LINCOLN HOUSE CHAMBERS

Criminal Update 2020

A survey of key criminal cases from the last 18 months

Part One

Sentencing for Children and Young People

Sexual Offending

New Legislation

Authors:

Richard English

Rachel Cooper

Criminal Update 2020

A survey of key criminal cases from the last 18 months

This is the first part in a series of updates looking at some of the important criminal cases, legislative changes and other developments that will be of interest to criminal practitioners. In this, the first part, we look at the Definitive Guidelines "Sentencing Children and Young People" and recent decisions of the Court of Appeal dealing with young people. There is a review of notable cases involving sexual offending, a summary of new legislation and additions to the library of sentencing guidelines.

Over the weeks we will provide summaries of cases about mental health, criminal practice and procedure, weapons and sentencing generally. We will look at cases dealing with how child witnesses should be dealt with and how Defendants who experience mental health problems should be treated. The proper test for theft is resolved and the Court of Appeal considers whether the ends justify the means in combating serious crime.

July 2020 Part Two: Mental Health, Criminal Procedure, including a review of recent decisions involving the use of intermediaries.

August 2020 Part Three: Sentencing, including a review of cases dealing with driving offences and POCA and, instructing an expert.

We hope you find this, and what's to follow, interesting and helpful.

Richard English
Rachel Cooper
Lincoln House Chambers
May 2020

LINCOLN HOUSE CHAMBERS
8TH FLOOR, TOWER 12, 18-22 BRIDGE STREET, SPINNINGFIELDS, MANCHESTER M3 3BZ.
T: 0161 832 5701 F: 0161 832 0839 E: info@lincolnhousechambers.com
www.lincolnhousechambers.com

Introduction

Whether or not the Chinese came up with the curse - or maybe it is a blessing - *May you live in interesting times*[1], perhaps does not matter. We are certainly living in interesting times. So having had a little more time on our hands than expected; we have looked back over the last 18 months or so of cases and legislation and have picked out a selection which may be of interest and might even be helpful.

In this, the first of a number of parts, you will find a review of the Definitive Guidelines on sentencing children and young people and recent cases which helpfully show how those guidelines should be deployed and how they also apply to Defendants who have crossed the threshold of their 18th birthday. This is followed by a survey of Court of Appeal decisions concerning sexual offences.

The judgement in *R-v-Gabbai* reviews a complex rape trial involving issues of consent, sexual history, false allegations, routes to verdict and cross-admissibility where the approach of both the Crown and judge were in error and convictions were found to be unsafe. It is a helpful case for those who defend but may cause Prosecutors to consider how they present the evidence and person of a complainant as troubled as "NR" clearly was. We could not help, when reading this judgment, but recall the admonition given recently by His Honour Judge Jefferies QC when sentencing[2]:

This case has revealed a number of moral and societal ills and problems concerning drug use and young men's attitudes to sex; not just in those convicted of sexual offences … Sadly, these problems will persist for as long as society blames young women for what happens to them rather than instilling in men a sense of responsibility for how they behave towards women. Society, and in particular us men in it, should not have to be constantly warning women to protect themselves from unscrupulous men; rather we should all be educating boys and men not to abuse and take advantage of girls and women.

At the end of this document are summaries of important legislative changes made recently, a note of the new Sentencing Guidelines and, finally, some URLs for useful resources on statistics, advocacy, capacity and the most current versions of the Bench Books.

The final case included maybe a little outside the experience of most of us. It is an appeal to the United States Supreme Court[3]. Written with the usual stylish elegance of that Court, it deals with the historic origins of juries and the requirement to have a unanimous verdict; a little esoteric perhaps but it includes the following from Justice Gorsuch who deals with

[1] and about whose origins there seems to be some controversy, it being suggested that the nearest equivalent is *better to be a dog in peacetime than a human in times of war*.

[2] https://www.lincolnhousechambers.com/richard-english-rachel-cooper-conclude-complex-multi-offence-conspiracy-case

[3] Ramos-v-Louisiana

the likelihood, that by their judgement, the USSC will open the floodgates of further litigation:

> On what ground would anyone have us leave Mr. Ramos in prison for the rest of his life? Not a single Member of this Court is prepared to say Louisiana secured his conviction constitutionally under the Sixth Amendment. No one before us suggests that the error was harmless. Louisiana does not claim precedent commands an affirmance. In the end, the best anyone can seem to muster against Mr. Ramos is that, if we dared to admit in his case what we all know to be true about the Sixth Amendment, we might have to say the same in some others. But where is the justice in that? Every judge must learn to live with the fact he or she will make some mistakes; it comes with the territory. But it is something else entirely to perpetuate something we all know to be wrong only because we fear the consequences of being right.

Over the next weeks there will be summaries of cases about mental health, procedure, sentencing and weapons. Cases dealing with how child witnesses should be dealt with and how Defendants who experience mental health problems should be treated. The proper test for theft is resolved and the Court of Appeal considers whether the ends justify the means in combating serious crime.

June 2020 Part Two: Mental Health, Criminal Procedure, including a review of recent decisions involving the use of intermediaries

July 2020 Part Three: Sentencing, including a review of cases dealing with driving offences and POCA and, instructing an expert

We hope you find this, and what's to follow, interesting and helpful.

Richard English
Rachel Cooper

Lincoln House Chambers

May 2020

Index

Principles of sentencing for children and young people

In the sentencing guideline '*Sentencing Children and Young People*[4]' (SCYPG), a child or young person is defined as someone who is under the age of 18 at the date of the finding of guilt. When passing sentence, the principal aim of the youth justice system is to prevent further offending by the defendant whilst having regard to their welfare.

Therefore in practical terms the age of the defendant at sentencing should have no relevance - they should be sentenced based on their age upon conviction. In reality courts often consider three 'age points' - age at the time of the offence, age at the time of conviction, and age at the time of sentence. Due to the current court backlogs a youth defendant can become an adult defendant during this process, by some distance. It is not unusual for courts to look to this guideline when sentencing 19 and 20 year olds.

The guideline sets out that:

1. Whilst the seriousness of the offence will be the starting point, the approach to sentencing should be individualistic and focused on the defendant, as opposed to offence focused.
2. The focus should be on rehabilitation where possible.
3. The court should consider the effect of sentence on the defendant, both negative and positive
4. The court should consider the underlying factors that contribute to offending behaviour.
5. A custodial sentence should always be a measure of last resort

It seeks to avoid criminalising children and states that '*the primary purpose of the youth justice system is to encourage children and young people to take responsibility for their own actions and promote reintegration into society rather than to punish*'.

