

///APPEAL



CHALLENGING A BROKEN JUSTICE SYSTEM

IMPACT REPORT
2019

CONTENTS

01 INTRODUCTION

04 A JUSTICE SYSTEM IN DENIAL

08 HOW WE WORK

12 OUR IMPACT

16 WHAT NEXT?

18 THANK YOU

WHO ARE APPEAL?



MISSION:

APPEAL is a non-profit law practice committed to fighting miscarriages of justice and demanding reform.

AIMS & OBJECTIVES:

We provide investigation and legal advocacy for victims of unsafe convictions and unfair sentences who cannot afford to pay for a lawyer themselves. We use individual cases as leverage for system-wide criminal justice reform by educating the media, parliament, criminal justice policy makers, the legal profession and the public about how and why miscarriages of justice occur and what needs to change to stop them.

VISION:

Our vision is for a criminal justice system that treats miscarriages of justice as dire emergencies that require prompt, thorough investigation by legal representatives, and urgent review by the courts. We fight for a system that faces its mistakes rather than hides from them, in which the human cost of miscarriages of justice are recognised and reduced, and where every person working in the system learns from errors in order to avoid repeating them.

FIGHTING MISCARRIAGES OF JUSTICE IN ENGLAND & WALES

I launched APPEAL in 2014 after nearly a decade spent fighting the death penalty and wrongful convictions in Louisiana. Returning to the UK, I was optimistic about working in its famously fair and high-minded system. How wrong I was.

Although “British justice” is often said to be the best in the world, I have found it to be more intransigent than its American counterpart. In fact, I would rather be the victim of a miscarriage of justice in New Orleans than Newcastle. America’s tradition of open justice has led to heightened public awareness of the that system’s fallibility. But on this side of the pond, it feels like public concern with miscarriages of justice ended with the Birmingham Six and Guildford Four.

British criminal justice is a system in denial.

Our justice system is at breaking point, with judges and juries being forced to make decisions about sending people to prison based on a fraction of the evidence for or against them - evidence that has not been adequately scrutinised by the prosecution or the defence because of rules and resource constraints that curtail transparency and accountability.

We believe the ensuing miscarriages of justice can be most effectively combatted by an integrated team of lawyers, investigators and campaigners working full time on exposing both individual “impact” cases and the underlying causes of system failure.

APPEAL is that team, and has made significant progress in the last five years thanks to the support of progressive funders who recognise appeal cases as the engine that can drive reform. APPEAL is the first step in our longer journey towards bringing a non-profit model for criminal defence to this country for both trials and appeals, based on the holistic, investigation-focused, community-based models pioneered in the US.

Please read this report, learn about the catastrophes concealed beneath the brand of “British justice,” and consider how you can become part of our work.

Emily Bolton,
Director and Founder of APPEAL



A JUSTICE SYSTEM IN DENIAL

A PERFECT STORM FOR MISCARRIAGES OF JUSTICE



Under pressure to find a suspect, the police apply “tunnel vision” so their investigation focuses heavily on evidence pointing towards one suspect, rather than exploring other leads.

“Officers are reluctant to investigate a defence or take statements that might assist the defence or undermine our case”

- Prosecutors’ focus group notes obtained by APPEAL

The privatisation of the Forensic Science Service and falling standards in forensic labs means defendants can be convicted on dodgy science.

“The evidence we received points to failings in the use of forensic science in the criminal justice system and these can be attributed to an absence of high-level leadership, a lack of funding and an insufficient level of research and development.”

- Lords’ Science and Technology Select Committee

Legal Aid restrictions mean defence solicitors don’t conduct defence investigation and there is no funding provided to review police files.

“Reviewing unused prosecution material without remuneration is fundamentally unfair and increasingly prejudicial to the defendant.”

- Justice Committee

Legal Aid rule changes mean many defendants are expected to pay large financial contributions towards their representation. If they can’t afford them, many end up representing themselves.

“I have prosecuted trials against unrepresented defendants. It is a complete sham and a pale imitation of justice”

- Prosecutor quoted in Transform Justice report

The prosecution is meant to hand over any material gathered by the police which undermines their case or assists the defence. However, police don’t flag up such material in a third of cases. Failures to hand over vital evidence remain...

