcome the re-election of the four members of the Scotland Executive Committee who were due to retire by rotation: Professor Tony Kelly (Chair), John Scott QC (Vice-chair), Gordon Dalyell (Treasurer) and Catherine Smith (Secretary).

## JUSTICE Scotland Working Group

We welcome the continued support of the ten members of the Scotland Working Group who were due to retire and who were re-elected: Wullie Beck, Robbie Burnett, Juliette Casey, Lesley Irvine, Shahid Latif, Sandra Lean, Niall McCluskey, John McGovern, Iain McKie and Chris Shead. Six new members were elected, namely Moira McKenzie, Claire Mitchell, Liam Ewing, Elaine Motion, Derek McLean and Luigi Pedreschi.



# JUSTICE STUDENT HUMAN RIGHTS NETWORK



**With membership of the JUSTICE Student Human Rights Network (JSHRN) exceeding 2,600 in the past year, we are grateful for the continued engagement of our lively and enthusiastic student supporters.**

The regular JSHRN bulletins provided bite-sized introductions to the priority work of JUSTICE, focusing on our contributions to some of the key human rights debates of 2013, including the expansion of closed material proceedings in the Justice and Security Act 2013 and the UK's decision on its opt-out of all EU criminal justice measures.

Our 'sell-out' Winter event – an evening in conversation with Keir Starmer QC, the Director of Public Prosecutions and our Chair, Baroness Helena Kennedy QC – saw a lively exchange between two of the leaders in the field and an opportunity for our student members to quiz the two distinguished guests on human rights law and the future of legal practice. The headlines: the Human Rights Act 1998 has been good for victims and for UK law (from the DPP) and students should be thinking proactively about how to help find alternatives to traditional practice as legal aid is cut (Baroness Kennedy).

The JSHRN Annual Conference provided a challenging, interesting and informative highlight for the network's year. The Hon. Mr. Justice Rabiner Singh opened the day with a thoughtful paper reflecting on the philosophy of the law of human rights, the importance of equality before the law and the role of the judiciary in the careful development of the HRA 1998. JUSTICE staff members ran in-depth workshops on our priority work. High praise was given to Carl Gardner, who introduced the network to the human rights issues likely to arise

in the use of social media – his mock Twitter feed exploring the bounds of libel and specific criminal offences online encouraged us all to think about free speech and proportionality in 140 characters or fewer. Lord Falconer rounded off the day with an insight into a life in the law and politics and closed with a vigorous discussion about the complexity of the argument around prisoners' voting and the UK's failure to respond to the judgment of the European Court of Human Rights in *Hirst*.

Michael Etienne, a committed JUSTICE student member and active participant in JUSTICE and network events, joined the working group which helped inform the progress of the strategic review and Andrea's thinking about involving all of our membership in the future of JUSTICE. We thank Michael for his contribution to that work.

We look forward to growing the network as part of the new JUSTICE strategy and encourage any student members with ideas for future work or events to get in touch.

Angela Patrick, our Director of Human Rights Policy will be co-ordinating our upcoming JSHRN events, contact [apatrick@justice.org.uk](mailto:apatrick@justice.org.uk) if you have any suggestions or ideas for future activities or events.



# ORGANISATION AND FINANCE



## The JUSTICE Tom Sargant memorial annual lecture 2012

The 2012 lecture, *After the Act: what future for legal aid?* was a valedictory address by JUSTICE's out-going director, Roger Smith. The subject and lecturer could not have been more apposite. Only days before the lecture, Lord McNally, the minister responsible for legal aid, had told lawyers concerned about the effects of the cuts imposed by the Legal Aid, Sentencing and Prevention of Offenders Act 2012 to 'move on'. Roger's riposte carried the weight of an acknowledged expert in publicly-funded legal systems both domestic and international.

