

Fighting the wrongs of the criminal justice system





Impact Report 2021-22

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Who are APPEAL?



Mission

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

Aims & Objectives

We fight the cases of individual victims of unsafe convictions and unfair sentences who cannot afford to pay for a lawyer themselves. We provide not just legal representation but also thorough investigation and holistic support, neither of which are properly funded by Legal Aid. We use individual cases to advocate and campaign, informing the media, parliament, criminal justice policy makers and the public about how and why miscarriages of justice occur and what needs to change to stop them. We inspire the legal profession to take on this challenge and join us in fighting for change.

Vision

Our vision is a justice system in which people in England and Wales are at less risk of wrongful conviction or unfair sentencing and all such wrongs are righted as a matter of urgency.

Amplifying voices against miscarriage of justice

s the criminal justice system continues to throw fresh challenges our way, this year we've demonstrated that with a small but committed team working with determination, skill and agility, we can keep miscarriages of justice on the public agenda.

While the Court of Appeal continues to prop up a system that is inherently flawed, our relentless investigations combined with strong media partnerships can lead to victories in the court of public opinion. History shows that the media has a valuable role to play in exposing



miscarriages of justice and this year we're proud to have almost doubled our media outreach.

The last 12 months have also served as a reminder of the extraordinary power that can be found in the holistic support of those we represent.

After creating our Survivor
Advocate roles in 2021 and
organising a milestone reunion,
Bound by Injustice ('BBI'),
our peer-to-peer support and
advocacy group has entered
a new era. We're developing a
co-production model that
empowers members to use
their experience to drive our
reform efforts.

Thank you for continuing to support our fight against miscarriages of justice.

Emily Bolton

Founder & Director

eter, my dad (not his real name) was accused of an historic sex offence that he did not commit and spent six years in prison.

It was a huge shock when he was arrested and convicted. It made me physically and mentally ill. I was broken.

While my dad was in prison, he saw an advert for APPEAL and wrote to them asking for help in clearing his name. They took his case on and our journey to justice began. APPEAL fought for him when others wouldn't. Finally, someone was listening to his pleas of innocence. They investigated his case and



Peter and his daughter, who have to remain a nonymous for legal reasons. $\label{eq:constraint}$

discovered fresh evidence proving his innocence and flaws in his trial. We won in the Court of Appeal and his conviction was quashed in 2021.

APPEAL guides you through the incredible mess that is our so-called justice system. The team never give up. They are there if you want to just talk, they will answer questions honestly and don't overwhelm you with legal speak.

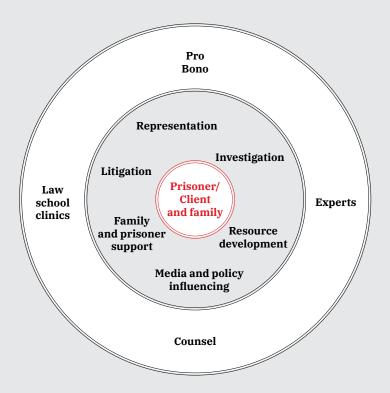
The justice system let us down but APPEAL didn't and for that, my dad and I will be eternally grateful.

PHOTO: BEN BROOMFIELD

How we work

e identify which cases we can fight through a rigorous screening process. We only represent people who cannot afford to pay for a lawyer and whose cases have the highest chance of success.

Our holistic representation model means we offer a multidisciplinary team to everyone whose case we take on and to their loved ones. Our goal is to mitigate the whole harm done by miscarriages of justice.

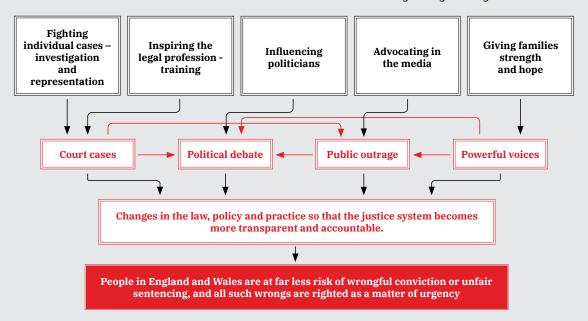


Theory of Change

Fighting the cases of those wrongfully convicted or unfairly sentenced is at the heart of our work.