“...the biggest single cause of miscarriages of justice”

- Former Criminal Cases Review Commission Chair



A JUSTICE SYSTEM IN DENIAL

FAILING TO CORRECT MISTAKES



Appellants have only 28 days from the date of conviction or sentence to appeal, unless they can provide a compelling reason for needing more time. They will get legal advice from their trial team, who will be reluctant to admit their failings. The Court of Appeal, which has become increasingly conservative, actively discourages appeals.

“The Court of Appeal has had a 27% decrease in the number of appeals between 2011 and 2018”

- Court of Appeal (Criminal Division) annual reports

Once the Court of Appeal has turned an appellant down, they have no more rights to appeal to the Court. Instead they have to persuade the Criminal Cases Review Commission (CCRC) to send their case back.

“Over the last decade we have had our budget cut in real terms by about a third and we have seen our workload increase by about 70%”

- Former Criminal Cases Review Commission Chair



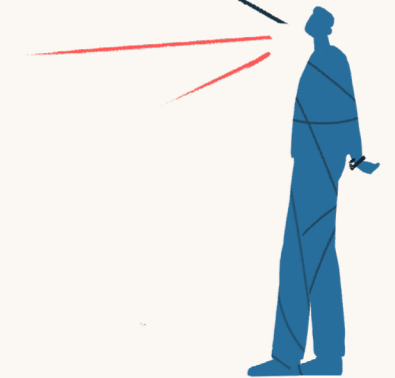
Created as a conduit to the Court of Appeal, the Commission now functions as a roadblock. It is failing to obtain transcripts and read police files and it is left to the wrongly convicted prisoner to find evidence to support their case. But the system puts obstacles in their way. Under our current post-conviction law...

“...it is incredibly difficult for the wrongly convicted to discover and access police and CPS documents and exhibits that could help exonerate them.”

- Joint report by APPEAL and Cardiff Law School Innocence Project

90% of applicants to the CCRC were unrepresented by lawyers in 2018/19, despite those with legal representation being more likely to succeed in getting a referral back to the Court of Appeal.

- CCRC 2018/19 annual report



The CCRC’s “won’t seek, don’t find” approach means it is not sending convictions back to the Court of Appeal.

In 2018/19 the CCRC referred just 0.9% of the 1,449 cases they reviewed to the Court of Appeal. That was just 13 cases.

- CCRC 2018/19 annual report

Because mistakes are not being exposed, Parliament is not being shown the evidence it needs to justify reforms that would prevent miscarriages of justice occurring in the first place.



HOW WE WORK

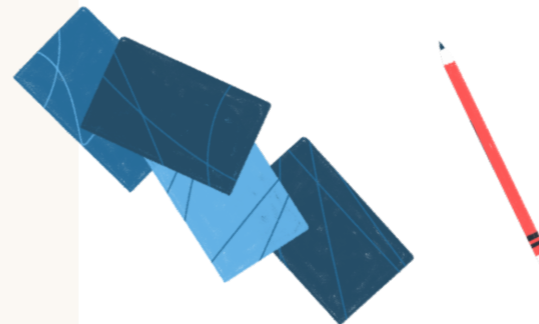
CHALLENGING INJUSTICE



02

WE LITIGATE

Our lawyers represent the victims of miscarriages of justice to the Criminal Cases Review Commission, the Administrative Court and the Court of Appeal. We are supported by some of the finest criminal and public law barristers in the country, largely working pro bono.



35 LEGAL SUBMISSIONS

APPEAL has made a total of 35 legal submissions to the Criminal Cases Review Commission, Court of Appeal and Administrative Court.

01

WE INVESTIGATE

We screen cases carefully for both merit and potential for impact. We only work on behalf of people who cannot afford to pay for a lawyer.