Roger's core argument was:

1. The model of legal aid as stand-alone provision is unsustainable
2. The objective of justice policy should be to deliver equal justice to all
3. This requires an access to justice approach, where legal aid is linked to reform of substantive law, methods of adjudication and the provision of non-legal assistance
4. This approach builds upwards from the availability of information and ends with the funding of lawyers – not the other way round
5. We must maximise the benefit of the IT revolution and foster innovation
6. To deliver equal justice, we need one government department and one budget

In conclusion, he warned:

*We may be poorer but we must be smarter. We should remember that the fundamental purpose of a society's legal system is, in the words of Judge Learned Hand, 'the tolerable accommodation of the conflicting interests of society'. If we start excluding the poor and disadvantaged from that accommodation in practice, society fragments.*

JUSTICE is very grateful to Freshfields Bruckhaus Deringer for once again hosting our annual lecture.

## Council

Council met twice in the year, on Monday 11 March 2013 and again on Tuesday 18 June 2013. The June meeting focused on Andrea Coomber's strategic review of JUSTICE, where the proposed new focus and return to working parties of the membership received unanimous endorsement.

Thank you to Freshfields Bruckhaus Deringer for hosting both of these meetings.

## Staff

This year we said a fond farewell to Roger Smith, who had been the Director of JUSTICE for over 10 years and to Liz Pepler, Director of Finance and Administration. We welcomed Andrea Coomber as Director and Nelinda Mericle as our Interim Finance Manager.

We continue to work closely with a number of interns – see list on inside back cover. Penny Symeou joined us for a five month Kalisher Trust internship, and Alastair Livesey was with us for three months assisting Andrea with the strategic review.

## AGM

The 2012 Annual Subscribers' and Annual General Meetings took place at Freshfields Bruckhaus Deringer on Tuesday 16 October and were chaired by Baroness Kennedy QC. The meetings voted to adopt the annual report and the annual accounts, and re-appointed Sayer Vincent as auditors.

## Election of Council members

We welcome the continued support of the following seven members who were due to retire from Council and who were re-elected: Amanda Finlay CBE, Professor Conor Gearty, Lord Hunt of the Wirral



MBE, Judge David Mackie QC, Guy Mansfield QC, Jennifer McDermott and Geoffrey Robertson QC.

Two members, Professor Sir Jeffrey Jowell KCMG QC and Professor Kate Maleson, retired. JUSTICE thanks them for their contribution to the governance and stewardship of the organisation.

Four new members were elected to Council: Professor David Howarth, reader in Private Law, Department of Land Economy, and Teaching Member of the Faculty of Law, University of Cambridge; Professor Rosemary Hunter, one of the Feminist Judgments Project co-coordinators at Kent Law School; Ingrid Simler QC, a leading silk, recognised for her expertise across a range of areas; and Jerry Smith, of Fried, Frank, Harris, Shriver & Jacobson LLP long term pro bono fundraiser for JUSTICE.

Courtenay Griffiths QC and Richard Thomas CBE retired as co-opted members and we thank them for their valuable contribution. Eight co-opted members were re-appointed: Lord Brennan QC, Richard Clayton QC, Dr Pavlos Eleftheriadis, Lord Grabiner QC, Jessica Lee MP, Baroness Sarah Ludford MEP, John Scott QC and Emily Thornberry MP. Tony Kelly was co-opted for the first time.

### Election of Executive Board members

Two new members joined the Executive Board – Jerry Smith and Tony Kelly, who was co-opted given his role as the Chair of JUSTICE Scotland. Jennifer McDermott was re-elected to the Executive Board.

### Finance

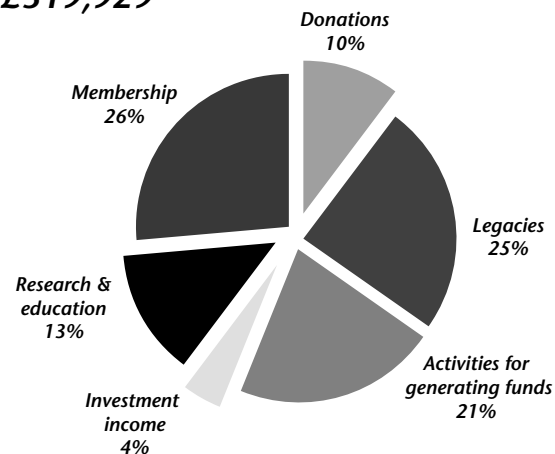
JUSTICE has had a challenging year financially and has ended the 2012/13 financial year with an operating deficit of £88,294. This compares with a deficit of £136,848 in 2011/12. The improvement over the prior year is largely due to receipt of four legacies totalling £78,482. The unrestricted reserves were reduced by £71,070 in the year, leaving unrestricted reserves of £92,341 as at the year end.