These individual cases act as the spotlight we shine on the intrinsic flaws in the justice system.

The voices of victims and their families are vital in advocating for legal change.



Not guilty by association



APPEAL's Tara and Charlotte stand in solidarity with the grassroots campaigning group JENGbA at a rally in London in July 2021.

What is joint enterprise?

Joint enterprise is a common law doctrine that allows multiple defendants to be charged for a single offence. An area of law sharply criticised in recent years by liberal and conservative politicians alike, it leads to individuals on the periphery of an offence, or indeed with no involvement at all, being charged with extremely grave crimes.

Why does it lead to wrongful conviction?

Recent research from
Manchester Metropolitan
University highlighted the unique
injustices faced by women,
including that 90% of women
convicted under joint enterprise
engaged in no violence in
relation to the offence.

KATIE'S STORY

Our client Katie (not her real name) was charged with the murder of a friend after initially being treated as a witness. She had watched, petrified, while another teen from the neighbourhood beat the friend to death. Katie was eventually arrested due to what she states is a false statement given by her ex-boyfriend the day after their split. He had become increasingly controlling and had

told her she would "regret it" if she ended things.

At trial, there was no exploration of how a teenage girl, with significant history of trauma and abuse, might react differently to the average person after witnessing a fatal assault. She was convicted of murder under joint enterprise and given life with a minimum term of 17 years.

Katie is one of hundreds.
Statutory reform is urgently needed and has been recommended by the Westminster Commission on Miscarriages of Justice and through a Private Members Bill advanced by the campaign group JENGbA. APPEAL will continue to investigate and campaign on behalf of women like Katie to expose the injustices of this misapplied law.







Coerced then convicted



APPEAL client 'Jenny' during a photoshoot for the Mail on Sunday.

enny (not her real name) was convicted in 2017 of throwing her baby on the ground causing him serious injury.

At the time of trial, she maintained that she had dropped the baby by accident. In her appeal hearing in October 2021, she told the court that in fact the injuries suffered by the baby were the direct result of being punched in the head by her abusive partner whilst she was holding the child. Jenny described to the Court of Appeal how she was unable to tell the truth to the police and the trial court because she was afraid for her life and the safety of her family.

We presented corroborating evidence to the Court including contemporaneous medical evidence from the night in question suggesting that she was punched. The court also considered evidence from an expert psychologist that Jenny, who is from a Black and Minority Ethnic background, lived with abuse so severe that her experiences in the relationship

The judges agreed with what he always told me: that no one will believe me, that I'm crazy, that I should remain silent. I feel like I am no longer a survivor of domestic abuse but once again, a victim.



Jenny

were equivalent to "torture" that left her with PTSD.

In the ruling, Lady Justice Macur, Mr Justice Jay and Mr Justice Murray wrote:

"We accept that there is ample independent evidence of domestic violence having occurred within the relationship" and "we are also prepared to accept... that the applicant was punched." Despite this, they refused to quash her conviction, a baffling decision.

The case illustrates how far the authorities still have to go in understanding the complex issues involved in domestic abuse, including why a woman would delay in reporting.

APPEAL continues to seek avenues for justice for Jenny.



Andy's journey towards justice



APPEAL client Andy Malkinson.

ndy served over 17
years in prison for a 2003
rape that DNA evidence
now shows he did not commit.
APPEAL has found groundbreaking evidence of Andy's
innocence, including fresh
forensic analysis that detected
unknown male DNA in crimespecific samples taken from the
victim and her clothing.

Since his arrest Andy has steadfastly maintained his innocence. This led him to spend a decade longer in prison than he might have done had he admitted guilt.

APPEAL submitted his conviction

review application to the Criminal Cases Review Commission ('CCRC') in May 2021 and lodged further fresh evidence in March 2022.