Therefore the clear intent in the Guideline is that sentencing in these cases should be highly individualistic, taking a holistic approach with a focus on intervening in the defendant's offending behaviour and making significant allowances for any social, emotional or intellectual immaturity or difficulties. In cases where custody is a real, but not inevitable, possibility representatives may wish to consider obtaining a report from an educational psychologist who may provide valuable insight into the true level of emotional and social maturity that a defendant possesses. It should be noted that case-law takes this

[4] https://www.sentencingcouncil.org.uk/overarching-guides/crown-court/item/sentencing-children-and-young-people/

further and seems to suggest that there will be very few cases in which such reports are not useful.

This becomes particularly relevant as the guidance compels the court to consider reasons why a defendant may act inappropriately in court. It cannot be assumed to be simply rudeness - it may well be due to nervousness, a lack of understanding, or underlying learning difficulties or struggles with emotional processing. A court should look beyond the obvious when dealing with these defendants.

As looked-after children are over-represented in the criminal justice system this is also a factor that the court can consider; particularly where offences occur in the period where such a child abruptly transitions from living in local authority care to independent accommodation.

The court should also take into account the fact that any restriction on liberty will impact these defendants more than an adult defendant, simply due to their youth - any sentence will seem proportionally longer and more onerous than is likely with an older defendant.

The guidance accepts that these defendants are not fully developed and have not attained full maturity, with a consequent impact on their culpability: '*It is important to consider the extent to which the child or young person has been acting impulsively and whether their conduct has been affected by inexperience, emotional volatility or negative influences'*. The impact of peer pressure, external influences, and their own understanding of any pain or distress they have caused should also be considered: '*When considering a child or young person's age their emotional and developmental age is of at least equal importance to their chronological age (**if not greater**) (*my emphasis)*'* (paragraph 6.46).

It is also notable that a proposed s.142A has been drafted and added to the **Criminal Justice Act 2003** which would remove '*reducing crime by deterrent sentencing*' as a factor when sentencing children and young people. Unfortunately this section has not yet to been brought into effect. Therefore as it currently stands deterrence can be weighed against the defendant-focused considerations set out above.

All of above should be kept in mind by advocates when dealing with these cases - a robust reference to the guideline and the multiple factors that the court should consider may make a considerable difference to a client's fate.

Nevertheless, in practice the guideline often seems to be boiled down to one section: paragraph 6.46, which addresses the level of discount a Judge should give from the adult starting point, taking into account the defendant's young age. It allows the Judge to exercise their own discretion: [the Judge] *may feel it appropriate to apply a sentence broadly within the region of half to two thirds of the adult sentence for those aged 15 – 17 and allow a greater reduction for those aged under 15".*

This is often interpreted in a negative light - i.e. that a Judge may impose a sentence on the young defendant that is much closer to the maximum if they feel it is appropriate to do so. It is also often interpreted by counsel in a mechanistic light, i.e. that the discount is automatic and/or a mathematical exercise. This inevitably leads to the discount becoming a great deal smaller for a 17 year defendant over a 15 year old defendant. This is unfortunate, as the full paragraph in fact re-emphasises the inherent vulnerabilities in these defendants:

6.46 When considering the relevant adult guideline, the court may feel it appropriate to apply a sentence broadly within the region of half to two thirds of the adult sentence for those aged 15 – 17 and allow a greater reduction for those aged under 15. This is only a rough guide and must not be applied mechanistically. In most cases when considering the appropriate reduction from the adult sentence the emotional and developmental age and maturity of the child or young person is of at least equal importance as their chronological age.

Arguably a 17 year old defendant with learning difficulties and functional abilities of a 13 - 14 year old should receive a 50% discount or more, whilst a mature 16 year old would receive less than half.

Sometimes overlooked are paragraphs 6.1 - 3 of the guideline:

6.1 *there will be occasions when an increase in the age of the child or young person will result in the maximum sentence on the date of the finding of guilty being greater than that available on the date on which the offences was committed (primarily turning 12, 15 or 18).*

6.2 In such situations the court should take as its starting point the sentence likely to have imposed on the date at which the offence was committed. This includes young people who attain the age of 18 between the commission and the finding of guilt of the offence, but when this occurs the purpose of sentencing adult offenders has to be taken into account, which is[5]*:*

The punishment of offenders;
The reduction of crime (including it's reduction by deterrence)
The reform and rehabilitation of offenders
The protection of the public
The making of reparations by offenders to persons affected by their offences

[5] the wording of the not yet in force s142A(3) CJA (see above)

6.3 where any significant age threshold is passed it will rarely be appropriate that a more severe sentence than the maximum that the court could have imposed at the time of the offence was committed should be imposed. However, a sentence at or close to that maximum may be appropriate.

This is a strong indicator to any Judge that they should only depart from the maximum *available at the time of the offence* in exceptional circumstances. Whilst the adult sentencing principles are to be taken into account (if appropriate) it is questionable what, if any, difference that should make to the appropriate sentence in such cases.

The principles of youth sentencing are set out in section one of the SCYPG and are worth referring to in mitigation.

As is clear from the above this guideline is multi-faceted and raises a series of factors that should be considered when sentencing youth defendants. Significant attention should be paid to a defendant's personal circumstances, and logic would suggest that a pre-sentence report should be required in any youth sentencing case. Consideration should be given to assessment for learning difficulties or mental health problems even where they are not immediately obvious. In every case the court should be considering multiple factors instead of simply focusing on the offence, chronological age, and any previous convictions.

Unfortunately this is not always the case and has led to a significant amount of case law since the guideline was published.

The following recent cases are helpful in setting out how the guideline should be followed, but also indicate a possible hardening in the Court of Appeal's approach to these cases. One consistent point they make is that any representative will do well to be fully familiar with all parts of the guideline when dealing with young clients.

AG's ref (R .v. Clarke), E .v. Andrews [2018] EWCA Crim 185 - This case is particularly relevant to the issue of 'crossing an age barrier', and the applicability of the guideline to defendants over the age of 18.

The offenders were 17, 18, and 19 years old and kidnapped a 16 year old boy. Each were given custodial terms which the Attorney-General sought to appeal on the basis that they were unduly lenient. The appeal was dismissed.

