







Righting the wrongs of the criminal justice system

Impact Report 2020-21

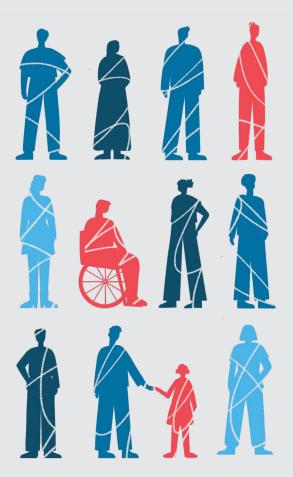




Impact Report 2020-21

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Who are APPEAL?



Mission

APPEAL is a charity and 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, little of which are funded by Legal Aid. We use individual cases to advocate and campaign, influencing 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 far less risk of wrongful conviction or unfair sentencing and all such wrongs are righted as a matter of urgency.

Fighting miscarriages of justice in a tumultuous year

020-2021 was a rollercoaster for APPEAL, as for so many organisations. The prisoners we represent were some of the worst affected as the justice system, on its knees due to years of neglect, buckled even further. Conditions in prisons were lonely and frightening, and our team focused on supporting prisoners through this difficult year. Getting two cases to the Court of Appeal despite the pandemic felt like a miracle, and victory in one of those cases vindicated our efforts.



The judgment upholding the Freshwater Five convictions, in our most high-profile case to

date, was an indictment of the appeals system, and you'll read more about it in this report. After a tumultuous year, the resilience of the prisoners we represent, and their families, and the loyalty of our supporters, are our constant inspiration. We fight on.

Emily Bolton Founder & Director

ince I was 7, my dad has been in prison for a crime he did not commit. He has not been home for 10 years. As his family, we were made to feel small and irrelevant as we knew nothing about the law. For years after his conviction, we floundered around trying to make the "system" correct its mistake.

It was only when dad's case was taken up by APPEAL that we were finally actually heard. APPEAL represents my dad – but they also represent my family in a whole different way, hooking us up with other families going through the same experience and supporting us to

PETER FLUDE

PHOTO:

tell my dad's story to the world. I have met other young people and their families who have all been impacted by having a loved



Maisie Beere (far left) alongside her mum Sue and brother Flynn.

one in prison. I have been an advocate for the charity and have helped run sessions with younger children to help them understand the situation they face.

Working with APPEAL has sparked a flame inside me, to one day be like the lawyers there, to help people lost in the "justice" system. At APPEAL they joke that "Maisie is coming for our jobs" – they are right! But this is not a dream for me. What APPEAL does is to provide a route out of a nightmare.

Maisie Beere Daughter of Jon Beere, one of the Freshwater Five

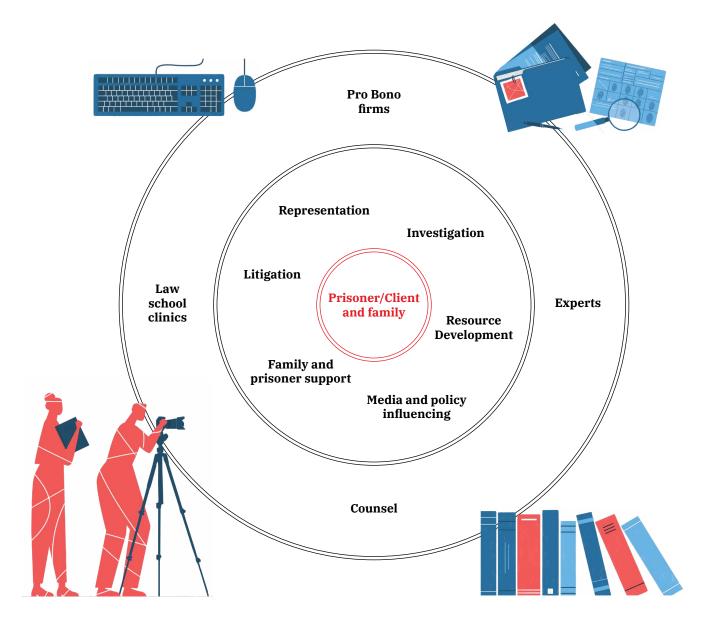
How we work

e identify which cases we can fight through a process of rigorous screening of the applications we receive from prisoners and their families.

We investigate promising cases alongside pro bono firms and law schools. We only represent those who cannot afford to pay for a lawyer and whose cases have the most chance of success. Our lawyers bring cases to the Court of Appeal, the Criminal Cases Review Commission and the Administrative Court on behalf of victims of miscarriages of justice.