JUSTICE holds the freehold property at 59 Carter Lane and some listed investments which are held as part of an expendable endowment fund. JUSTICE also has healthy cash balances and short term deposits which stood at £110,652 at the year end.

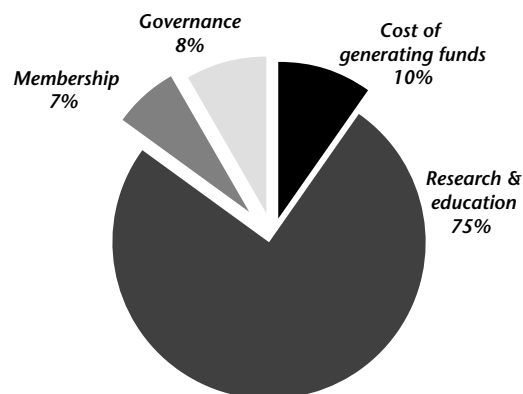
The cash balances were equivalent to three months' operating costs based on the March 2013 accounts. The charity has sufficient resources to settle its liabilities as they fall due in the foreseeable future.

The Board is clear that our current trading position is not acceptable over the mid- and long-term and that it is a priority to balance our books. In an attempt to make JUSTICE more sustainable it has adopted a more formal approach to fundraising. The Fundraising Committee has prioritised raising funds through Friends in the immediate future. It has also established an annual fundraising event and an annual appeal to members and other supporters. Over the past few years all of these have contributed significantly to funding our work.

### JUSTICE's incoming resources in 2012/13 £319,929



### JUSTICE's resources expended in 2012/13 £408,221



JUSTICE continues to enjoy the support of a number of trusts and foundations. In particular, we would like to thank the European Commission, and the Nuffield Foundation for funding which has allowed us to expand our work into areas that would not be possible without external funding.

JUSTICE also continues to have the support of its members and other sympathetic individuals who have responded generously to our annual appeal and invitations to become Friends and attend events. We are also grateful to those individuals who have remembered JUSTICE in their wills.

## Reserves

Both the Executive Board and JUSTICE's supporters recognise that the organisation operates in a policy environment that requires a long-term commitment if it is to achieve its mission. Being a research and educational organisation, it is the work undertaken by JUSTICE's staff that forms JUSTICE's charitable activities. Therefore, it is the view of the Executive Board that JUSTICE needs a reserves level that will enable it to continue to attract the highest level of legal expertise and in so doing meet its long-term commitments to its supporters and beneficiaries.

JUSTICE is fortunate in that the majority of its income is unrestricted as this allows it to set an independent and flexible research agenda. However, the majority of funding is also short-term and is renewed annually. Therefore, the Executive Board considers that reserves equivalent to at least nine months running costs (c£300,000) are needed if JUSTICE is to deliver on its commitments and meet the expectations of supporters and beneficiaries.

At the close of 31 March 2013 JUSTICE had £296,849 in general reserves (comprising unrestricted funds and endowment funds that are not fixed assets) which is slightly below the trustees' reserves policy. JUSTICE's reserve funds are held in a mix of deposit accounts, fixed term deposits and fixed interest and equity based common investment funds with the aim of achieving a combination of income and capital growth. During the year JUSTICE has drawn down funds from its long-term investments and it is possible that further withdrawals will be needed in the coming year.

The Board recognises that, in order to maximise JUSTICE's impact over the longer term, it needs to continue to fundraise to balance income and expenditure. The new Director is excited by the challenges of fundraising and this will be a priority in the coming year. At its meeting in July, in response to the strategic review, the Executive Board agreed to appoint a full time trust and foundation fundraiser.

## Membership and fundraising

New director, Andrea Coomber's, strategic review (see page 4) proposes a significant overhaul of JUSTICE's activity in these areas with the twin aims of: reinvigorating our relationship with our members and supporters; and bringing our income and expenditure back into balance.