The case approves of a flexible approach to the age-range to which the guideline applies, rather than a strict 'cut-off', stating forcefully that '*reaching the age of 18…does not present a cliff-edge for the purposes of sentencing. So much has long been clear….Full maturity and all the attributes of adulthood are not magically conferred on young people on their 18th birthdays. Experience of life reflected in scientific research…is that young*

people continue to mature, albeit at different rates, for some time beyond their 18th birthdays. The youth and maturity of an offender will be factors that inform any sentencing decision, even if an offender has passed his or her 18th birthday. (para 5).

The case also focused on the background of each of the defendants, their current circumstances, and the likelihood that they could be reformed, echoing the holistic approach taken by the guideline. The Court recognised that the sentences imposed would have been '*very much longer*' if the defendants had been adults - and this included the technically adult 18 and 19 year old defendants - and approved of the reduced sentences imposed.

R .v. Hobbs & DM [2018] EWCA Crim 1003: This case endorses *Clarke* and demonstrates how the holistic approach to sentencing should work; it also shows the value of detailed pre-sentence and psychological reports; and it also demonstrates that the guideline has other useful sections before paragraph 6.46.

The appellants were 18 (Hobbs) and 16 (DM) at the time of sentence for manslaughter, but at the time of the offence Hobbs was 17 years and 4 months, and DM was only two weeks past his 15th birthday. They threw a flare into a car in which a man was sleeping - the man rapidly succumbed to fatal toxic fumes. Hobbs was sentenced to 9 years detention and DM was sentenced to 6 years detention for the offence of manslaughter.

At sentence the judge specifically considered the emotional and developmental age and maturity of DM, as well as his chronological age, and considered a detailed psychiatric report. In relation to Hobbs the Judge did not consider the guidelines for children and young people. While she did consider a detailed pre-sentence report, she sentenced Hobbs as an adult.

Both appealed on the basis that their sentences were excessive and that their youth and immaturity at the time of offending had not been properly taken into account at sentence citing the latter part of paragraph 6.46 of the CYPSG.

It is notable that the Court of Appeal, in its discussion, throughly reviewed paragraphs 1.1 - 1.6 of the CYPSG, which sets out multiple factors that should be considered when sentencing youths. They also set out the relevant parts of the various reports they had for the appellants, and referred to the relevant parts of *Clarke* as set out above.

The Court concluded that the sentencing judge had '*appear[ed] to have little, if any, regard to the fact that [Hobbs] was only 17 at the time of the offending…[the judge found it was a] "reckless enterprise…on the basis that it would be for fun". That was an important finding which should have led the Judge to give careful consideration to the maturity of the 17 year old who committed the single act. The guidelines expressly refers*

to the need to take account of factors which could diminish culpability, including immaturity, the impact on decision making and lack of insight into the consequences of offending on victims (my emphasis). *These were relevant matters in considering the culpability of Hobbs. To describe Hobbs simply as 'an adult' gives the impression that the Judge approached the sentence effectively as if there was a sentencing 'cliff-edge'. In our judgement, the sentence passed does not reflect the age, immaturity and resultant culpability of Hobbs at the date of sentence"* (para 31).

The court went further and concluded that the Judge had insufficiently considered the nature of the harm that the appellants could have foreseen. They noted that the flare was a marine flare and the appellants could not have known that it would burn at a much higher temperature than a firework or that the chemicals it contained were especially toxic. They must have expected to wake the deceased, and whilst they could have foreseen injury from coughing and sputtering, '*but in terms of culpability the circumstances fall at a relatively low level'.*

Having concluded that DM's age, immaturity, and low culpability had not been taken properly into account, the sentences were reduced to 5 years and 3 and a half years respectively.

R .v. Balogun [2018] EWCA Crim 2933

The appellant was 20 at the time of sentence, for 7 offences of rape and one offence of distributing offensive photographs of a child. He was found to be dangerous and sentenced to a 29 year extended sentence comprising of 21 years detention and an 8 year extended sentence. The offences were committed when he was between 18 years and four months old, and 18 years and 9 months old. His victims, all female, were between 13 and 16 years old. All his offences were committed against girls he befriended before forcing them to perform sex acts through threats of violence, refusing to return their property, or threatening to put indecent photographs of them online. A detailed pre-sentence report was available to the sentencing judge which set out the traumatic childhood experiences of the appellant. At appeal it was conceded that this was a campaign of rape and was very serious, but that the sentence passed was appropriate to an adult defendant and was excessive given the defendant's age at the time of the offences.

Despite the defendant being over the age of 18 at the time that the offences were committed, the Court of Appeal began by considering the SCYPG, referring to paragraphs 4.7, which sets out the importance of considering the impact that an unstable background may have on a young defendant. If further considered paragraph 6.46 and reduction of sentence based on age. The Court then explicitly stated that, whilst the appellant was an adult at the time of his offending, '*it is none the less well-established by case law that the young age/or lack of maturity of an offender does not cease to have any relevance on his*

or her 18th birthday' and cited *Clarke* and *R .v. Peters [2005] EWCA Crim 605. (*para 38 - 40).

The court went on to state that although the appellant had reached the age of 18 *'he had not been invested overnight with all the understanding and self-control of a fully mature adult'*, and noted that if the appellant had offended a few months earlier the sentencing court would have been required to have regard to paragraph 6.2 of the SCYPG and '*take as it's starting point the sentencing likely to have been imposed on the date at which the offence was committed'. (*para 41)

The Court explicitly stated that the fact that he was only a few months past the age of 18 at the time of the offences, thus (notionally at least) subject to the adult sentencing powers, '*made it necessary to give careful consideration to all the factors relevant to his committing those offences'* and then went on to review his background, maturity, conduct and level of understanding, deeming them '*important matters to be taken into account in determining the appropriate custodial term'*. (para 44).

The Court concluded that these factors were not properly taken into account at sentence and reduced the sentence to 18 years determinate sentence with an extension period of 8 years.

R .v. PS [2019] EWCA Crim 2286

This case is concerned with the sentencing of offenders who suffered from autism or other mental health conditions, and offers very useful guidance into how such cases should be approached. Given the prevalence of mental health issues and learning difficulties in youth clients, any representative dealing with these offenders should review this case, which speaks to the importance of obtaining pre-sentence reports in a far wider range of cases than may currently be the case.

A notable feature of the case is the fact that two of the appellants were aged 14 years and four months (PS), and 15 to 16 (CF), when they committed their offences. Both were autistic, and appealed on the basis that the effects of their autism were not sufficiently taken into account when sentencing.