ONCE WE ACCEPT A CASE WE:

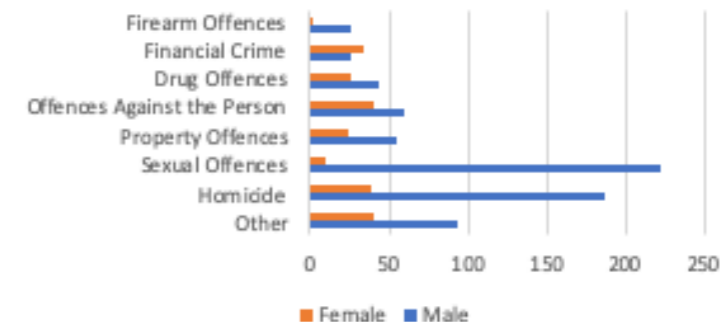
- Analyse the existing case materials
- Request and obtain access to documents and exhibits
- Interview witnesses
- Visit key locations
- Commission new forensic testing and expert analysis



It's like APPEAL is picking up the pieces. You look at everything and you are fair in what you do and you listen. The things that everyone missed in first place are coming out now.

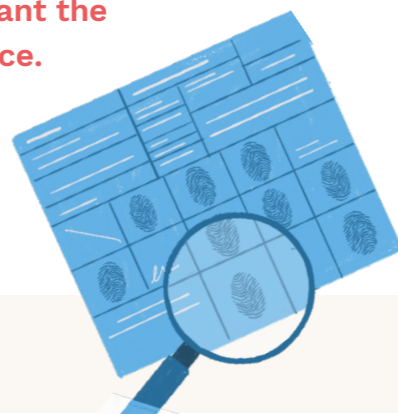
APPEAL client

Convictions of applicants



All I've ever wanted is for someone to give a damn enough about the truth to do the legwork necessary. I am not a murderer and I want the killers to be brought to justice.

APPEAL applicant



APPEAL has provided legal advice & assistance to **60 PEOPLE**

Since 2014: **900+** applications for help from prisoners received and assessed of which...

24% were women

76% were men



03

WE ADVOCATE

We work with prisoners, their families, campaigners, students, legal professionals, politicians and policy makers to ensure that our justice system can learn from its mistakes.

We argue for safeguards like the presumption of innocence, open and accountable justice, robust science, effective practice, and a gender-responsive approach.

APPEAL acts as the secretariat for the All-Party Parliamentary Group on Miscarriages of Justice. This Group established a Commission on Miscarriages of Justice to undertake an inquiry into the criminal justice system's capacity for correcting its mistakes.

**APPEAL HAS BEEN QUOTED
OVER 80 TIMES IN 33
DIFFERENT NEWS OUTLETS**

...including in BBC News, The Guardian, the Financial Times, the Law Gazette. We have appeared on the front page of The Times, and have been featured on BBC Panorama, talkRADIO and BBC Sunday Morning Live.

APPEAL trains people to be better criminal justice practitioners:

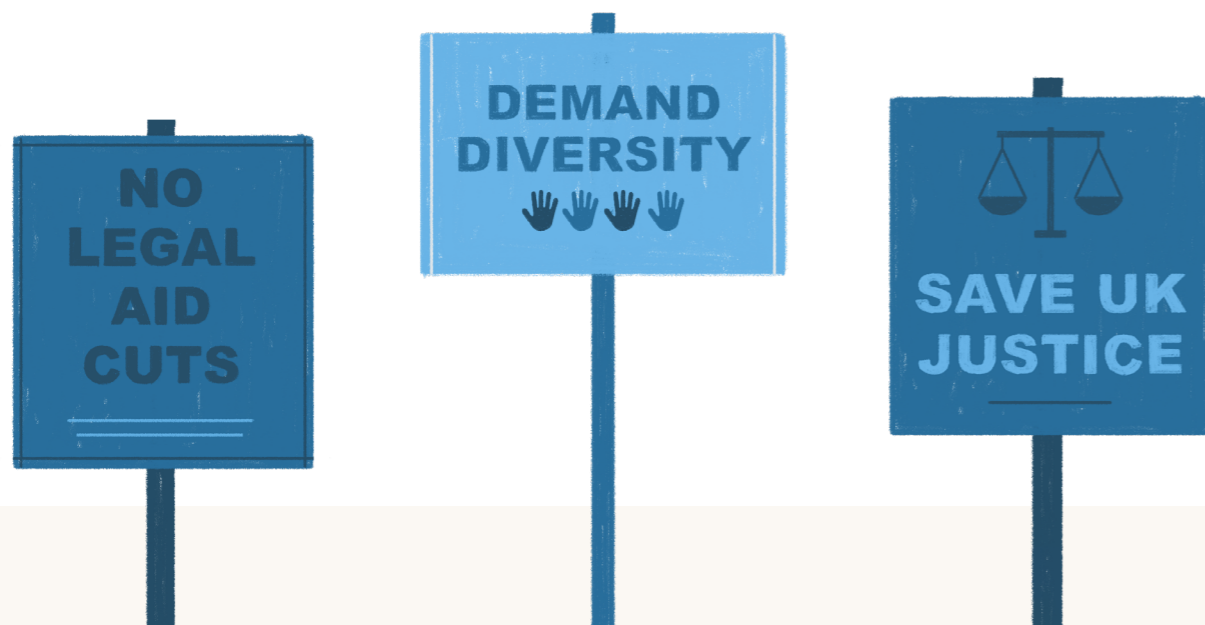
- We have trained 487 students and volunteers. Our university partners include Birmingham, Cambridge, Cardiff, City, Essex, Lancaster, Nottingham, Royal Holloway, Sheffield, Sheffield Hallam and Swansea.
- We have trained more than 130 law firm employees from Dechert, Linklaters, WilmerHale, Kingsley Napley, Ropes & Gray, Latham & Watkins, and White & Case.