The expansion of the Friends of JUSTICE scheme has been a continued focus of the Fundraising Committee – we now have 50 Friends, with plans for further promotion this autumn. A leaving appeal from outgoing director, Roger Smith, was very successful and we are grateful for the generous response of members.

May 2013 saw the third in our series of annual fundraising events – with a screening of the jury-room classic *12 Angry Men*, followed by an interesting and lively discussion of the issues it raises, led by Baroness Helena Kennedy, Professor Cheryl Thomas and Sir Louis Blom-Cooper. We thank Cloth Fair Chambers for supporting the event.

There is cautious good news on the membership front. The overall number of members has stabilised (1205 this year, compared to 1209 in 2012) and there was a modest rise of 3% in income from membership subscriptions.

## Membership figures

Judges	44
Barristers	438
Solicitors	161
Retired or non-practising lawyers	206
Students, Trainees and Pupils	206
Associates	70
Legal Corporates	50
Libraries	24
Associate Corporates	6
<b>TOTAL</b>	<b>1205</b>

(Figures for July 2013)



## Major events and publications

### Events

- **The Other Brighton Conference and the Future of Human Rights**  
JUSTICE fringe meeting at Liberal Democrat party conference, Brighton. Organised with the Liberal Democrat Lawyers Association. Tuesday 25 September 2012
- **What Has The Human Rights Act Ever Done For Me?**  
JUSTICE fringe meeting at Labour party conference, Manchester. Organised with the Society of Labour Lawyers. Wednesday 3 October 2012
- **Human Rights: Striking a balance**  
JUSTICE fringe meeting at Conservative party conference, Birmingham. Organised with the Society of Conservative Lawyers. Wednesday 10 October 2012
- **European Arrest Warrants: Ensuring an effective defence**  
Launch of JUSTICE report, European Parliament. Thursday 11 October 2012
- **JUSTICE AGM and Tom Sargant memorial annual lecture *After the Act: what future for legal aid?* by Roger Smith OBE**  
Hosted by Freshfields Bruckhaus Deringer. Tuesday 16 October 2012
- **Annual Human Rights Law Conference**  
Organised with Sweet & Maxwell. Wednesday 24 October 2012
- **A Consideration of the Family Migration Changes and Article 8: Where do we go from here?**  
Joint event with ILPA and HRLA. Hosted by BPP Law School. Thursday 8 November 2012
- **Justice and Security Bill**  
Joint event with Liberty, Amnesty International, Human Rights Watch and Reprieve, House of Lords. Monday 12 November 2012
- **Life and Law Online**  
Evening training course, hosted by Hunton & Williams. Tuesday 20 November 2012
- **Ensuring Quality and Effectiveness of Legal Aid**  
Seminar organised with the University of Warwick, Brussels. Tuesday 27 November 2012
- **The Commission on a Bill of Rights**  
JUSTICE Scotland's Inaugural International Human Rights Day Lecture by Professor Sir David Edward QC. Hosted by the Faculty of Advocates, Edinburgh. Monday 10 December 2012
- **The EU Charter of Fundamental Rights: an essential tool for Scottish practitioners**  
Evening training course, Glasgow. Tuesday 11 December 2012
- **Keir Starmer in conversation with Helena Kennedy**  
JUSTICE Student Human Rights Network event, hosted by DLA Piper. Tuesday 29 January 2013
- **The EU Charter of Fundamental Rights: An essential tool for UK practitioners**  
Evening training course, London. Tuesday 5 March 2013
- **Human Rights Law in Practice: Policy, politics and potential**  
JUSTICE Student Human Rights Network Conference, hosted by Freshfields Bruckhaus Deringer. Saturday 9 March 2013
- **International Crime Conference**  
Organised with Sweet & Maxwell. Tuesday 19 March 2013
- **Special Advocates**  
Joint meeting with Liberty, Amnesty International and Reprieve, House of Lords. Tuesday 19 March 2013
- **JUSTICE Scotland – Council and AGM**  
Edinburgh. Monday 15 April 2013
- **Police Station Project**  
Training for police and lawyers, Bristol. Thursday 18 April 2013
- **12 Angry Men**  
Fundraising film screening and discussion. Monday 13 May 2013
- **Inside Police Custody: Investigating procedural rights of suspects in the EU**  
University of Maastricht. Thursday 30 May 2013