Despite being crucial case exhibits, the clothing worn by the victim was unlawfully lost or destroyed by Greater Manchester Police – an issue that is now the subject of a formal complaint investigation.

Fortunately we discovered that samples had been retained separately by the Government's Forensic Archive, meaning there was just enough material to carry out new DNA analysis.

The trial that resulted in my wrongful conviction felt like a slow motion car crash - I just couldn't think of any way to stop it.



Andy

We also uncovered previously undisclosed evidence, which we were only able to obtain by taking the police to court, undermining the credibility of two key prosecution witnesses.

In discovering these crucial pieces of evidence, APPEAL has had to fight the system every step of the way. We are hopeful the institutions responsible will finally admit their mistakes and exonerate Andy.

SHOW US THE EVIDENCE



Crucial evidence is being lost and destroyed by police forces across England and Wales making miscarriages of justice harder to rectify. In an investigation by the BBC's File on Four, Andy Malkinson told his story.

Demanding the evidence



This year: We considered and responded to 498 requests for legal assistance made by or on behalf of people inside and out of prison 375 Men 123

We've submitted

121

individual requests for access to evidence including:

3 Freedom of Information on cases

10 post-conviction disclosure requests

103

subject access requests/requests for case papers from previous representatives

other evidence access requests

WE LITIGATE

This year:



individuals represented including bringing on 5 new clients (4 women, 1 man)

cases
brought
before the
Court of Appeal or European
Court of Human Rights

4

legal submissions filed with the CCRC, with 3 applications currently pending

judicial review successfully concluded against the police, with the force agreeing to disclose evidence and pay legal costs

3 & & & TV licence prosecutions halted

ninformation access complaints made to the Information Commissioner, with 2 successful and 4 still under consideration

interventions made on behalf of clients in relation to prison conditions





Generating public outrage

his year we secured media coverage largely in influential mainstream media outlets – radio, TV and podcasts – reporting from both sides of the political spectrum including in the Guardian, the Times and Sunday Times, the Sun, the Independent and the BBC.

2021/2022

We almost doubled our media coverage from the previous year, featuring in

broadcasts or publications across

19 media outlets

of these were on women's justice issues, four were podcasts

50k website visits over the year. More than 7k on our TVL FAQ page with an average of 6 minutes spent on page

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Newsletter subscribers up by 63% from last year

1,200 overall increase in social media following

SEVENTEEN YEARS: THE ANDY MALKINSON STORY



The Times published Seventeen years: The Andy Malkinson Story, a six-part investigative podcast hosted by Emily Dugan, an award-winning journalist.

It presents compelling DNA

testing results commissioned by APPEAL that point to another man as having committed the offence for which Andy Malkinson was convicted as well as vital evidence which the police failed to hand over at his trial.

It attracted 300,000 listens to the series across six episodes and an exceptionally high engagement rate. It was nominated for two major podcast awards in 2022 - the Publisher Podcast Awards and the British Podcast Awards 2022.

AMPLIFYING JENNY'S VOICE



We supported our client
Jenny in her first media
interview. The story was
published in the Mail on
Sunday - the biggest selling
Sunday paper - five months
before her Court of Appeal
hearing. Her story was also
featured in the Telegraph
and the Guardian.



Speaking truth to power

COMPENSATION FOR POST OFFICE VICTIMS

It is a common misconception that people that are wrongly convicted of a crime are entitled to compensation. In most cases, they are not. In May 2021, the All-Party Parliamentary Group on Miscarriages of Justice



Jo Hamilton speaking at the APPG

(supported by APPEAL as the group's secretariat) hosted a panel event on the scarcity of government compensation for miscarriage of justice survivors. The event, hosted by Bob Neill MP, featured Jo Hamilton, one of the sub-post mistresses who had her wrongful conviction overturned in the recent Post Office appeals as well as her solicitor Neil Hudgell. The panel also featured academic Dr Laura Tilt and Jodie Blackstock, the former Legal Director of JUSTICE who provided evidence in support of Victor Nealon and Sam Hallam's case before the Supreme Court.