WE HAVE TRAINED
487 STUDENTS & VOLUNTEERS
130 LAW FIRM EMPLOYEES



Working at APPEAL has made me a better advocate, by making me aware of what needs to be improved within the criminal justice system.

APPEAL law student volunteer



OUR IMPACT

INNOCENCE INITIATIVE

Case study



WRONGFUL RAPE CONVICTION EXPOSED BY STREET LEVEL INVESTIGATION

“R” insisted that he was innocent of the rape for which he stood convicted. As a test case, we deployed defence investigation methodology from the US, making enquiries on the streets and in the community. We learned that the complainant was a vulnerable young woman who had made multiple false allegations in the past and had told a friend that she had invented the whole event.

The case was heard by Court of Appeal after being referred by the CCRC. “R’s” conviction for rape was quashed. He was subsequently compensated by the state at the highest level available. This case became the model for our casework going forward.

Case study



DISCLOSURE FAILURES UNCOVERED IN THE CASE OF THE FRESHWATER FIVE

The Freshwater Five were wrongfully convicted of smuggling cocaine from a container ship using a fishing boat. Their combined sentences totalled 104 years in prison. APPEAL brought the case to the CCRC, which took four years to decline to refer the case, having failed to use its powers to obtain vital evidence we had identified.

In 2018, APPEAL’s tenacious investigative work finally uncovered evidence that shows that the container ship did not cross tracks with the fishing boat. This fresh evidence could have been used to argue their innocence at trial but was hidden from the defence.

WOMEN’S JUSTICE INITIATIVE

Case study



ENDING THE USE OF IMPRISONMENT FOR COUNCIL TAX DEBT IN WALES

A single mother and carer, Melanie Woolcock found herself unable to keep up with her council tax bills after losing her job. As a result, she was given an 81-day prison sentence. We challenged her imprisonment and she was released. Next we helped bring a judicial review challenge to the practice of sending people to prison for council tax debt. Judges found that the system was imprisoning people unlawfully.

As a consequence, all magistrates were retrained on the law. But we didn’t stop there. APPEAL supported Melanie in telling her story on Good Morning Wales and BBC Radio 4’s Woman’s Hour, reaching more than 4 million listeners. As a result of APPEAL’s campaign, Wales announced that it will no longer imprison people for owing council tax.

Case study



UNJUST SENTENCE HALVED FOR VULNERABLE & ABUSED MOTHER

“A” was convicted of harming her baby and was given a ten-year extended sentence because a judge had found her to be dangerous. APPEAL’s investigation found “A” to be a woman in crisis, with a severe PTSD diagnosis, who was struggling to raise two children and a new-born baby within a relationship so abusive one experienced psychologist described it as torture.

When she wrote to APPEAL she was representing herself as no Legal Aid funding was available, and was completely on her own. We supported her to appeal against her 10-year sentence. It was quashed and replaced with a 5-year one, in recognition of significant error in finding this vulnerable woman to be dangerous. We are using this case victory to argue for better fact-finding before sentencing.