### Publications

- **European Arrest Warrants: Ensuring an effective defence**  
This report looks at best practice in defending EAWs and makes recommendations for procedural reforms. For further information, see page 13.  
August 2012 • A4 • 178pp • 978 0 907247 54 8  
Free to as PDF download from the JUSTICE website. JUSTICE is grateful to the EU Commission JPEN 2009 programme for assistance in funding this project.
- **JUSTICE Journal**  
A six-monthly publication, promoting debate on topical issues relating to human rights and the rule of law. Annual subscription £60 (£54 to JUSTICE members) • ISSN 1743-2472  
Now discontinued – Volume 9 Number 1 (December 2012) was the final edition.
- **JUSTICE Bulletin**  
Thrice-yearly members' newsletter. ISSN 1467-4890  
Now discontinued. To be replaced by monthly e-bulletins to members
- **JUSTICE Student Human Rights Network e-bulletin**  
Thrice-yearly, at start of each term



## BRIEFINGS AND PAPERS August 2012 – July 2013

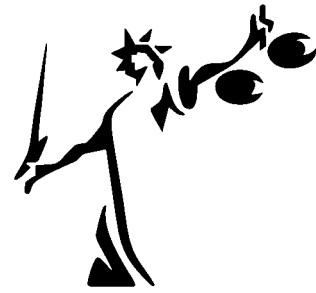
The majority of these are available on our website at [www.justice.org.uk](http://www.justice.org.uk)

- Written evidence to the Joint Parliamentary Committee on the Draft Communications Data Bill, August 2012
- Joint NGO submission on Protocols 15 and 16 of the ECHR, August 2012
- Submission to the Joint Parliamentary Committee on the Draft E-TPIMS Bill, September 2012
- Submission to the Commission on a Bill of Rights for the UK, September 2012
- Response to the Scottish Government consultation on criminal justice reform, October 2012
- Joint NGO statement on the proposed EU directive on the right of access to a lawyer in criminal proceedings for trilogues, November 2012
- Briefing on Justice and Security Bill for House of Lords report stage, November 2012
- Supplementary briefing on amendments to Justice and Security Bill for House of Lords report stage, November 2012
- *Legal Aid: improving the quality and effectiveness of advice* (with University of Warwick) for seminar in Brussels, November 2012
- Briefing on the proposed EU directive on confiscation and freezing of assets, December 2012
- Briefing on Justice and Security Bill for House of Commons second reading, December 2012
- Submission on draft Anti-social Behaviour Bill to the Home Affairs Committee, January 2013
- Written evidence to House of Lords EU Sub-Committee on the UK's decision to opt-out of police and judicial co-operation in criminal matters, January 2013
- Submission to Ministry of Justice consultation on judicial review, January 2013
- Briefing on Justice and Security Bill for House of Commons Public Bill Committee, January 2013
- Briefing on Crime and Courts Bill for House of Commons report stage, January 2013
- Briefing on Justice and Security Bill for House of Commons report stage, March 2013
- Briefing on amendments to Justice and Security Bill for House of Commons, March 2013
- Briefing on Justice and Security Bill for House of Commons report stage and third reading, March 2013
- Response to CPS consultation on interim guidelines on prosecution of offences connected to social media, March 2013
- JUSTICE Scotland response to the stakeholder discussion paper on a letter of rights for Scotland, March 2013
- JUSTICE Scotland response to Scottish government consultation *Reforming Scots Criminal Law and Practice: Additional Safeguards Following the Removal of the Requirement for Corroboration*, March 2013
- JUSTICE Scotland response to Scottish government consultation *Reforming Scots Criminal Law and Practice: Reform of Sheriff and Jury Procedure*, March 2013
- Submission to the UN Convention Against Torture Committee, April 2013
- Submission to *Government Review of the Public Sector Equality Duty*, April 2013
- Joint NGO letter on Protocol 15 ECHR to the Council of Europe representatives, April 2013
- Joint NGO statement on the proposal for a EU directive on access to a lawyer in criminal proceedings and on the right to communicate upon arrest, April 2013
- JUSTICE Scotland response to *Making Justice Work: Courts Reform (Scotland) Bill* consultation, May 2013
- JUSTICE Response to *Transforming Legal Aid*, June 2013
- Briefing on *Transforming Legal Aid* for MPs and Peers, June 2013
- Submission to the Joint Committee on the Draft Voting Eligibility (Prisoners) Bill, June 2013
- Joint NGO statement on the coming into force of Protocol 15 ECHR, June 2013
- Briefing on Anti-social Behaviour, Crime and Policing Bill for House of Commons second reading, June 2013
- Written evidence on Anti-social Behaviour, Crime and Policing Bill to Joint Committee on Human Rights and Public Bill Committee, June 2013
- Briefing on Justice and Security Act 2013: Civil Procedure (Amendment No 5) Rules 2013, July 2013





