urgency so that informed decisions as to who is appropriate to attend and what equipment is needed can be taken; (3) there should be a system in place whereby any significant disclosure made by a prisoner is documented and is shared with the relevant agencies and officers. A plan should be prepared and the outcome should be noted.

Nicholas Saunders (HMYOI Stoke Heath)

The inquest into the death of 18 year old Nicholas Saunders at HMYOI Stoke Heath concluded on 26 October 2012. The jury returned a verdict that Nicholas had killed himself but that prison service failings had contributed to his death: the jury concluded that important documentation which stated Nicholas was at risk of self harm/suicide was not sent to Stoke Heath from his previous prison Woodhill and that wing staff were not aware that he had made a previous attempt to take his life. A majority of 8 to 1 of the jury also concluded that an error in the visitor booking procedure which led to Nicholas believing he wouldn't see his mother on Mothers' Day (the day after he died) also contributed to his death. The coroner has said that he will make rule 43 recommendations about the failings highlighted by the jury and give careful thought to a request by the family to ask that light fittings be changed in standard cells so they are embedded into the ceiling. Nicholas had tied a ligature to the hanging light in his single cell. A previous death had occurred in Stoke Heath in similar circumstances.

Rehabilitation Revolution - the Next Steps

Far reaching reforms to the criminal justice system aimed at driving down high re-offending rates and introducing better value for taxpayers have been set out by Justice Secretary, Chris Grayling. During a speech on Wednesday he set out a raft of measures including:

- a revolution in the way we rehabilitate offenders, including mentors to meet criminals at the prison gates on release and help them turn away from crime; - a review of the youth estate, putting education at the centre of our work with young offenders; - a review of the prison regime, to ensure no prisoners benefit from undeserved privileges and those who break the rules face serious consequences; - a reshaping of our legal aid system so it commands public confidence; and - a criminal justice and court system that puts victims first.

Grayling said: 'Reoffending rates in this country are shamefully high and we must revolutionise our approach to reforming offenders - we need to stop recycling people around the system. I know we can deliver better rehabilitation for offenders, a smarter system of detaining and educating teenage offenders, a cheaper and better prison system and a criminal justice system that commands public confidence – and at the same time bring costs down.' He also made clear the significant role the private and voluntary sector will play in the future of offender management, with Payment by Results rolled out across the great majority of community-based offender management work by 2015.

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

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MOJUK: Newsletter 'Inside Out' No 399 22/11/2012)

Justice: Indeterminate Sentences *House of Lords / 13 Nov 2012 : Column 1394*

Lord Lloyd of Berwick to ask Her Majesty's Government what action they plan to take following the decision by the European Court of Human Rights on 18 September in the case of James v UK that the detention of prisoners serving an Indeterminate Sentence for Public Protection beyond their tariff without access to parole is a breach of their rights under Article 5(1) of the European Convention on Human Rights.

Minister of State, Ministry of Justice (Lord McNally): My Lords, the Government are still considering whether to appeal against this decision. The Government have three months from the date of the judgment to submit an application to the Grand Chamber which will effectively be appealing the decision.

Lord Lloyd of Berwick: My Lords, the noble Lord will know the figures because he was kind enough to give them to me last night. There are currently 6,000 people serving IPP sentences, 3,500 of whom have already passed their tariff date and are currently waiting to appear before the Parole Board. Of those 3,500, 2,000 have been waiting for more than two years and 350 have been waiting for more than four years. The court has held in no uncertain terms that their detention in these circumstances is arbitrary and therefore unlawful. Does the noble Lord recognise the scale of this continuing disaster? Does he accept that the Government must do something now to get these wretched people out of prison?

Lord McNally: My Lords, the Government have done something. IPPs were abolished by the LASPO Act, but unwinding the system has to be done very carefully. We are not talking about people who are innocent, but people who have been sentenced for long periods for serious crimes. The IPP system was introduced by the previous Government with, I think, a genuine intent to deal with this problem. We are bringing in a more flexible approach and we have both the Parole Board and NOMS working closely on it. However, it is not simply a matter of throwing open the gates of the prison because in some cases we are dealing with very dangerous people, so we must have public protection in mind when deciding how to deal with them.

Lord Wigley: My Lords, does the Minister accept that there could well be implications arising from the James case for the 3,500 prisoners who have passed their tariff that could lead to them claiming compensation against the Government either under tort or under Section 8 of the 1998 Act? In those circumstances, do the Government accept that they may have to pay compensation?

Lord McNally: One of the reasons why we are studying the judgment is to make sure that we get this right. There are three very early cases which go back to before the reforms brought in by the previous Administration in 2008 in order to bring in more flexibility. It is interesting to note that the court did not find that IPPs themselves were in breach of the Human Rights Act. The weakness that quickly became apparent was the Catch 22 whereby the prisoners were supposed to carry out certain restorative and rehabilitative programmes that were not available. After 2008, the Government brought in some reforms and we have had further discussions with the Parole Board and NOMS to try to speed them up. But I emphasise again that we are not dealing with innocent people. These are people who have been before a court and found guilty of the crimes which have brought forward this programme. We are trying to

manage them out of the system as quickly as possible, but with due care for public safety.

Lord Marks of Henley-on-Thames: My Lords, one of the main grounds for the judgment against the United Kingdom was that there are, as my noble friend has said, insufficient facilities for courses to enable prisoners serving IPP sentences to qualify for release. Can the Minister say what extra rehabilitation facilities are now to be put in place to ensure that such prisoners can be released safely and quickly into the community?