OUR INFLUENCING



parliamentary questions tabled

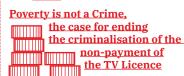


Government consultations responded to:

3 on women and girls in the criminal justice system

4 on law reform including open justice and legal aid

policy briefings published:







Destroying the Evidence, the case for retaining Trial Audio Recordings and Providing Trial **Transcripts**



Freedom of Information requests made



open letters to the government

signed and 1 authored



We've spoken at events including on wrongful conviction policy reform, racial injustice and women in the criminal justice system.

COLLABORATIVE CAMPAIGNING

'Suspend TV licence fines that hit most vulnerable'



In March 2022 APPEAL and an alliance of other lawyers, academics and campaigners wrote an open letter to the government to suspend all enforcement action by TV Licensing pending the outcome of the BBC's Gender Disparity Review, set to be finalised in 2022. It was picked up by the Daily Express.



The criminalisation of poverty

he majority of women who are criminalised are severely disadvantaged. Many are living with serious challenges such as mental health problems, poverty or abuse. Criminalising women rather than

addressing their underlying needs is not just cruel but ineffective.
One arm of our Women's Justice Initiative focuses on representing women who are criminalised as a result of poverty. This year, when inflation is at a 40-year high and

the UK has just experienced the worst decade for living standards since records began, we have doubled down our efforts to decriminalise the non-payment of the TV licence. After all, poverty is not a crime.

A FEMINIST ISSUE



Most TV Licensing cases are heard in private, frequently without the participation of the defendant, meaning many people are convicted without even knowing.

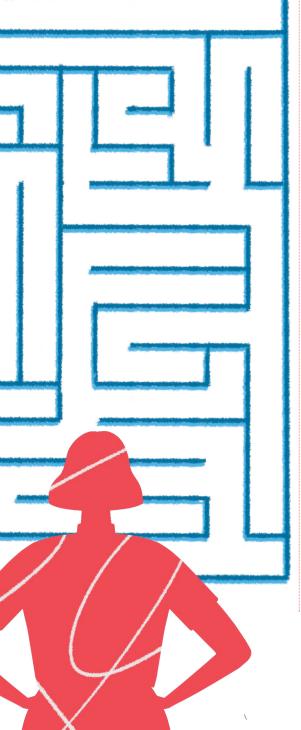
71%

don't respond/have their case heard without their input.

CARLA'S STORY

Our client 'Carla' (not her real name) was facing charges for not paying her TV Licence, despite making multiple attempts to do so. APPEAL made representations on her behalf to TV Licensing that it was not in the public interest to charge her for this offence. TV Licensing agreed and dropped the charges.

We then worked with the Public Law Project who represented Carla in threatening to bring a judicial review of TV Licensing's discriminatory policies. In response, TV Licensing agreed to conduct a fresh Equality Impact Assessment into the gender disparity, a significant campaign victory. Her story was picked up in the Times.



Bound by Injustice reborn

he impact of wrongful imprisonment extends far beyond the prison walls. Family members, friends and loved ones feel like they are serving time too, but on the outside. With Bound by Injustice, our peer-to-peer support and advocacy group, they are no longer serving time alone.

Here you can be yourself.
On the outside I tend
to keep how I feel and
what our family is going
through to myself as I
can't take people's
judgement. At BBI you
can be open.



Katie Pinto, wife of our client David Pinto.

Bound by Injustice ('BBI') brings together wrongfully convicted people and their families. This year we took on two new team members to work with them – Cath and Sue, our Survivor Advocates. They have increased our capacity to provide holistic support and will ensure those with lived experience become a core part of our policy and campaigning work.

After three long years over the pandemic, the BBI community were finally able to reunite in



Cath and Sue, our Survivor Advocates.

person in 2022. Our offices in London were magically transformed from a law office into a sanctuary for survivors of miscarriages of justice to connect, share, laugh and brainstorm.



The BBI reunion in April 2022.