PS was not diagnosed with autism until after he was sentenced. It seems the psychological report, which diagnosed the condition and its effect on PS, may have been obtained for the purpose of the appeal. CF had the benefit of a prison report that concluded that his functional difficulties were so great that he '*relied on staff 100% for everything*', he had been moved to the vulnerable prisoner section, and he was '*probably the most vulnerable young person on a unit with 48 vulnerable young people on it'*.

Crucially paragraph 1.12 of the SCYPG specifically requires the court to have regard to any mental health problems and/or learning difficulties. Therefore if there is any possibility that such conditions may exist in a client, obtaining an assessment prior to sentence is vital.

The Court of Appeal explicitly cited paragraph 1.12 and noted that '*the court will be assisted by a pre-sentence report and by appropriate psychiatric or psychological reports' (para 19).* Furthermore it set out that this approach is not restricted to cases where mental health or learning difficulties are obvious, or a key issue in the case - rather the approach had to be much wider:

'*difficulties may arise because there is nothing in particular which prompts consideration of whether a mental health condition or disorder may be relevant to sentence…both the court and those representing [a youth] must be alert to the possibility that mental health may be a relevant feature of the case.* at sentence '*….the younger the offender, and the more serious the offence, the more likely it is that the court will need the assistance of expert reports'.* (para 20).

This logic explicitly rejects the practice, by some Judges, of dismissing the need for a pre-sentence report where the outcome will be an inevitable custodial sentence - rather, in such cases, the need for expert reports is even greater than in cases of lesser seriousness. It also encourages practitioners and judges to seek reports even when there may not be an obvious issue to address. Logically this should discourage Judges from the the practice of making practitioners justify, to a high degree, why a psychological report or pre-sentence report is required prior to sentence.

The court also cited that latter part of 6.46 - that '*emotional and developmental age..is at least of equal importance to…chronological age'.*

The court found that the autism disorders of both appellants was a significant factor that should have featured when determining sentence and both had their sentences reduced accordingly.

R .v. Stokes (Byron) [2020] EWCA Crim 162

A useful case dealing with age at the time of the offence versus age at sentence: an issue likely to become more common with the increasing court backlogs.

The appellant was 20 at the time of sentence and 17 at the time of the offence. He pleaded guilty on the day of trial to a s.20 assault during a five-a-side football match. A scuffle broke out during the match, in which two brothers were punched and kicked on the ground and suffered a broken jaw and a broken eye socket respectively. The appellant was

described as the instigator by witnesses. This was a joint enterprise case in which the appellant refused to name any of his team-mates in the game.

The appellant was sentenced to 27 months custody. There was no explanation of the delay between the offence and his sentencing. The appellant had been reprimanded for a s.47 assault five years before this offence, and received a youth caution for battery a year before the offence. However in the period between the offence and the sentencing he had not committed any further offences and was now halfway through an apprenticeship with employment prospects on completion. A pre-sentence report concluded that he had pro-actively disassociated himself from previous negative influences in his life.

The appeal proceeded, unsurprisingly, on a submission that he could have been dealt with by a suspended sentence.

The SCYPG was not referred to at sentence but was relied upon extensively on appeal. The Court of Appeal concluded that, had the sentencing judge been referred to the guideline, he would have adopted a different approach to sentence. The Court specifically cited paragraphs 6.2 and 6.3 of the guidelines (crossing the age barrier and limiting sentence to what would have been available at the age when the offence was committed). If the appellant had been sentenced at the time of the offence then the maximum available sentence would have been two years detention and '*it is our view that it would not have been appropriate to pass a more severe sentence than that maximum, having regard to the appellant's age'*. The court nevertheless felt immediate custody was justified, and reduced the sentence to 12 months custody on the basis of the appellant's age at the time of the offence.

R .v. Moorhouse and Coates [2019] EWCA Crim 2197.

The preceding cases are arguably signalling a positive approach to sentencing for youth defendants. However there are recent cases which take a somewhat different approach. This case endorses the approach of *R .v. Clarke* and considers paragraph 6.46 SCYPG, which sets out the half to two thirds reduction that a judge <u>may</u> feel is appropriate, from an adult sentence, when dealing with 15-17 year old, and an even greater reduction for under 15's. The case then states that '*it is thus open to a judge to pass a sentence on a 15-year-old or 16-year-old defendant in excess of two-thirds of what would have been the appropriate sentence for a young adult or an adult in the judge finds that the defendant's emotional and developmental age and maturity justify it. But in such cases this court will normally expect to see an explanation in the remarks of the sentencing judge of why a reduction of one-third or more is not being made'*.

In this case the sentencing judge had not been explicit as to how the sentence was constructed, and the Court of Appeal concluded that insufficient discount had been given

to take account of the appellants ages at the time of the offences (they were in their teens). However this comment potentially signals that, where a judge has justified a reduced discount in their sentencing remarks, the Court of Appeal may be slow to intervene in such cases in future.

R .v. Payne [2019] EWCA Crim 2219

This also seems to push back against a generous approach of the applicability of the guideline when crossing an age threshold. The appellant was convicted of 5 drug offences relating to class A drugs, arising out a 'county lines' drugs-supply network. The defendant's offending spanned a six month period when he was 17, although close to his 18th birthday by the end of the period. He pleaded guilty a week after his 18th birthday. At sentence the judge took a starting point of 4.5 years and applied a 20% discount to reflect his age, and then a 33% discount to reflect his guilty pleas.

The court of Appeal rejected the submission that an insufficient discount for age had been applied. As the appellant was so close to his 18th birthday during the latter part of his offending a discount of 20% was not manifestly insufficient.

The logic of this case appears to contradict the logic in *Clarke, Hobbs* and *Baologun*. The court referred to 6.46 but only in the context of it granting the sentencing judge the discretion to limit the discount. There was no discussion about the latter part of that excerpt - the emotional and intellectual maturity of the appellant was not addressed at all, and no analysis of the appellant as an individual took place. In *Payne* the court does appear to take the 'cliff-edge' approach, finding nothing wrong with starting at the adult starting point and then given a decreased reduction to the appellant simply because he was so close to his 18th birthday. Therefore it cannot be said that the Court of Appeal has a consistent approach to youth sentencing.

R .v. DM, SC [2019] EWCA Crim 1354

The appellants were convicted of murder. They were 14 at the time of the offence and 16 at sentence. The murder arose out of an ongoing argument with other youths in the area. Following an argument near a shop the day before, the appellants, with a friend, returned to the area and encountered the deceased and his friends. Although the case is not explicit on the point it suggests this was pre-arranged. There was an exchange of words before all the youths walked around the corner to a parking area that was not covered by CCTV, where a violent confrontation took place resulting in a fatal stabbing. They were convicted after trial and given minimum terms of 14 years and 14 years and six months (this appellant had an additional count of affray for the argument the previous day).