Lord McNally: My Lords, one of the things that we have been discussing with both NOMS and the Parole Board is moving away from a system of box-ticking specific narrow training programmes to a more flexible judgment about whether a particular prisoner is suitable for release. Giving both NOMS and the Parole Board greater flexibility in treating, assessing and managing these prisoners will enable the Parole Board to make a balanced judgment, at the right time, about whether these prisoners should be released.

Lord Dubs: My Lords, does the Minister agree that when these sentences were first brought in, nobody expected that they would apply to more than a very small number of exceptional cases? Since then, they have been used on a wide scale. Does that not cast doubt on the propriety of keeping these people in jail beyond the sentences they would otherwise have had?

Lord McNally: Whether there was a misjudgment or not when IPPs were brought in, the fact is that we have reached the figure that the noble and learned Lord quoted of 6,000, which is far more than was anticipated by the initiators of the Bill. However, we now have to go through a proper process of assessing whether these prisoners, who have been sentenced for serious crimes, are fit for release, always keeping in mind public safety as well as the progress they have made. We have taken on board the fact that, as it was, the system was too rigid and too tick-box and we have given it greater flexibility. However, we have to manage release into the community; we cannot just open the prison doors.

Lord Faulks: My Lords, the decision in the James case was another reversal by the European court of decisions about our domestic legislation reached by the Court of Appeal and the House of Lords. Does the Minister agree that, despite the Brighton declaration, there seems to be very little sign of the European court affording us the margin of appreciation that it is supposed to do? In the light of this case, and another recent case that would have attracted the House's attention, is it not time to consider cutting the links with Strasbourg?

Lord McNally: I would very much regret that. We get enormous benefits from being part of a wider regime of human rights. However, I am equally proud of the reforms that were brought through by the Brighton declaration. I would also say that we have not exhausted the Strasbourg system with this case and are considering whether to appeal. As I reminded the noble and learned Lord, the actual judgment was a very narrow one that did not disown IPPs or say that they breached the Human Rights Act.

Ex Police Officer Toby Day Killed his Family

An ex-police inspector killed his wife, daughter and himself days after being sacked by the Leicestershire force, an inquest ruled. Toby Day, stabbed Samantha, and six-year-old Genevieve at their home in in December 2011. Coroner Trevor Kirkham recorded a verdict of suicide on Mr Day and that his wife and daughter were unlawfully killed. Mr Day's other children, a boy and a girl, were also hurt in the attack. The inquest in Loughborough heard Mr Day had been sacked for misconduct. His mood turned hostile when told by a senior officer over the phone that the media were investigating his conduct over the mis-use of police compurters.

delays which are stifling innovation and economic growth. We plan to renew the system so that Judicial Reviews will continue their important role but the courts and economy are no longer hampered by having to deal with applications brought forward even though the applicant knows they have no chance of success. We will publish our proposals shortly.' The measures which will be considered include: - Shortening the length of time following an initial decision that an application for a judicial review can be made in some cases – and stopping people from using tactical delays - Halving the number of opportunities currently available to challenge the refusal of permission for a judicial review, from up to four currently, to two - Reforming the current fees so that they cover the costs of providing judicial review proceedings.A public engagement exercise on the plans will be carried out shortly.

News from INQUEST - Casework/Suicides in Prison

Our Casework Team continues to manage a large caseload. Many of the cases raise questions about the treatment/care of highly vulnerable people who have died in all forms of custody and following police contact. Caseworkers work closely with individuals/families/legal representatives to ensure the best possible scrutiny of each death. Issues arising from cases continue to be raised at a policy/parliamentary level. The casework team now consists of 2 full time/2part time caseworkers, a small team covering a large number of enquiries from across the country.

From 1 September – 31 October 2012, our casework team opened 84 new cases. Of these 29 were custody cases which included 3 deaths in police custody or following police contact, 20 in prison and 4 in psychiatric settings. The remaining 55 cases were opened in relation to providing advice and information regarding non-custody deaths, and included 5 deaths in psychiatric settings.

INQUEST continues to be very concerned about the disturbing increase in the number of self inflicted deaths in prison. At Lewes prison, for instance, three self inflicted deaths occurred over the course of just one month (July). We have now been contacted by two of the three families.

A positive improvement to note is the better early referral of families by the Prisons and Probation Ombudsman to INQUEST enabling families to access much needed advice and assistance in the early days following a death.

The ever more restrictive approach being taken by the LSC in relation to inquest funding is increasingly worrying, with more examples of family members overseas being required to produce details of their financial circumstances and solicitors being asked to give personal undertakings that they will not advise wider family members. Families continue to be angry and upset by the additional trauma and stress caused by these funding issues.

Samantha Dainty (HMP Foston Hall)

The inquest into the self inflicted death of Samantha Dainty, who died in HMP Foston Hall on 30 January 2009, concluded on 5 October 2012. Following the jury's verdict the coroner made several Rule 43 recommendations. The recommendations focused on communication systems within the prison. Evidence was heard that in a previous inspection the prison had been criticised for its communication and having heard the evidence at Samantha Dainty's inquest the coroner found that there continued to be ongoing communication problems as a matter of generality. The coroner indicated he would make several recommendations including (1) that the prison consider formalising wing transfers so that staff and prisoners have read the documentation and are aware of the reasons for transfer; (2) consideration be given to an effective system of clearly identifying the nature of a medical emergency and the degree of

Children Held in Police Cells Under Mental Health Act *Nicola Beckford BBC Radio 4*

Children as young as 11 were held in police cells in England and Wales in 2011 because officers thought they were mentally ill, the BBC has learned. There were 347 such detentions, some for more than 24 hours. The Mental Health Act lets police take anyone they suspect of being mentally ill in "need of care or control" to a safe place for assessment. The Department for Health said it was developing better procedures to ensure young people get appropriate care.