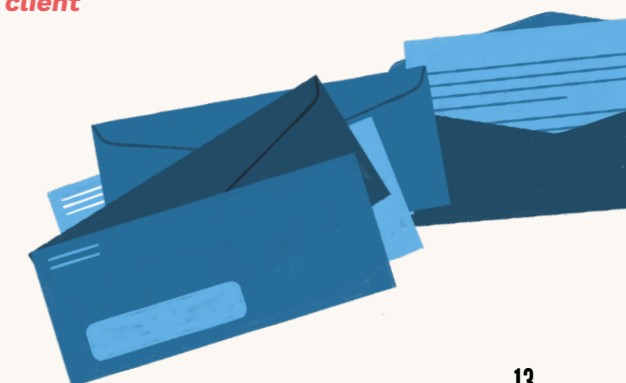
The appeal process is hard as it is, let alone for women who have endured suffering. It is much harder if you have suffered any abuse because abuse is not easy to speak out about, let alone then being asked to prove it.

‘A’, APPEAL client



Wrongful conviction wrecks lives. I’ve had to go through 4+ years of talking down the phone to my kids and my wife as she went through chemotherapy and then died of cancer, without me there helping and providing as a husband and father should. The sheer doggedness shown by my legal team at APPEAL is why our case got back to the Court of Appeal for a hearing and we finally get our chance to show we didn’t do it.

APPEAL client, who attended his wife’s funeral in handcuffs



WHAT NEXT?

OUR VISION FOR A FAIRER JUSTICE SYSTEM

WHAT NEEDS TO CHANGE

The criminal appeals system needs to be changed. Over the next five years we will be engaging in impact investigation, litigation and campaigning directed at achieving the following changes in policy and law:

ACCOUNTABILITY & TRANSPARENCY

- 1 More Legal Aid funding available for defence investigation for both trials and appeals
- 2 Full access to police files for the defence
- 3 Decisions about disclosure to be made by an independent agency rather than police and prosecutors
- 4 A complete transcript of trials to be provided for appeals at no cost when the prisoner cannot afford them
- 5 Accountability for poor defence representation at trial to be available on appeal

RECOGNITION OF VULNERABILITY & DIFFERENCE

We will push for reforms that recognise the disproportionate impact of our current criminal laws on vulnerable people, and advocate for the distinct needs of women in prison. This includes:

- 1 Abolishing the use of prison for debt
- 2 Reducing the use of short sentences for non-violent crimes, particularly for women
- 3 Recognising of the impact of poor mental health and experiences of domestic abuse in sentencing women to custody



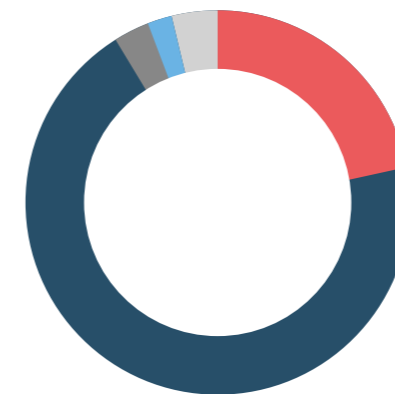
WHAT WE NEED TO CHANGE IT

Legal Aid is so restricted that it is not possible to do the work needed to challenge miscarriages of justice on a publicly-funded basis. Therefore we seek private grants and donations to support our work.

Over the last five years we have been supported by a small but committed group who have understood the devastating consequences of miscarriages of justice and the severity of the crisis in our criminal justice system. However, because criminal defence work until now has been the province of for-profit law firms, our charity model is new to many funders.

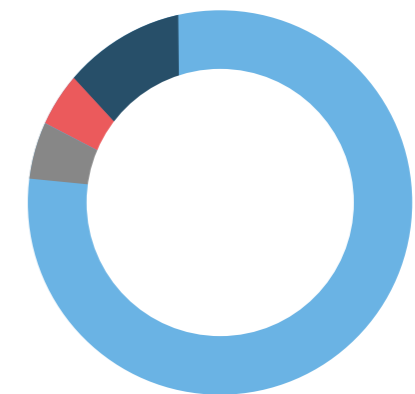
Any donation to APPEAL, whether a restricted grant, core funding, monthly giving, a legacy or a one-off individual donation, brings the people we represent one step closer to justice – and ensures that APPEAL will still be providing the evidence for the need for reform in years to come.