Given the content of the SCYPG it is disappointing to note that pre-sentence reports were not considered necessary prior to sentence. It is notable that in the sentencing remarks there appear to be no reference to the background of the appellants, or any consideration of any vulnerabilities either may possess. The only mitigating factors considered were the age of the appellants at the time of the murder, and that they appear to have lacked an intention to kill. One appellant was previously of good character and the other had minor convictions which were not considered relevant to this sentence.

On appeal both appellants had the benefit of pre-appeal reports and one had a psychological report. The starting point for murder where a defendant is under 18 is 12 years - in the case of an adult it is 15 years. However where a knife is used the starting point for an adult is 25 years. There is no corresponding higher starting point for juvenile offenders.

The court of appeal considered the SCYPG in detail, particularly with reference to the likely immaturity, and lack of consequential thinking, that these appellants possessed at the time of the offence. However the Court went on to deal with these points individually and set them against the aggravating features, stating that the appellants had carried knives with the intent of using them, and committed the offence in public. The court also stated that '*it must be borne in mind that the youth of a young offender has already been taken into account to a significant degree by the terms of schedule 21* [of the Criminal Justice Act 2003, which lowers the juvenile starting point to 12 years].

The court ultimately concluded that '*balancing these factors we are satisfied that the factors requiring an increase above the starting point significantly outweighed those mitigating in favour of a reduction below it. The Judge was faced..with a difficult sentencing decision which had to balance the very young age of the offender against the seriousness of the offence. We conclude, after careful thought, that the judge imposed a minimum term which was within the range properly open to him and which cannot be said to be manifestly excessive'.*

This case is difficult to interpret in the context of the other case law which suggests that a detailed analysis of the offender's circumstances is merited at sentence. Nor does it deal with paragraph 6.64 and any reduction in an adult starting point; this is perhaps because the specific juvenile starting point in cases of murder complicates the picture. At worst this case suggests that if a judge can find a justification in the aggravating features, the mitigating effect of the defendant's age will become somewhat neutered; but at best this case can be distinguished from usual youth sentencing on the basis that it deals with an offence that has an unusual separate starting point for young offenders.

R-v-B & L [2018] EWCA Crim 1439, [2019] 1 Cr App R 35

While it may be correct to say that engaging in sexual activity in the presence of a child should be a criminal offence, where an offence contrary to section 11(1) of the Sexual Offences Act 2003 is alleged, the Crown must prove a link between "for the purposes of sexual gratification" and the presence of the child. In other words, there is a distinction between sexual activity in the presence of a child (not unlawful) and sexual gratification from the presence of the child, which is an offence.

R-v-Toner [2019] EWCA Crim 447, [2019] 2 Cr App R 2

While charges of indecency with young children between 1986 and 1991 and possession of indecent images in 2015 may not be part of a series of offences of the same or similar character; following the repeal of Rule 9, Indictment Rules 1971 and its replacement by Rule 3.21(4) Criminal Procedure Rules; in a case where evidence on one count would properly be admissible as evidence of bad character in relation to another, the judge was not required to sever the indictment.

R-v-Rawlinson [2018] EWCA Crim 2825, [2019] 1 Cr App R (S) 51

The offence of exposure was childish and stupid, it caused distress but where there was no apparent sexual motive or gratification it did not cross the custody threshold.

R-v-SJ and MM [2019] EWCA Crim 1570, [2020] 1 Cr App R 7

Admissible evidence from a counsellor who saw a complainant will almost always be restricted to factual evidence *viz* that a complaint was made at a particular time, the context within which counselling was offered, and some evidence as to the demeanour of the complainant. Counsellors are not able to give evidence of the veracity or reliability of the allegation; it is not expert evidence.

R-v-Gabbai [2019] EWCA Crim 2287, 2020 4 WLR 65

D was convicted after trial. It was the Crown's case that over a three year period D had raped three women; D's case was that sexual activity was consensual. He was acquitted of

three counts of rape and convicted of two. He received a total of 20 years imprisonment. D appealed on a number of grounds.

The Court of Appeal found the route to verdict was deficient; key steps which were in issue, albeit mentioned in oral directions, were omitted from the written document. If the jury took the written route to verdict as their approach they may have missed the importance of the Crown having to prove an intentional rather than accidental penetration of the complainant's anus.

At trial an application was made by the Defendant to adduce evidence that one complainant had made previous false complaints of rape and sexual assault; the application was on the basis that the complainant engaged in "sexual self-harm" initially describing encounters as rape but then doubting they were rape as she may have consented; the tendency to engage in high risk sexual activity which she later misdescribed was relevant to the jury's assessment of whether the Defendant had a reasonable belief in her consent. The material gave rise to a number of inferences:

(i) the complainant put herself in risky situations and engaged in sexual encounters with strangers

(ii) she often engaged in sex when she was at least ambiguous about consent, but did not say "no"

(iii) she gave a history of rapes but had never made a complaint of rape,

(iv) she described that she doubted her own account of rape; "maybe it wasn't rape"

which, the Court said, bore on her credibility and the issue of consent.

The application was made under s100 Criminal Justice Act and, s41 Youth Justice and Criminal Evidence Act. The trial judge found there was insufficient evidence that the complaints were false and refused the Bad Character application. Additionally the judge was not persuaded that the evidence of the complaint's would have sufficient probative value.

The Court of Appeal found[6]

In our view, this evidence was of a striking nature, and relevant as suggestive of previous false accounts. The evidence that the complainant had doubted her own past suggestions of rape, and was (a lying attention seeker) should have been admitted pursuant to s.100 CJA 2003. This provided an evidential foundation for a conclusion of falsity, of substantial importance in the case as a whole, and should have been before the jury.

However, the evidence was not admissible under s41(3) as[7]

the sexual behaviour concerned neither took place as part of the event which is the subject matter of the charge against the appellant (s.41(3)(c)(i) nor to any other behaviour at or

[6] para 59

[7] para 63

about the same time of the event (s.41(3)(c)(ii)). Hence, even though in our judgment this evidence, insofar as it bears on actual consent, was of real materiality, it could not be admitted under this section.