The Association of Chief Police Officers (ACPO) said, in some parts of the UK, cells are the only option. Children detained by police had not necessarily committed any crimes. Places of safety referred to in the Mental Health Act will usually be in a hospital, care home or any other suitable place but, in exceptional circumstances, it may also be a police station. This detention may only last up to 72 hours.

ACPO's Simon Cole said that, in some cases, it was right to detain children in cells because they were violent but that provision for young people in some parts of the country was patchy. "It's quite clear that, in some places, police officers who are finding vulnerable young people at a point of crisis have no realistic option other than to take them to cells," he added. "I don't think that anyone looking at that situation would think that that's the best answer." He said arranging out-of-hours support for young people could take "quite some time" which led to children being put in police cells "until somewhere better is found for them to be placed".

Lucie Russell, campaigns director for mental health charity Young Minds, said: "We're almost treating them like criminals and punishing them for their distress and vulnerability. "Putting them in police cells is really only going to make them worse - it will exacerbate feelings of paranoia, delusions and extreme fear and distress. I think it's a reflection of what's happening in society in terms of pressure on services that we're having to resort to this and that the police are having to deal with young people in this way."

Health Minister Norman Lamb said his officials were working with the Home Office and Acpo to ensure that "people who are found in immediate need of care and control can get the most appropriate service and where needed, a health-based place of safety as soon as possible.We have invested a total of £54m over the four years to 2014-15 to deliver better mental health care to children and young people when they experience mental health issues." The government plans to have diversion services - to assess and treat children and adults who have committed a crime before they spend time in custody - by 2014. The Ministry of Justice is working with the Department of Health and the Home Office to pilot and then introduce the services in police custody suites and criminal courts.

Unclogging the Courts - Make Judicial Reviews Impossible *MOJ-19/11/12*

The problem of costly and spurious review cases clogging up the courts will be tackled by new plans announced by Justice Secretary Chris Grayling. The proposals would reduce the number of ill-founded judicial review applications so that others can be dealt with more swiftly and effectively.

The changes will not alter the important role judicial reviews play in holding Government and others to account but will instead deal with the unnecessary delays in the system. The number of applications has rocketed in the past three decades, from 160 in 1975 to 11,200 last year but the proportion of successful applications is very low. In 2011 only one in six applications determined were granted permission to be heard.

Justice Secretary Chris Grayling said: 'The Government is concerned about the burdens ill-conceived cases are placing on stretched public services as well as the unnecessary costs and lengthy

Savile, Bryn Estyn and the Danger Of Modern Witch-Hunts

Written by Mark Barlow, a barrister at Garden Court North Chambers in Manchester and Mark Newby, a solicitor Advocate at Quality Solicitors Jordans in Doncaster. for 'The Justice Gap'

Metropolitan Police Commander Peter Spindler described the Savile Case as a watershed in abuse investigations praising the media and the victims for exposing the scale of the abuse by the once respected deceased entertainer. Operation Yewtree has now expanded to a criminal investigation, the police have received allegations about other entertainers, write Mark Barlow and Mark Newby.

The investigation team now comprises 30 police officers and has identified 300 possible victims of abuse by Savile. High profile arrests of Gary Glitter and Freddie Starr have been made and the police enquires continue.

Now in tandem we have the recent call by Keith Towler, Child Commissioner for Wales, for a new enquiry into the allegations made by a former resident at Bryn Estyn, Steve Messham of being shared amongst a paedophile ring which included a prominent Conservative politician, business men and police.

A modern day witch-hunt" The Waterhouse Inquiry (Lost in Care) has been accused of only uncovering a fraction of the abuse that went on at this establishment. It is alleged that former residents were prevented from telling their full stories because of the involvement of such prominent and well-known individuals. Such allegations are serious and undermine public confidence, with the lingering suggestion of interference by the authorities to safeguard powerful individuals.

David Cameron, the Prime Minister has responded with the appointment of a senior independent figure to look into the original Waterhouse Inquiry and the nature of that probe was announced by Home Secretary, Theresa May in the House of Commons on Tuesday afternoon. This prompt response highlights the power that these allegations generate. It must be remembered that the Waterhouse Inquiry was the backdrop to the largest number of police operations into other care homes throughout England and Wales. The legacy of which remains with us today, with many convictions being overturned and those convicted still asserting their innocence of what was described as a modern day witch-hunt.

It was a phrase coined by the now deceased author Richard Webster (pic above) in his book The Secrets of Bryn Estyn: The Making of a Modern Witch Hunt who noted the danger of the witch-hunt that can follow. . . . . There can or at least there should be no doubt that child sexual abuse is one of the most serious problems of our age, and that it is more widespread than most people are prepared to accept. But onto this palpable and disturbing reality we too have projected a fantasy. According to this fantasy those who sexually abuse children are seen not simply as human beings who have committed criminal acts but as the ultimate incarnations of darkness, evil and cruelty. So powerful has this fantasy become and so urgent is our need to rid the world of anyone who might conceivably be a paedophile that the requirement for evidence has all but disappeared. It is for this reason that the innocent are almost as likely to be arraigned as the guilty.'

Before leaving Webster's book we should also be clear that the suggestion now being made of 'shadowy political figures' being involved is not a new story as the media would have us believe. These were matters raised by the Independent in 1991 which also suggested the police themselves were covering matters up, Scallywag, the defunct satirical magazine, and others. These allegations also did not centre in an isolated way with Bryn Estyn alone and the way these matters have been reported again demonstrate the danger of unrestrained report-

ing taking matters out of historical context.