A safe place to share

ntil I attended the first Bound by Injustice ('BBI') event at Ropes & Gray in March 2019 with two of my children, I didn't really know what to expect from the peer-to-peer support group.

I remember walking into the room and being amazed that this had been laid on just for us, by people who had been working away so hard to support our loved ones' cases. They wanted to help us, the families, too, and that was an empowering feeling.

We had never met the other BBI members before and we were all from different walks of life but we didn't need to explain anything to anyone. Everyone was there for the same reason. We were 'bound by injustice' and needed to have the opportunity to share how this felt.

I was most affected by the reaction that our children had to being with other young people in a similar situation to them - they felt safe to share experiences without judgement.

Bound By Injustice offers all members a safe place to share joy, sadness, encouragement, success and losses. It made a huge difference to me and my family.



Sue Beere, wife of our client Jon Beere, one of the Freshwater Five The activities helped us to work through our emotions and make new friends and support groups which we hadn't had before. It made such a huge difference knowing that there are others who also receive nasty comments, are judged by others, feel isolated and desperate. We all gathered strength that day and sitting in that office, we felt special.

Sue



Our powerful community of supporters

e can punch above our weight thanks to the generosity and expertise of our partners.

Commercial lawyers working pro bono help us to ensure we offer wrongfully convicted people the depth and breadth of investigation and litigation that their cases so urgently need.

As well as increasing our capacity, our pro bono scheme helps raise awareness of the problems in the justice system.

We also want to inspire the next generation of social justice lawyers. We work with university law departments to offer specialist training to aspiring solicitors and barristers. We are hugely grateful to the eight law firms and three universities (listed on page 19), and the numerous barristers, who have partnered with us this year.

OUR PRO BONO SOLICITORS TOLD US

agreed that this had increased their awareness of errors and unfairness in the justice system

92% said their pro bono work made them want to do more work to overturn and prevent miscarriages of justice

said working with APPEAL had helped them to develop their professional skills

University Partnerships

21
training sessions

25 students, trained During my time working with APPEAL I have been opened up to so many truths and realities about the criminal justice system that I would have never otherwise discovered. APPEAL's director Emily is so passionate and truthful and I feel very inspired by her and the whole experience

66Student,

Nottingham University

Working on real life criminal cases with APPEAL is an excellent way for students to develop vital legal skills; from case management and research skills to analytical and drafting skills.

Driving cases forward

great example of pro bono collaboration is the legal team working on the case of Andy Malkinson. The case (which you can read about on page 7) has benefitted immeasurably from the commitment of pro bono lawyers. Between them, our partners Ropes & Gray and Latham & Watkins have contributed almost 2.500 hours to the case, with over 60 lawyers getting involved - and we're delighted that Mishcon de Reya has also recently come on board. Andy also benefits from the expertise of barristers Max Hardy of 9 Bedford Row and Edward Henry QC of Mountford Chambers.

VITAL WORK



Ropes & Gray's
lawyers conducted
comprehensive legal
research on the Court
of Appeal's treatment
of fresh DNA evidence,

which meant Andy's new CCRC application contained supportive caselaw;



Latham & Watkins' team have assisted in drafting complaint submissions that are helping APPEAL

hold the police to account over their unlawful failure to retain evidence in Andy's case and for not disclosing crucial evidence at his trial;

Mishcon de Reya
personnel have
conducted analysis to
help APPEAL in assessing
the significance of new
documents recently
handed over by the police.



Many of us chose law as a profession because we want to make a difference - to right the wrongs in society. Andy's case is as appalling as it is compelling, and has been an enormous privilege, both professionally and personally, to work on.