The Defendant argued that the trial judge was in error when he directed that the evidence in the cases of two of the complainants was cross-admissible. And, that the Crown had failed to serve a bad character notice which was required if cross-admissibility was relied upon. The Court decided the jury was not entitled to find the counts mutually reinforcing; the facts were "too widely distinct for cross-admissibility to be left to the jury". Additionally, cross-admissibility requires a bad character notice, in the absence of which a Defendant is entitled to have the case decided on the basis that the evidence of one count will not be used as evidence for another. The requirement of notice is not merely technical, it would, in this case have precipitated a conclusive argument in advance of speeches. The evidence should not have been ruled cross-admissible.

Taking all matters into account, the convictions were unsafe.

R-v-Biddle [2019] EWCA Crim 86, [2019] 2 Cr App R 20

D, 17 years old, charged with the rape of a child, diagnosed with Attention Deficit Hyperactivity Disorder; concerns about his ability to understand and evaluate verbally presented information and process new information. A report recommended an intermediary throughout the trial. The trial judge decided the intermediary was only needed when the Defendant gave evidence. The intermediary service (Communicourt) had a policy whereby they would not accept bookings to attend only the Defendant's evidence. The Defendant did not give evidence and the jury were directed they could form an adverse inference. The Court on dismissing the appeal against conviction said, it was not for the intermediary service to dictate the duration of the need for an intermediary, and the policy expressed to be that of Comunciourt was wrong. Note, the fact that solicitors did not attend was taken by the Court as an indication that they were satisfied that the Defendant was able to follow the trial.

R-v-YGM 2018 EWCA Crim 2458, [2019] 2 Cr App R 5

D was charged with the rape of a seven year old child. The child's cross examination, as agreed with the judge, was short and direct. It is best practice, before cross examination, to give the standard special measures direction, and explain to the jury that there are limitations on defence counsel who cannot cross examine in the same way if the witness was an adult and, if there are areas which the judge has ruled cannot be explored with the witness, the judge might wish to direct the jury about them after, cross examination.

R-v-PMH [2018] EWCA Crim 2452, [2019] 1 Cr App R 27

Pre-recorded cross examination (s28 Youth Justice and Criminal Evidence Act 1999) does not undermine the Defendant's right to a fair trial, however, the steps set out in the Criminal Practice Direction (18E) must be followed: except in exceptional cases it is obligatory for there to be continuity of counsel, and if necessary the resident judge's assistance should be sought. The recording should be checked well in advance of trial. Advocates must adapt their style to the needs of the witness and ask questions in the form and manner approved at the Ground Rules Hearing. Although this is an evolving area, the following is best practice:

1 at the ground rules hearing there should be a discussion about how and when any limitations on questioning will be explained to the jury
2 if the above has not happened, or if there have been changes, there should be a discussion about limitations before the cross examination is played
3 before the cross-examination is played, the judge will give the jury the standard direction on special measures, with a direction on the limitations that the judge has imposed on cross-examination and the reasons for them
4 if necessary there should be a further discussion with the advocates before closing speeches so that it is clear what can be said in speeches to the jury
5 when summing up the judge should remind the jury of the limitations imposed and any areas identified where they have had a material effect on questions asked
6 written directions should include the standard special measures direction and a direction on the limitations imposed on cross-examination.

R-v-McPartland [2019] EWCA Crim 1782, [2020] 1 Cr App R (S) 51

In an allegation of sexual assault, there is no adverse inference to be drawn against a complainant who does not initially hand over their 'phone. This is something a complainant is perfectly entitled to do. It is not the usual practice to examine a complainants 'phone, what is a reasonable line of enquiry will depend on the facts of each case.

R-v-Toure [2019] EWCA Crim 1961, [2020] 1 Cr App R 24

In relation to the defences contained within s 1(4)(a) Protection of Children Act 1978 and s160(2)(a) Criminal Justice Act - it is a defence to prove that D had a legitimate reason for having or distributing an image - the jury have to decide: (i) was the reason advanced by the Defendant for having and distributing an image a truthful one and, (ii) if it was, was it

'legitimate'; the first question was subjective but the second, objective question, was for the jury. The genuineness of the Defendant's belief is irrelevant.

***R-v-Adams*,** [2019] EWCA Crim 1363, unreported

D was convicted on an indictment containing historic allegations of rape and indecent assault against two complainants. There are two main ways in which evidence of an offence committed on one occasion may be relevant to an allegation that the Defendant committed an offence on another occasion, either against the same or another complainant (i) it may be relevant to propensity if the jury is sure an offence of the relevant kind has been committed, in which case they may rely on the proven offence to support an inference that the Defendant committed a similar offence on another occasion and (ii) in the absence of collusion or contamination, it may reduce the likelihood of an innocent explanation. Thus where the Crown does not put its case that evidence relating to any of the counts was admissible in relation to any of the others, the jury should have been directed that they should have regard only to the evidence which is directly relevant to the count they are considering, and should ignore evidence given in relation to the other counts or by the other complainant. It was open to the Crown to argue that evidence of each complainant was evidence in relation to the allegations made by the other, because it reduced the likelihood of there being an innocent explanation. Although there has been a tendency to relax the rules of evidence, it has not reached the point where it is a "free for all". The way in which evidence that a Defendant has committed one offence, may or may not be relevant to a jury in deciding if the Defendant is guilty of another offence has to be worked out and clear directions must be given.

R-v-Sepulvida-Gomez [2019] EWCA Crim 2174, [2020] 4 WLR 11

D had been invited to a party. By the time it was winding down, the complainant had gone to bed. D, uninvited, went to where the Complainant was asleep and sexually assaulted her. The judge in sentencing decided there were two factors indicating Category 2 harm: the complainant was particularly vulnerable, and D had made a forced/uninvited entry into the house. The Court found that entering, uninvited, into the bedroom of someone is of a different quality to entering the house uninvited, and this did not qualify as a category two harm factor. The complainant was particularly vulnerable so the offences did fit into Category 2B, albeit not at the top end, eight years reduced to five years imprisonment.

R-v-Allington [2019] EWCA Crim 1430, [2020] 1 Cr App R (S) 16

Citing *AG's Ref 94 of 2014* [2014] EWCA Crim 2752, [2016] 4 WLR 121, arranging or facilitating a child sex offence, making an arrangement to behave in a particular way

which did not involve anything more, does not fall into the same category of harm as committing the act and does not require the same level of sanction. Where the 'victim' is a Police officer (or some other person) pretending to be a 13 year old girl the level of culpability is not reduced (A) though the harm falls into Category 3. Extended sentence of seven years (four years custody plus three years licence) reduced to 20 months with no extension.