Back then to the case that has started all of this again

There is little doubt that Savile's exposure and fall from grace has been dramatic and in the full glare of the national media. Sensational reporting has led to hundreds of complainants coming forward (if they are genuine allegations they are to be welcomed) and has raised concerns about the way national institutions behaved at the time. Savile is dead and is unable to respond to these allegations. However society's approach to these sort of historic allegations and it's response are not so clear cut. The safeguarding of children is the priority, so parents can feel secure that their children are safe from sexual and physical abuse. The development of child protection policies and the greater awareness of child sexual abuse over the last decade have had a direct impact upon the safeguarding of children and young persons.

. . . . There are a few key concerns that arise in the Savile case that are illustrative of the problems that these historic cases present and these ought to be openly questioned – not from a perspective of in any way believing that Savile could be innocent of the allegations made but rather placing the case in a proper context. Also in order to attempt to preserve the right to a fair trial for those currently awaiting trial for historic sex abuse.

In fact the reality is that the standards to which we normally apply to the investigation of cases of this nature can never now apply to the Savile Case. However thorough the police investigation might be, it will never answer the question of whether Savile was guilty of the offences alleged 'beyond reasonable doubt'.

The reason for this is obvious because the police can only now rely on evidence from one side of the case and must assess it only on the basis of whether there would be enough evidence to pass the code test for prosecution namely whether if Savile had been alive would there have been sufficient evidence to prosecute. Importantly no criminal trial will now occur thereby enabling the evidence to be challenged and for Savile to answer the allegations. The rigor of a criminal trial process is not going to happen.

The danger of Assumptions: It is particularly important not to simply assume any person accused of such allegations is guilty because of the number of people making allegations or the police belief that the victims are being truthful. Miscarriages of justice happen and have happened with historic allegations. These are the most difficult cases to investigate.

The delay creates real prejudice in obtaining independent evidence that supports or disproves the allegations. An accused person can only deny committing the offences after such a period of delay. . . . . Simply relying upon the number of complainants is never a satisfactory basis upon which to secure conviction. The real dangers of contamination, collusion and mistaken memories make the whole process extremely difficult. There have been clear examples of the most horrendous evidence of sexual abuse not being true and it is a mistake to make assumptions until all of the evidence has been considered.

A robust denial may often be the only defence and which, frankly in today's environment is insufficient to defend such historic allegations. These issues were recently illustrated in Mark Newby's speech at the Richard Webster Memorial Lecture.

The Savile case has a number of disturbing features which highlight the difficulties faced where there has been a significant delay. The fact that a complaint is made does not and could never be proof that it is true. The assertions made by the police even before the investigation is complete that the victims are truthful are of concern. Statements made in the House of Commons and the relentless media frenzy reporting not bound by the usual restrictions or temperance normally associ-

Grounds for Legal Action Laid Over Non Burial of Christopher Alder

Janet Alder, sister of Christopher, has started legal proceedings against the authorities involved in the body mix-up involving her brother. Christopher's body was discovered in the Hull Royal Infirmary mortuary in November last year, 11 years after his family believed they had laid him to rest following his death in police custody in 1998. A criminal investigation was launched shortly after, which is still ongoing.

Now, pending the outcome of the criminal inquiry, the human rights campaign group Liberty has lodged a protective claim with Central London County Court on behalf of Janet Alder.

The legal proceedings need to begin within a year of the mix-up taking place. Janet said: "The claim has to begin within a year, so this move secures that. If we didn't do this now then it could be argued we were out of time.

This is just the first stage and we will now wait until the criminal investigation is completed. The claim allows Janet to pursue possible civil proceedings against Hull Council, which ran the city mortuary when the wrong body was released in November 2000, and Hull and East Yorkshire Hospitals NHS Trust, which took charge before the attempts to bury Mrs Kamara last year. *Hull & East Riding, Online, 16/11/12*

Prison Phone Smuggler Joins 'Customers' Behind Bars!

Daniel Knight was caught trying to hurl parcels containing drugs and mobile phones over the perimeter wall of Birmingham prison. CCTV operators spotted Daniel Knight acting suspiciously and hiding in bushes near HMP Birmingham on October 12 last year. Prison-based police officer DC Jim Farrell gave chase and, with assistance from West Midlands Police's dog unit, found the 30-year-old hiding under a car in Talbot Street. Airtight packages containing drugs, phones and phone accessories were uncovered by sniffer dogs stashed in undergrowth.

A subsequent search of his home by police revealed 17 phone boxes – and the IMEI numbers matched 10 handsets that had previously been seized by prison staff from inmates. Forensic examinations on other packages found inside Birmingham prison also DNA linked them to Knight. Knight, admitted four counts of conveying items into prison and two further counts of attempting to convey contraband goods and was jailed for 18 months.

Ex-Cleveland Police Chief Sean Price Faces Further Misconduct Claims

In a statement Cleveland Police Authority released more details about a separate investigation into Mr Price. They include allegations relating to irregular use of a force credit card, trips abroad and allegedly obstructing a criminal investigation. Mr Price denies the allegations and said he provided a "full explanation in relation to each of them". He was sacked on 4 October after a gross misconduct hearing during which he was found to have lied to the Independent Police Complaints Commission (IPCC) about his involvement in a recruitment matter and to have instructed a member of staff to lie.

In August, the IPCC reported to the police authority on 18 other matters it had investigated. Eleven allegations: Seven were deferred pending the outcome of the wider criminal investigation by Operation Sacristy, a corruption investigation relating to individuals with past and present associations with Cleveland Police Authority. Cleveland Police Authority decided that 11 matters should be referred to a misconduct hearing, but it said Mr Price would not face a hearing as he is no longer a serving police officer.

ment. To this I have to agree wholeheartedly, respect for 'hope' an essential dimension of human dignity does underpin the protection of human rights.