INCOME



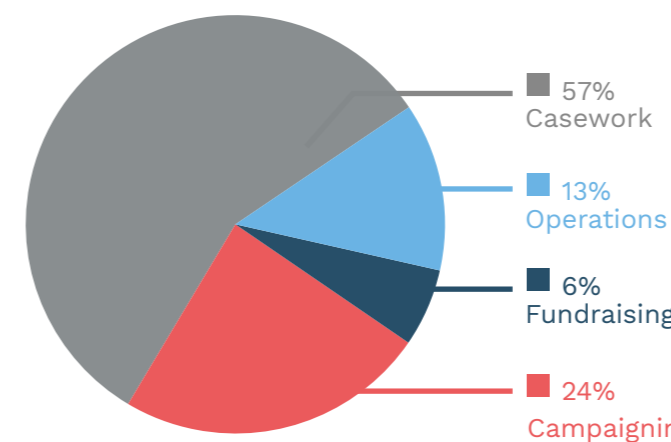
Source	£
Individual Donations	67,903
Grants	212,275
Gift Aid	10,525
Media Consultancy	3,000
Legal Aid	12,775
Total	306,478

EXPENDITURE



Item	£
Casework	172,978
Communications, campaigning and education	13,044
Bound by Injustice Family Support	13,026
General Operations	26,698
Total	225,746

OUR TIME



*Support costs, management and governance

*Figures are from 2018/2019

THANK YOU

Our work is only possible due to the faith and generosity of the people and organisations that donate money, time, expertise, goods and services to APPEAL.

FUNDERS:

AB Charitable Trust	Leathersellers Company
Access to Justice Foundation	Charitable Foundation
Allen Lane Foundation	Legal Education Foundation
Allen and Overy Foundation	Meadowbrook Trust
Clothworkers Foundation	Network for Social Change
Eleanor Rathbone Charitable Trust	Porticus
Evan Cornish Foundation	Rainmaker
Garden Court Special Fund	Roddick Foundation
Highway One Trust	Scurrah Wainwright Charity
Humanade	Shackleton Foundation
J Paul Getty Jr Charitable Trust	The Funding Network
Lankelly Chase Foundation	Unltd*
Laura Kinsella Foundation	WilmerHale
	Woodford Family Charitable Trust

UNIVERSITY PARTNERS:

Birkbeck, Birmingham, Cambridge, Cardiff, City, Essex, Lancaster, Manchester, Nottingham, Royal Holloway, Sheffield, Sheffield Hallam, and Swansea Universities.

CHAMBERS:

Brick Court, Carmelite, Doughty Street, 23 Essex Street, Garden Court, Garden Court North, Gough Square, Lamb Building, Matrix, Nexus, Pump Court, One Pump Court, and Red Lion Chambers

PRO BONO LAW FIRMS:

Dechert, Linklaters, Kingsley Napley, Latham & Watkins, Ropes & Gray, Sidley Austin, Simpson Thacher & Bartlett LLP, White & Case and WilmerHale.

EXPERTISE & TRAINING:

Compliance Office, BondSolon, Insight Investigations, Wallbrook, Bell Yard PR, UCL Centre for the Forensic Sciences, Sound Delivery, Lost Boys Detective Agency, Université de Lausanne: École des sciences criminelles and private experts in forensic and other sciences.

Our thanks to Lydia Fisher and Kirstin Smith, who designed this report. Our thanks also to Tim Kay and Lucy Bellamy who also supported the report's design.

APPEAL

APPEAL is governed by a Board of Trustees, all of whom are practicing barristers or solicitors, who oversee our finances and set strategic goals for the organisation. We also receive guidance from members of a broad-ranging Advisory Group of legal professionals, academics, experts, campaigners, former prisoners and other criminal justice stakeholders.

www.appeal.org.uk



THE GREEN HOUSE, 244-254 CAMBRIDGE HEATH RD
LONDON E2 9DA | MAIL@APPEAL.ORG.UK
OFFICE: 0203 559 6374 | WWW.APPEAL.ORG.UK