# HOW YOU CAN HELP



JUSTICE is an independent charity working to strengthen the justice system in the United Kingdom. We rely on the support of like-minded individuals and organisations for the funds to carry out our vital work. JUSTICE members and supporters also contribute to the formulation of policy and the management of the organisation.

## Join JUSTICE

As the JUSTICE annual review is primarily a membership publication, many readers will already be JUSTICE members. If you are not a member, and would like to join us, you can do so via our website at [www.justice.org.uk/pages/membership.html](http://www.justice.org.uk/pages/membership.html). We thank all our members for their support. Without you and your fellow members we would have neither the resources, nor the legitimacy, to continue our work.

## Make a donation

One-off donations, no matter how small, are always welcome, and will be put to good use straight away. Please send your donation to the address on the left, or you can donate now via the JUSTICE website at [www.justice.org.uk/pages/donation.html](http://www.justice.org.uk/pages/donation.html).

## Become a Friend of JUSTICE

Our Friends are particularly committed, each contributing £240 or more to support our work. Committed giving on this scale is particularly valuable as, year-on-year, it helps us plan our work with greater certainty. If you would like to become a Friend of JUSTICE you can get further information, and download a subscription form from [www.justice.org.uk/pages/friends-of-justice.html](http://www.justice.org.uk/pages/friends-of-justice.html)

## Remember JUSTICE in your will

JUSTICE's work has benefited enormously from generous legacies left to us by members in the recent past. Of course, the drafting of a will, or the adding of a codicil to an existing will, is a serious

and personal matter. But a bequest to a charity is one way of ensuring that the causes you espouse during your lifetime continue to flourish. A legacy to a charity is also tax-efficient in that it is exempt from inheritance tax and does not count as part of an estate. And, under the Finance Act 2012, leaving at least 10% of your estate to charity reduces your inheritance tax liability from 40% to 36%.

## Make sure your membership or donation gets Gift Aid

JUSTICE can claim Gift Aid, worth 25p for every £1 given, on all donations and most subscriptions given over the past four years. All we need is a completed Gift Aid Declaration. Once completed, a single Gift Aid Declaration also covers all future donations. If you are a current member, or have given

JUSTICE money in the past four years, please download a Gift Aid Declaration from the JUSTICE website at [www.justice.org.uk](http://www.justice.org.uk) or contact the JUSTICE office and ask to be sent a declaration.

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## Get your organisation involved

In addition to individuals, JUSTICE receives an enormous amount of support – in the form of membership, participation in conferences and working groups, donations, sponsorship and in-kind help – from law firms and chambers as well as individual members and supporters. If you think you or your organisation could help JUSTICE, please get in touch. You can also download a corporate membership form from the JUSTICE website at [www.justice.org.uk/pages/organisations.html](http://www.justice.org.uk/pages/organisations.html)



# THANK YOU!

JUSTICE is an independent charity with just six permanent staff. We rely on the generosity of individuals and organisations for the financial and practical support that enables us to continue our work. We are very lucky to have such loyal supporters – they are our lifeblood. JUSTICE is

extremely grateful to the thousands – members, donors, Friends of JUSTICE, volunteers, interns, conference speakers, pro bono lawyers and consultants, working group and committee members – who have helped us over the past year.

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Annual Review 2013



Advancing access to justice, human rights and the rule of law