In the USA and China the death penalty still exists in contrast to Canada where there is no death penalty and no whole life sentencing. The USA, similarly to England and Wales currently has the sentence of 'Life Without Parole' (LWOP) and in Florida the US Supreme Court commented broadly on the destructive impact of this sentence "It deprives the convict of the most basic liberties without giving hope of restoration.

If you have always felt that England and Wales are soft on sentencing then think again because the statistics show otherwise. The position is that all majority state parties of Europe rule that life sentences must have reviews. Only England and Wales and Hungary have an authentically irreducible whole life sentence, England and Wales with almost 21 times more life sentenced prisoners than any other single European country and we currently have more whole life sentence prisoners than all of Europe put together.

The first whole life tariff in the UK was set in 1988, and in 2003 reviews at executive discretion for these prisoners was abolished (under a Labour government). Although Scotland's sentencing is generally similar to England and Wales their human rights laws were brought into line with Europe at the time of the devolution of powers.

Whole life tariff prisoners cannot be subject to a prerogative pardon. The only mechanism for release of a prisoner (other than to overturn their conviction) on a whole life sentence in England and Wales is granted in exceptional circumstances, where the prisoner is medically incapacitated with death to occur within 3 months and no life sentence prisoner has ever been released under this or any other power in England and Wales. This exception compounds the view that a whole life sentence is literally a death sentence.

As I am not guilty of the crimes I have been convicted of carrying out, where do I fit in all of this? Currently the only avenue to appeal is through the politically controlled quango of the Criminal Cases Review Commission.

When this avenue is exhausted because the commission has usurped the role of the appeal courts and is in violation of the Criminal Appeals act 1995, and non disclosure of evidential materials still prevails, surely this is a violation of both Article 3 and 5(4) of European Human Rights Law, and should be taken into consideration when assessing whole life sentences. As crime is intrinsically tied to sentencing it is axiomatic that the problem of Miscarriage of Justice cases could be expanded within this framework simply because a Miscarriage of Justice in UK law does not allow for innocence but only a "miscarriage of due process."

If we are to believe the statistics quoted by Dr Michael Naughton as opposed to the Government's 'massaged figures' we face a very worrying situation indeed. Naughton reveals that there are no less than 18 convictions a day over turned in the UK which is an astonishing figure warranting a full review of the causes of wrongful convictions. Indeed Naughton himself states: "miscarriages of justice as understood from the perspective of the legal system are not the exception to the rule, rather they are a routine and even mundane feature of the criminal justice process."

It is of course, with my own conviction and these statistics in mind when I consider what a whole life sentence means to the individuals living a 'social death' as I do each day.

But whatever happens on the 28th of November this year it will make little difference to my current life, release for me with my conviction intact means no life at all. There is only one freedom and one hope for me and that is that the truth of my innocence will be heard in a court of Law allowing me the liberty I have been fighting for.

ated with a living suspect, highlights the real danger of a blind acceptance of the truth of the allegations before any fair and impartial investigation is concluded.

We have also seen some of the other undesirable aspects to these sorts of cases, which tug at the integrity of current process of investigating the abuse allegations being made.

Compensation culture: The spectre of the compensation lawyer has already loomed large and we have heard now that the first claims are being made against the estate of Savile and that other actions based on vicarious liability are contemplated against the BBC. Whilst any victim of a crime is entitled for compensation, the speed at which the compensation lawyers have reacted in targeting the estate of Savile and warning the BBC of pending claims, raises once again concerns over the compensation culture which now exists.

This leads to the fundamental question as to how society deals with its past. The recognition in hindsight that society failed to protect children from abuse may go some way to assist the victims, but arguably, that has little impact in our modern society where child protection is taken very seriously and where known offenders are closely monitored in our communities. The acceptance that in the past our society failed in protecting children, will not impact upon how today we conduct our duty to safeguarding those in our care.

The real danger caused by the reporting of the Savile allegations is that the public will simply accept all that they have read and heard from the media. The danger is that the public will accept without challenge that all victims of childhood sexual abuse are truthful, which will have an impact upon the administration of justice and where they will be called for jury service and sit on a historic sexual abuse trial.

Sexual abuse is never a pleasant subject. It is highly emotive, but our system of trial by jury relies upon the public being unmoved or prejudiced in delivery of their verdicts. Many will question whether anyone charged in association with the Savile investigation or indeed as a result of any further police activity in North Wales will ever receive a fair and unbiased trial.

Historic allegations: The ever present danger of false allegations being made, and the change in public perception creates an atmosphere in which the system once again loses its perspective to differentiate between genuine allegations and false accounts. This has direct and lasting consequences upon those on the receiving end.

How do we prevent false or unreliable historic allegations leading to a miscarriage of justice? This is a sensitive, complex and difficult question to answer. Arguably for Savile it is too late to ensure any fair hearing. The authors in 2009 highlighted the challenges of institutionalised and domestic historic allegations in a paper The Challenges of Historic Allegations – The Way Ahead. Some would argue that very little has changed and that the legal protection to any accused has been eroded further with recent changes in the law and reported judgments from the Court of Appeal. Others would say that the law has changed to deal with the rights of the victim and to reflect a greater understanding of childhood sexual abuse. In 2009 we made the observations that the law struggles to maintain the important but conflicting needs of protecting the accused whilst bringing justice for the abused. That conflict has not changed.

The dangers associated with the investigation of complex multiple complainant historic allegations have been clearly recognised by all involved within the criminal process. The integrity of any process, either criminal or a public inquiry, rests upon a number of important and interrelated principles. That process must start with the well-trodden principle of an impartial and meticulous investigation.