R-v-Begg [2019] EWCA Crim 1578, [2020] 1 Cr App R (S) 30

Repeating the principles in *R-v-Smith* [2011] EWCA Crim 1772, [2012] 1 Cr App R (S) 82, a Sexual Harm Prevention Order must be necessary and proportionate, it must not be oppressive. Any restriction must to be justified, and where the Defendant is subject to being barred from working with young and vulnerable people, the Crown must demonstrate: what the risk is that is not covered by the Safeguarding Vulnerable Groups Act 2006. The whole term of an extended sentence is the term for which a person has been sentenced for the purpose of determining what the applicable period of notification is.

R-v-Kirby [2019] EWCA Crim 321, [2020] 1 Cr App R 10

An apparently valid order of the High Court is to be obeyed unless and until it is set aside; an invalid order does not afford a defence in breach proceedings. This also applied to courts of limited jurisdiction, the Crown Court for example. Citing *DPP-v-T,* [2006] EWHC 728 (Admin), [2007] ACD 71, "even if the order should not have been made in the first place, a person may be liable for any breach of it committed before it was set aside" and queried whether the decision in *R-v-Beck* [2003] EWCA Crim 2198 was correct (therefore the comment at 36.65 of *Rook and Ward*, 5th edition, "if a SHPO as originally imposed was clearly invalid then it is suggested that in an extreme case it could be regarded as unenforceable", should be treated with caution; 'though, breach of a provision which is unclear may amount to reasonable excuse).

Appeal

Ramos-v-Louisiana 590 US 2020

The Appellant was convicted by majority verdict and received a sentence of life without parole. He appealed on the basis that a conviction by a non-unanimous jury was unconstitutional as it violated the Sixth Amendment. By a majority the Court allowed the appeal, and in the course of their judgements the Justices reviewed the historic roots of juries and their roots in the English common law.

Anti-social Behaviour, Crime and Policing Act 2014 (Amendment) Order 2019 (SI 2019/68)

On 8 February 2019 Transport for Greater Manchester were added to those who can apply for an injunction under section 1 of the 2014 Act: where it is just and convenient to grant an injunction to prevent an individual from engaging in anti-social behaviour.

Stalking Protection Act 2019

In force on 20 January 2020. It allows the Police to apply to a Magistrates' Court for a Stalking Protection Order where "it appears" that D has (a) carried out acts associated with stalking and (b) poses a risk associated with stalking, which may be physical or psychological, and there is reasonable cause to believe the order is necessary to protect a person from the risk posed by the Defendant, whether or not the person who is the beneficiary of the order was the victim of the acts described in (a). And provides that the court may make an order if it is satisfied that the acts and conditions, above, apply. While the order may restrict the Defendant in what they do, so far as practicable, the order should avoid conflicting with the Defendant's religious beliefs or with their employment or education. Orders made will be in force for not less than two years. Appeals may be made to the Crown Court against the making, or as the case maybe, refusing to make an order. Someone subject to an order, is required to notify the Police within three days of service of the order, of their name and address, unless they are subject to the notification requirements imposed by the Sexual Offences Act. Breaches of the order or the notification requirements are triable either way, the maximum sentence is five years imprisonment.

Parole Board Rules 2019, SI 2019 1038

In force from 22 July 2019, they replace the 2016 Parole Board Rules. While similar to the 2016 rules there are changes to the structure of the rules and their numbering. A number of changes were made following the outcome of the review into the decision to release John Worboys: Rule 28 introduces a "reconsideration mechanism" which allows the Prisoner and the Secretary of State for Justice to apply (within 21 days of the decision) to the Parole Board for a decision to be reconsidered, on the basis that the decision was unfair and/or procedurally unfair. Victims may ask the SoS to apply for a reconsideration thus avoiding the need for them to resort to judicial review proceedings.

Rule 10; the panel may appoint a representative for a prisoner who lacks mental capacity to participate in the proceedings or make decisions about instructing legal representatives. Rule 31 allows IPP prisoners to apply for the termination of their licence once ten years has elapsed since release.

Criminal Justice Act 1988 (Reviews of Sentencing) Amendment Order 2019, SI 2019/1397

In force from 19 November 2019, amends the Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006, by adding a number of offences that may be subject of an application by the Attorney or Solicitor General to the Court of Appeal for review, as being unduly lenient by adding a number of offences including, possession of indecent images, ss4 and 4A Protection from Harassment Act, controlling or coercive behaviour and a number of offences under the Sexual Offences Act 2003, ss16 - 19 and 26 - 33.

Criminal Procedure (Amendment) Rules 2020, SI 2020 32

In force 6 April 2020, amongst other provisions, rule 39 sets out the procedure when appealing the finding of a disability, the finding that the Defendant did an act etc or the making of a hospital order, following the case of *R-v-Roberts*, above.

Terrorist Offenders (Restriction of early release) Act 2020

Those who have been convicted of terrorism offences (Part 1 of Schedule 19ZA) who received a determinate sentence will now be eligible for release only when they have served two thirds of their sentence and may not be released before the end of the term imposed unless and until the Parole Board is satisfied that it is no longer necessary, for the protection of the public, for them to remain in prison.

The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 SI 2020 158

In force 1 April 2020, this order alters the requirement that a prisoner who has been sentenced to a fixed term (determinate) sentence is automatically released when they have served half their sentence (section 244 of the *Criminal Justice Act* 2003).

It applies where:

(i) a sentence of seven years or more is imposed,

(ii) for an offence listed in in Part 1 and Part 2 of Schedule 15 of of the Criminal Justice Act 2003

and means a Defendant to whom this applies will not be released until two thirds of the sentence has been served. There is no amendment to s249 Criminal Justice Act 2003, therefore the licence will be in force until the end of the sentence, in other words there is no extended licence. The amendment does not apply to sentences imposed before 1 April 2020 or to offenders who are under 18 at the time of sentence.

Sentencing Guidelines

As of 1 October 2019 the PDF versions which were downloaded from the website are obsolete and should not be used. Instead go to the website where the current guidelines are available.

https://www.sentencingcouncil.org.uk/crown-court/

where updated guidelines are available.