66

Amanda Raad,

Partner, Ropes & Gray

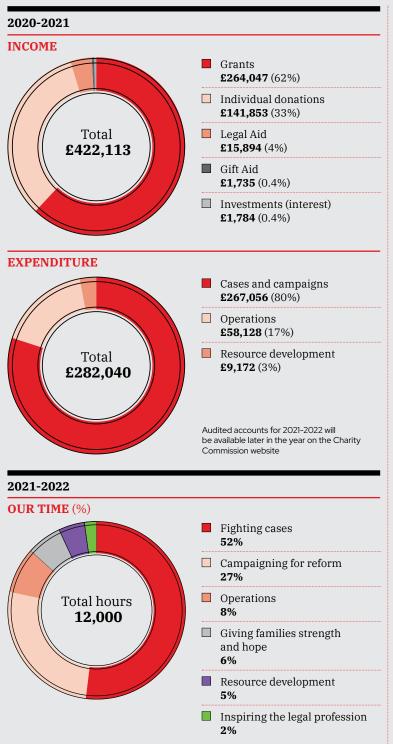
The shared sense of outrage and frustration at Andy's situation has served as exceptional motivation for everyone and it has pushed us all to be better lawyers so that we can advocate for the right outcome. We are already taking the skills we have honed on his case and utilizing them on other APPEAL matters and will continue to support this vital work with enthusiasm for as long as it takes.

66

Mair Williams,

Senior Associate, Latham & Watkins

Our finances



o criminal justice system is perfect. However, as a practising criminal defence barrister, I have seen first hand how the government has simply abandoned the criminal justice system. It is inevitable that a neglected system leads to miscarriages of justice.

A wrongly convicted individual requires considerable resources to right the wrong - they cannot do it alone. A legal team must review the trial process and conduct factual investigation to find the 'fresh evidence' which unlocks the door to the Court of Appeal. Abysmal rates of pay for criminal appeal work and prohibitive bureaucracy mean that dedicated publicly-funded specialist appeal lawyers are few and far between.

APPEAL holds a Legal Aid contract purely for criminal appeals work. However, Legal Aid funds make up a paltry 4% of our income as a charity as it is available in only very limited circumstances. It is only thanks to funders who share our vision and commitment that we are able to fight for a fair justice system. Every donation is vital in continuing this battle.

) Hit

Joe Hingston Chair

Aims for 2022-23

With the help of our supporters, this year we will continue:

FIGHTING INDIVIDUAL CASES

We will expand our casework team.

We will assess the cases of at least 150 prisoners who write to us, and provide them with individual responses.

We will provide holistic representation to at least 20 people whose convictions we believe to be unsafe or whose sentences we believe to be unfair.

ADVOCATING AND INFLUENCING

We will focus on securing a parliamentary review of the 'real possibility test' – the CCRC's referral threshold. This was recommended by the Westminster Commission on Miscarriages of Justice in 2021.

We will campaign to ensure that TV Licensing stops prosecuting those who are living in poverty or who are otherwise vuinerable, especially during the cost-of-living crisis.

We will continue to highlight the failings in disclosure of evidence in criminal cases.

We will campaign for audio recordings of trial to be retained for longer than the current seven year time period, and for access to free trial transcripts for indigent appellants.

TACKLING STRUCTURAL INJUSTICE

Women's Justice Initiative: We will represent women convicted of offences that arose directly from domestic abuse or coercive control.

Racial justice: We will launch a research project exploring the links between non-unanimous jury verdicts, wrongful convictions and racial justice.

GIVING FAMILIES STRENGTH AND HOPE

We will continue providing one to one support for our clients

and their families through our Survivor Advocates.

We will hold at least two in-person retreats for the Bound by Injustice community with peer support and community-building goals. We will start to develop a co-production model to ensure the expertise of the BBI community becomes integral in our representation and campaigning.

INSPIRING THE LEGAL PROFESSION

We will strengthen and expand our partnerships with universities and law firms.

We will train and supervise a further 30 lawyers and 30 students on our cases.

We will strive to ensure that more than half of students we work with reconsider their career choices and how they could contribute to ending and overturning miscarriages of justice.



Staff and trustees



Sue Beere Survivor Advocate With Cath Snow. Sue supports Bound by Injustice, a group made up of the

families of clients and former prisoners. Sue has both professional and lived experience of the harm caused by wrongful convictions.