Where the investigators keep an open mind and do not act as the judge, jury and exe-

cutioner. That detailed reconstruction from reliable, credible witnesses or documents are sought out in order to support or undermine the allegations now being made. That the credibility and reliability of the complainant is questioned but at the same time respecting their individual rights to complain. That assistance is provided by specially trained and experienced professionals in dealing with the trauma of abuse and the subsequent disclosures. Any such investigation has to be mindful of the dangers of collusion and contamination. Just pausing for a moment in the Savile investigation this presents real difficulties in light of the extensive media reporting. Any investigation must be motivated by a search for the truth and not simply the recording of complaints. Experience has shown from the care home cases that multiple complaints do not necessary mean that they are true.

History has demonstrated the dangers associated with investigations into sexual abuse, whether they are recent or historic in nature. In 1991 the Orkney child abuse scandal rocked the nation and social workers removed a large number of children from their parents based upon allegations of satanic and ritualistic abuse.

Serious errors had been made and the scandalous nature of the allegations and the number of them led to draconian actions being taken and families devastated as a result. Those allegations were ultimately said to have been false and in turn this led to an Inquiry into the Removal of the Children (The Clyde Report).

This led to a number of far reaching recommendations to ensure the safety of the process in child abuse allegations. In particular it was recommended: . . . . 'Where allegations are made by a child regarding sexual abuse those allegations should be treated seriously, should not be necessarily accepted as true but should be examined and tested by whatever means are available before they are used as the basis for action.' Recommendation 88

In the 1990s and early 2000s attention turned to various residential institutions with allegations of sexual abuse made against carers and teachers. During the period between January 1998 and May 2001, 34 of the 43 police forces in England and Wales were involved in the investigation of child abuse in children's homes and other institutions (Hansard, 1 November 2001, John Denham MP). Growing legal and media concerns surrounding the safety of resulting convictions culminated in 2002 with the Home Affairs Select Committee Report The Conduct of Investigations into past cases of abuse in Children's Homes.

The committee, which included David Cameron, considered the conduct of these historic investigations and accepted that a new genre of miscarriages of justice had arisen from the over enthusiastic pursuit of those allegations. In a detailed report the Committee considered the broad range of views and opinions presented to them. A number of important recommendations were made. A number of which still remain outstanding today.

However the real significance of their report was the acceptance that those investigations did contribute to miscarriages and that police practices in the conduct of the investigation needed attention. In particular the recording of the interviews held with complainants. They also recommended that resources were channeled into researching and piloting the use of 'statement validity analysis', as a tool for evaluating the credibility of witness testimony in complex historical child abuse cases. They also invited the Association of Chief Police Officers to further revise the internal police handbook for senior investigating officers, with a view to minimising the risks of inducing false or exaggerated allegations.

The difficulties faced by those tasked with the investigation of historic allegations and the dangers of false or unreliable complaints being made are not a recent dilemma.

will be considered by the Secretary of State. That is when the real issues will be aired, i.e. the 153 incidents of abuse, mistreatment and abuse of privileges that Kev has suffered. They happened in just a one year period, although the incidents and allegations continue.

Throughout the hearing Kev's Mum and Dad remained stoic in their own dignified way. His Dad said the "lawful" guidance may exist, but questioned who actually ensured it was adhered to - that question had not been answered or even addressed.

So the fight's not over for Kev and his family, far from it, this was just one hurdle to get over and we as his supporters must do all we can to make sure they win this one. It's the least we can do.

Jeremy Bamber's Opinion on the the Whole Life Tariff Review

On the 28th of November 2012, the European Grand Chamber will hear the appeal against my whole life tariff along with two other cases, Vinter and Moore.

Firstly I need to clarify what this case is actually about. Many people have assumed that if my case in the Grand Chamber is won then my tariff would be put back down to the original 25 years set by the trial judge. This is not the case. What my legal team has applied for is for a review to be inserted into my mandatory whole life sentence.

It is my position that the UK Government is in breach of Article 3 and article 5 (4) of the European Convention on Human Rights by imposing a whole life sentence without review, this amounts to 'inhuman or degrading treatment or punishment.' But what does this actually mean?

The only appropriate submission my legal team could make to the Grand Chamber is that in view of the last ruling in January, there is no problem with a government applying a mandatory whole life sentence, but the breach of Human Rights Law lies within there being no mechanism for review of the prisoner's whole life sentence. It is then asserted, (and it is also my particular view) that a whole life order then becomes parallel with a death sentence.

To order someone to die is to permanently exclude them from society and it then follows that to sentence a person to whole life imprisonment is also permanent social exclusion. Social death is a dimension of the slavery which replaced death in Classical society, and was and still is intrinsically linked to loss of liberty. As I have stated many times, I have been sentenced to death by old age.

This leads us to the psychological state of those incarcerated for whole life without reviews. It has been clarified by psychologists including those assessing me that I am at continued risk of having depression brought about the prolonged environment of prison. I am in total agreement about life without hope, after all hope is what keeps the human spirit alive and without hope there is nothing. For me, even with the insertion of a review there is still very little hope of release. If the Grand Chamber rule to allow me to have reviews there is no knowing at what point a review could be placed, it might be at 30 or 40 years into a sentence.

As I have maintained innocence, there lies the other difficulty of reviewing my prison term in light of this. Because I have maintained innocence I have not taken part in any rehabilitation programmes and neither can I be viewed as a prisoner who has gained atonement.

The judiciary and review boards see me as being in denial of guilt. So when the European Court of Human Rights ruled against my appeal at Strasbourg in January 2012, the three dissenting judges emphasised that Article 3 was being infringed and their words rang true for me, "equally importantly depriving him of any hope for the future, however tenuous that hope may be." Tenuous, really is how I feel about this ruling even if we win in the Grand Chamber. After this digression, nevertheless the argument my lawyers have put forward is that this treatment, taking into account psychological effects does amount to inhuman and degrading treat-

by police marksmen on 4 August last year. Duggan's death in Ferry Lane, Tottenham, north London, sparked riots which swept across the capital and the country.