Arson and Criminal Damage, in force from 1 October 2019

Public Order offences, in effect from 1 January 2020

General Guideline: overarching principles, in force from 1 October 2019

Resources

Statistics and Probability for Advocates, understanding the use of statistical evidence in courts and tribunals

https://www.icca.ac.uk/wp-content/uploads/2019/11/RSS-Guide-to-Statistics-and-Probability-for-Advocates.pdf

Guidance on the preparation, admission and examination of expert evidence, Promoting Reliability in Expert Evidence

https://www.icca.ac.uk/wp-content/uploads/2019/11/Expert-Evidence-guide.pdf

Latest version of the Criminal Procedure Rules and Criminal Practice Directions

http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015

Forensic Science Regulator, Legal Obligations on Expert Witnesses

A "relatively" high level overview of the obligations placed on expert witnesses in the Criminal Justice System in England and Wales.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795995/FSR_Legal_Obligations_-_Issue_7.pdf

Principles of Remote Advocacy

https://www.icca.ac.uk/wp-content/uploads/2020/04/Principles-for-Remote-Advocacy.pdf

Client Incapacity, The Bar Council

guidance to barristers who have doubt's about a client's capacity to understand advice, give instructions, or follow or take part in proceedings

https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/Client-incapacity-1.pdf

Equal Treatment Bench Book

https://www.judiciary.uk/wp-content/uploads/2018/02/ETBB-February-2018-amended-March-2020.pdf

Crown Court Compendium

https://www.judiciary.uk/wp-content/uploads/2016/06/Crown-Court-Compendium-Part-I-December-2019-amended-19.02.20.pdf

https://www.judiciary.uk/wp-content/uploads/2016/06/Crown-Court-Compendium-Part-II-Sentencing-December-2019-f.pdf

LINCOLN HOUSE CHAMBERS

Richard English

"A notable practitioner with a signific disordered defendants. He primarily practices on the defence side, but he is also called upon to prosecute in complex multi-handed cases." Chambers & Partners 2020

"An intelligent and astute advocate." "He excels at representing clients with mental health concerns." Chambers & Partners 2020

"His preparation is first-class and his drafting of advice on complex issues is excellent." Legal 500 2019

Richard is a skilful and persuasive advocate who prides himself on providing the best advice, and the most effective representation.

Richard is a native of Dublin. He studied History at Trinity College, Dublin University. He qualified as a solicitor in England in 1996, and in Ireland in 1997 where he practiced for two years. As a solicitor he was involved in a number of high-profile and complex cases amongst them – the London City Bond fraud and the Sally Clark appeal. He became a partner with Burton Copeland Solicitors in 2000.

He was called to the Bar in 2003 and practices at the Criminal Bar, appearing in courts in the North West and throughout the country. He has a predominately defence practice, but does prosecute in complex, document-heavy, multi-handed cases.

He was a Law Society trainer on the Human Rights Acts and have been trained by Amicus in death row cases. He has advised the Irish Council for Prisoners Overseas and has written for their journal on mental health issues. ***"With Richard controlling my case I felt reassured that everything will be dealt with professionally and without any drama"*** – Client Testimonial

Specialisms

Mental Health – Richard has a particular interest and expertise in offences involving mentally disordered defendants. He is instructed because of his skill, patience and understanding of those who are particularly vulnerable when faced with the ordeal of appearing in court.

He also appears in Mental Health Review Tribunals. He is a member of the Mental Health Lawyers Association, and in 2017 he was awarded a Post-Graduate Diploma in Mental Health Law from the University of Northumbria.

Sexual Offences – Richard is regularly instructed to represent those alleged to have committed the most serious sexual offences, which very often, are said to have happened many years before. Allegations of this type are invariably devastating to all involved; they require detailed preparation, patient, and when necessary robust advice, as well as thoughtful and sensitive consideration both in and out of court.

Offences Involving Children – Over the years Richard has been involved in many cases where the Police believe a child has been the victim of serious, often fatal violence. In the process he has developed an understanding of the complex medical and other evidential issues involved.

LINCOLN HOUSE CHAMBERS

8TH FLOOR, TOWER 12, 18-22 BRIDGE STREET, SPINNINGFIELDS, MANCHESTER M3 3BZ.

T: 0161 832 5701 F: 0161 832 0839 E: info@lincolnhousechambers.com

www.lincolnhousechambers.com

LINCOLN HOUSE CHAMBERS

Rachel Cooper

Rachel is an experienced barrister practising in crime, professional discipline and regulatory law.

She has a particular interest and expertise in cases where one of the participants, be they defendant, complainant or witness is experiencing mental distress or is particularly vulnerable. She is regularly instructed in these challenging and difficult cases and has a well earned reputation for her being able to give the advice that is needed when it is needed and to guide her clients though the complex and often distressing experience of appearing at court.

Rachel is well known as a tenacious trial advocate and is much sought after to prosecute and defend in serious cases. Recent instructions include: serious sexual and violent offences; large-scale drugs conspiracies; firearms and armed robbery offences and serious fraud offences. She is much sought after to appear in cases brought by Local Authorities and has been instructed by both prosecution and defendants in health and safety, trade descriptions, food safety, fire regulation and environmental prosecutions. She has considerable expertise in dealing with medical, technical and other expert evidence, particularly in the area of telephone analysis.

In professional discipline Rachel has substantial experience in representing medical professionals at tribunal hearings and appears at all levels before the GMC and NMC. Before being called to the Bar Rachel worked for the Healthcare Commission where she worked closely with medical experts; experience which she has applied to her practice generally and which is particularly helpful when representing medical practitioners.

As a former legal adviser in the Magistrates Court Rachel has extensive knowledge of road traffic law and undertakes this work on a privately instructed basis.

Recent cases include

R-v- X *- the Defendant was charged with perverting the course of justice following the death of a neighbour. Other Defendant's tried at the same time were accused of murder. Rachel was successful in persuading the High Court judge, on the basis of a complex and difficult legal argument, that there was no case against her client. https://www.bbc.co.uk/news/uk-england-lancashire-49392913*

R-v-A and others *- junior counsel in a complex and paper heavy trial involving allegations of people trafficking, rape, drug dealing and burglary.*
https://www.lep.co.uk/news/crime/members-preston-gang-responsible-child-rapes-drug-dealing-and-burglaries-sentenced-2505967

R-v-W *- the Defendant, a transgender prisoner who was accused of sexual assault and rape.*
https://www.bbc.co.uk/news/uk-england-leeds-45825838

A detailed CV and list of cases is available on Lincoln House Chambers website

https://www.lincolnhousechambers.com/wp-content/uploads/2012/05/Rachel_Cooper.pdf

LINCOLN HOUSE CHAMBERS

8TH FLOOR, TOWER 12, 18-22 BRIDGE STREET, SPINNINGFIELDS, MANCHESTER M3 3BZ.

T: 0161 832 5701 F: 0161 832 0839 E: info@lincolnhousechambers.com

www.lincolnhousechambers.com