

Report of the Committee on Criminal Law and Procedure 2016

This year the Criminal Law and Procedure Committee increased its membership to 26. This has given the Committee the immense advantage of a wider range of views and experience in various aspects of criminal practice.

By far the most important task of the Committee this year was to consider the proposed Practice Direction in relation to criminal proceedings in the High Court. The essence of this Practice Direction aims at the concept of critical decisions in the conduct of criminal cases in the High Court being taken a great deal earlier. It is probably no coincidence that a recent decision of the Court of Appeal places higher rates of discount on sentence on a plea of guilty in cases of an early plea. The proposed changes have echoes of the massive changes to civil procedure experience some years ago. Much work needs to be done and it is almost certain that intensive consultations will need to be undertaken with important players such as the Department of Justice and the Director of Legal Aid.

The Department of Justice issued a consultation paper which proposes consideration of changes to staffing in relation to Lay Prosecutors in proceedings before a magistrate. It is no understatement to say that this is of critical importance to younger members of the Bar, many of whose initial experiences in the conduct of any form of proceedings comes through the magistracy. The consultation paper raises the possibility of further recruitment of lay court prosecutors which would, if carried out, have an obvious impact on the opportunity for younger members of the Bar to conduct proceedings before magistrates. To this end, the Bar sent a delegation to meet with the Secretary for Justice and the Director of Public Prosecutions and other officials of the Department of Justice to make our position clear. As a consequence of the representations made on behalf of the Bar, the Secretary for Justice undertook to review the consultation document.

One of the matters which arose out of the discussions with the Secretary for Justice was the manifest inadequacy of training offered to young members of the Bar to prepare them for their first and subsequent appearances as counsel before a magistrate. In recent times, discussions have been undertaken to provide proposals for the Bar to conduct training sessions (hopefully in conjunction with the Department of Justice and the Magistracy) with a view to providing members of the Bar with some assistance by way of training to prepare them for appearances before the Magistracy.

The Committee has also been consulted on matters of criminal practice. Perhaps the most notable of these was draft legislation proposed by the Department of Justice to permit CCTV to be employed in criminal proceedings involving certain sexual offences so that the alleged victim does not suffer the indignity of appearing in open court to give his or her testimony.

Membership:

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Andrew Bruce SC
Chairman
Committee on Criminal Law and
Procedure

31 December 2016