Last month a jury at Snaresbrook crown court failed to reach a verdict in the case. A retrial will start at the Old Bailey on 7 January, Judge David Radford ruled on Friday. It will precede an eight-week inquest into Duggan's death, which the coroner Andrew Walker has scheduled for 28 January.

After a pre-inquest review at North London coroner's court earlier last month, Duggan's family said they hoped for the first time that the truth would come out about his death.

Kevan Thakrar, Round One Against Prison Service, Down But Not Out

Part 1) The challenge before the Court today (15/11/12) was perfectly captured by HHJ Pelling QC when he granted permission in December 2011. Mr Thakrar had complained on a 153 occasions about countless interferences with his access to the courts, access to a legal advisor and to communicate confidentially with a legal advisor. the level and volume of interference cannot be excused, irrespective of whether it is addressed at a later stage.

Of course, the right of unimpeded access is not only the consequence of human rights but is a long established common law principle. The claim essentially argued that either as a result of unlawful policies or unlawful actions by members of staff, Mr Thakrar's access to the courts was regularly impeded/prevented. *Shahida Begum / Cooper Rollason Solicitors LLP*

Thakrar, was represented by Barrister Flo Krause, she alleged the Prison Service were in numerous breaches of Article 6 (right to a fair trial) and Article 8 (respect for one's private and family life) on 14 grounds, but at the end of today the judge Justice Hickinbottom ruled there was no direct breach of any laws.

From the moment the case began, 10:18 till 11:30 that the judge was clearly batting for the Ministry of Justice: he constantly interrupted Ms Krause, never letting her finish any argument, aggressively destructuring her opening grounds. *John O for MOJUK*

Part 2 from JENGbA) It was clear from the start of the hearing that it was going to be a struggle. Claims of having his privilege mail opened, of delays in getting legal numbers added to his PIN, of restricted access to call his lawyers, were met with quotes from the very guidelines being challenged.

It was presumed by the Court that prison officers who "accidentally" open privileged mail will record this in a log, that prison officers found to regularly open privileged mail will be written to – and if necessary "re-trained" in the procedures/guidelines. Then of course there's the Ombudsman to complain to the Judge believed.

So every claim of abuse was responded to with quote after quote from the guidelines – plus of course there was always the fallback excuse of "operational demands on prison staff", restrictions on public resources, "operational matters for the Governor" etc etc.

The pattern continued until the Judgement, which predictably concluded that the Guidance was not unlawful. So every challenge raised was lost as there was no breach of policy.

However, the Judge then asked for submissions regarding the 153 allegations made by Kev, who has been in segregation for 2 years.

Flo Klause, Kev's barrister, said, "the next step is to consider the continuing action. The Judge found the policies lawful – but if they're lawful, how is it possible that so many incidents are taking place, why are there so many complaints and why is there a campaign of harassment against Kevan?"

Kevan's legal team now has to make a submission by the end of January 2013 which

We have been there before - However, the climate is now very different. . . . . We live in a society where the presumption of innocence no longer exists. Natural justice no longer applies for those accused of child sexual abuse and trial by media has ensured that those accused of such crimes, will never receive a fair trial. The fear of being falsely accused was once the nightmare of care workers, teachers, youth leaders and the clergy. That nightmare has now reached our celebrities and entertainers.

It may even reach out and touch those who govern over us. It must always be recalled that such allegations are easy to make and in a climate where the proper investigation process is flawed, difficult to refute. The dangers of miscarriages of justice occurring on the back of the Savile allegations is a real possibility and which, our legal system is not best served to prevent.

These cases highlighted the important fact that people do make false allegations and do so for a variety of reasons. Many can be wholly unreliable. It can often be a very difficult line to identify those allegations, which are true, and those that are false however the integrity of our system of justice relies on the fact that we must strive to identify those who make false allegations and must never assume guilt merely because allegations have been made.

As Richard Webster noted in the concluding part of his book: . . . . ' For one of the greatest failings of the modern child protection movement is that, in its zeal to believe all allegations, it has betrayed the very children it seeks to protect and ushered in the return of the climate of disbelief it sought to banish forever.'

Further, Webster cautioned: . . . . 'If we do not take action to reintroduce reason and restraint into our system of justice, and into our child protection procedures, then the tragedy will continue to grow inexorably. And, to the historian of tomorrow, the great European witch-hunt of the sixteenth and seventeenth centuries will be as nothing when compared with the world wide witch hunt that took place in the twentieth and twenty first centuries.'

As we descend into another set of investigations and inquiries all those involved including the Government should let those warnings ring loudly in their ears and ensure that we do not in our rush to do justice to the allegations made repeat the mistakes of the recent past.

Report on an Announced Inspection of HMP Canterbury [Holds only foreign nationals]

The unpredictability of UK Border Agency processes usually made it impossible to tell who would be deported, who would be transferred and who would be released until shortly before the end of sentence.

Inspection 16–20 July 2012 by HMCIP, report compiled August 2012, published 14/11/12

HMP Canterbury, which holds solely foreign national prisoners, was a well-run jail in many respects. However, it needed to tackle prisoners' offending behaviour, regardless of whether they were to be deported, said Nick Hardwick, Chief Inspector of Prisons, publishing the report of an announced inspection of the Kent prison.