Tara Casey Women's Justice Caseworker Tara works on the Women's Justice Initiative, dealing with the

cases of women seeking representation from APPEAL and campaigning against the criminalisation of poverty.



Naima Sakande **Deputy Director** and Investigator Naima supports Emily in leading APPEAL. She oversees

communications and case investigation for criminal appeals on behalf of women with histories of domestic abuse and mental illness.



Emma Torr Legal Director and in-house barrister Fmma oversees the casework at APPEAL and

represents clients

who have suffered serious miscarriages of justice, working to overturn convictions through the CCRC and ultimately the Court of Appeal.



Emily Bolton Founder and Director

Emily leads APPEAL, overseeing all our work as well as her own cases.

She is a practising solicitor in England and Wales and was an attorney at law in the State of Louisiana.



Lizzie Norton Trainee Solicitor Lizzie works on wrongful conviction cases before the

Criminal Cases

Review Commission and the Court of Appeal as well as complaints against the police.



Cath Snow Survivor Advocate With Sue Beere. Cath works to support Bound by Injustice. Together they

develop opportunities for BBI members to share their experiences of miscarriages of justice and campaign for change in the criminal justice system.



APPEAL is governed by a Board of Trustees, all of whom are practising barristers or solicitors, who oversee our finances and set strategic goals for the organisation. In 2021-22 they were Joe Hingston (Chair), Christopher David and Adeela Khan. We also receive advice from a broad ranging Advisory Group which includes people with lived experience of miscarriages of justice.



James Burley Investigator

Through obtaining records, interviewing witnesses and engaging forensic experts, James

uncovers fresh evidence needed to challenge wrongful convictions.



Lindsay Owen Resource

Development Associate Lindsay builds and maintains relationships with

supporters who believe in our work from universities and commercial law firms, to charitable foundations and individual philanthropists.



Charlotte Threipland Communications and Policy Lead

Charlotte uses the systematic injustices exposed by

our casework to build awareness of miscarriages of justice among the media and policymakers and drive forward APPEAL's campaigns.



Thank you from APPEAL



ur work is only possible due to the people and organisations who donate time, money, expertise, goods and services to APPEAL. These are some of those who partnered with us in 2021-22.

GRANT-GIVING ORGANISATIONS

Big D's BBQ Eleanor Rathbone Charitable The Evan Cornish Foundation The Highway One Trust Humanade J Paul Getty Jr General Charitable Trust Lankelly Chase Foundation Laura Kinsella Foundation The Legal Education Foundation Lloyds Bank Foundation The Meadowbrook Trust The Persula Foundation The Network for Social Change The Roddick Foundation The Woodford Family Charitable Trust

LAW FIRMS WORKING WITH US PRO BONO

Debevoise & Plimpton LLP

Dechert LLP
Gibson, Dunn & Crutcher LLP
Latham & Watkins LLP
Linklaters
Mishcon de Reya LLP
Ropes & Gray LLP
Partners of Simpson Thatcher &
Bartlett LLP
WilmerHale

UNIVERSITIES

City University Nottingham University Sheffield Hallam University

CHAMBERS

9 Bedford Row
Doughty Street
Garden Court
Lamb Building
Libertas Chambers
Matrix Chambers
Mountford Chambers
No 5 Chambers
One Pump Court

EXPERTS AND SPECIALIST ORGANISATIONS

Bell Yard Communications
Compliance Office
École des Sciences Criminelles,
Université de Lausanne
Leigh Day Solicitors
Lost Boys Detective Agency
Public Law Project
Ross Patel Afentis
UCL Centre for the Forensic
Sciences

We would also like to thank all our supporters who wish to remain anonymous.

Thanks also to the creative professionals who donated their time and skills to produce this report:

Sophia Spring, photographer, @sophia_spring_photography Ben Broomfield, photographer, @photobenphoto

Credit also goes to: David Grant, report designer and Kirstin Smith, illustrator



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6-8 Amwell St (First Floor), London, EC1R 1UQ

Telephone: 020 7 278 6949 Email: mail@appeal.org.uk

www.appeal.org.uk