In 2006 HMP Canterbury became the first prison in the country intended to hold only foreign nationals and was, in effect, a resettlement prison for foreign nationals before they were deported or released into this country, having been allowed to remain in the UK. Inspectors had previously found a generally good prison, but one that was weak on resettlement provision. This inspection found the prison had sustained its many good elements but, in terms of resettlement outcomes, had at best stagnated. There was a general failure to address offending behaviour needs systematically.

Inspectors were concerned to find that:

- had a population of around 300 men, 50% more than it was certified to hold, making it one of the most overcrowded prisons in the country

- offender management was poor to the extent that some high-risk offenders were incorrectly identified as low risk and those correctly identified as high risk were sometimes ignored by offender managers in the community;

- there were no offending behaviour programmes; and

- the justification seemed to be that there was little benefit to addressing such needs for people who would be deported anyway.

- Many prisoners were confused and frustrated about their inability to progress. Low risk Category D prisoners were not moved to open prisons or even allowed to do responsible jobs

- There was no use of release on temporary licence to support resettlement.

Inspectors found that 20% of prisoners were released into the UK and an additional unknown number were released after transfer to immigration removal centres. Whether prisoners were returning to their own country or being released into the community here, they should have received support to reduce the risk that they would reoffend and to help them resettle successfully - both in their own interests and that of the communities to which they returned.

Introduction from the report: HMP Canterbury, a 200-year old prison had, at the time of our inspection, just completed a major building project to improve facilities. It had a population of around 300 men, 50% more than it was certified to hold, making it one of the most overcrowded prisons in the country. It was re-roled in 2006 to become the first prison in the country intended to hold only foreign nationals and was, in effect, a resettlement prison for foreign nationals before they were deported or, for a significant number, released into this country having been allowed to remain in the UK. We had previously found a generally good prison, but one that was weak on resettlement provision. On this, our third visit to Canterbury in its current role, we found that the prison had sustained its many good elements but, in terms of resettlement outcomes, had at best stagnated.

Many prisoners were confused and frustrated about their inability to progress. Low risk Category D prisoners were not moved to open prisons or even allowed to do responsible jobs at HMP Canterbury. There was no use of release on temporary licence to support resettlement. There were no offending behaviour programmes. Offender management was poor to the extent that some high risk offenders were incorrectly identified as low risk, and those correctly identified as high risk were sometimes ignored by offender managers in the community. There was, in short, a general failure to address offending behaviour needs systematically. The responsibility for this lay not just with the prison but also with the National Offender Management Service for failing to resource, require and then support resettlement services for all prisoners, regardless of nationality.

The underlying justification for this approach appeared to be that there was little benefit to addressing such needs for people who would be deported anyway. The unpredictability of UK Border Agency processes usually made it impossible to tell who would be deported, who would be transferred and who would be released until shortly before the end of sentence. In fact, we found that about 20% of prisoners were released into the UK and an additional unknown number were released after transfer to immigration removal centres. Whether prisoners were returning to their own country or being released into the community here, they should have received support to reduce the risk that they would reoffend and to help them resettle successfully – both in their own interests and that of the communities to which they

returned. In most other respects, Canterbury was delivering good outcomes. Prisoners generally felt safe. Violence reduction work was well managed, security was effective and key indicators, such as the use of force and adjudications, gave us little cause for concern. There was little evidence of illicit drug use.

Given the age of the prison, the residential areas were also well maintained, although cramped, as many prisoners shared cells designed for one person. Staff-prisoner relationships were good, but there was too little focus on ensuring effective communication with prisoners who spoke little English. Health care was adequate overall, faith provision was impressive, and catering staff were doing an exceptional job.

We found that most prisoners were usefully occupied. The quality of education was, in some respects, outstanding, and the overall management of learning and skills was good.

Achievement rates were very high, but there was too little vocational training. Canterbury is a generally safe, decent and well-run prison, where good efforts have been made to keep prisoners purposefully occupied. However, prisoners must also be prepared for the day they will leave its confines. The National Offender Management Service must ensure that offending behaviour and resettlement needs are addressed for everyone, as happens in other prisons, regardless of final destination or nationality.

Prisoner Privileges

Mr Marcus Jones (What plans he has to review prisoners' entitlement to privileges.

The Lord Chancellor and Secretary of State for Justice (Chris Grayling): It is really important that we ensure that the public have confidence in the prison system, and it is crucial that they are assured that any privileges earned in prison are gained through hard work and appropriate behaviour. In the light of this, the Prisons Minister and I have immediately moved to start a review of the policy around the incentives scheme for prisoners. We need to be confident that the system of incentives has credibility with the public. There are important operational reasons for the original policy, but we need to be clear that the incentives are pitched at the right level.

Mr Jones: Many of my constituents feel that some of the privileges provided in our prisons are far too soft on the inmates. How is my right hon. Friend preparing to reverse the tradition whereby many of our prison inmates have been left to pass their time in an enforced situation in which they are completely idle most of the day, with little or no meaningful activity?

Chris Grayling: First, I am quite prepared to make changes to the incentive regime in our prisons if it proves necessary to do so. I am absolutely clear that prisons should be places that rehabilitate, not places to which people have any desire to go back. It is equally important, however, that we have within our prisons proper processes to ensure that prisoners are trained and given work experience. One of the achievements of the current Government over the last few months is that we have seen a steady increase, under the stewardship of the previous Secretary of State, which the current ministerial team is now taking on, in the number of hours worked by prisoners in our prisons. That has got to be right.

Man Accused of Giving Gun to Mark Duggan Faces Retrial in January

The retrial of a man accused of supplying a gun to Mark Duggan, whose fatal shooting sparked last year's riots, will take place in January, it has been decided. Kevin Hutchinson-Foster, 30, is accused of supplying Duggan with a gun 15 minutes before he was shot dead