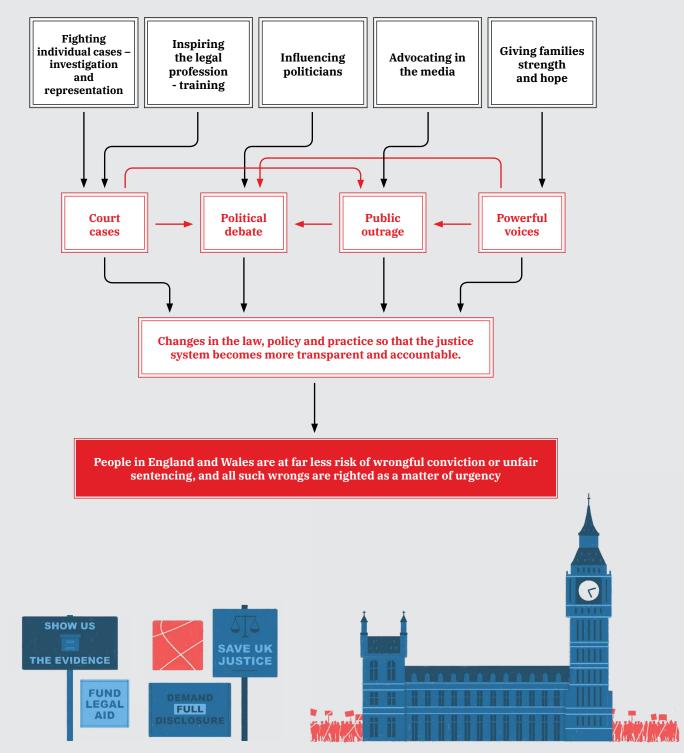
Our holistic representation model means we offer a multidisciplinary

team to everyone whose case we take on and their loved ones. Our goal is to mitigate the whole harm done by miscarriages of justice, not just in the courts, but through challenging prison and licence conditions, a welcoming peer support group and through providing opportuities for public advocacy for those with lived experience.



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 families are vital in advocating for legal change.



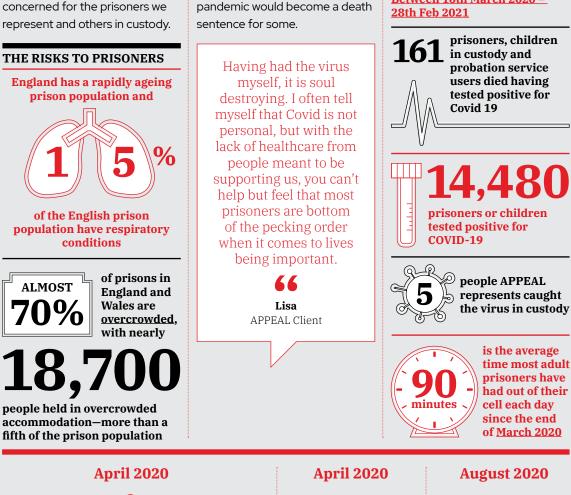
Covid-19: The justice system at breaking point

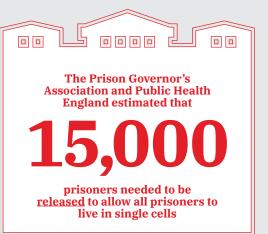
environments for the rapid spread

of the virus and we feared the

Prisons are high-risk

hen the Coronavirus crisis hit, APPEAL was immediately concerned for the prisoners we represent and others in custody.





Justice Secretary **Robert Buckland** announced that up to Only prisoners were ever released under the prisoners in **England** and Wales would

THE IMPACT OF THE

PANDEMIC IN PRISONS

Between 16th March 2020 -



scheme, discontinued in August 2020



low-risk

be allowed

out early

Advocating for prisoners during the pandemic

e called on the government to urgently release a proportion of the prison population to protect prisoners, prison staff and local community NHS systems from the dire

impact of a concentrated outbreak of infection in a prison. Alongside our pro bono law firm partners, Linklaters, APPEAL worked quickly to provide information for those supporting people in custody during the pandemic. We created template letters for loved ones and lawyers to help prisoners access healthcare, request compassionate release, and demand access to confidential legal advice.

APPEAL CAMPAIGNS IN THE MEDIA



"Inmates to be let out early as coronavirus threatens prisons"

Marion Devine, mother of APPEAL client Lizzie Donoghue, and Sue Beere, wife of APPEAL client Jon Beere, both spoke to Channel 4 news about what it was like supporting a loved one in prison

during the pandemic. Marion talked about her fears for her daughter in custody. "I can't make an appointment, there's no visitors. I asked her is there any virus about, are you alright? I said to her please be careful. I don't want to lose her".

Daily Mail "Calls to release non-violent prisoners locked up on remand as coronavirus postpones trials longer than three days - while

lawyers warn of backlog of 33,000 cases."

APPEAL's Director Emily Bolton highlighted our plea to free a section of the total British prison population to avoid exposure to the virus. She said, "In this country, a prison sentence is supposed to be a deprivation of liberty; not a death sentence. Prisoners are part of families and our community, and those families and communities are desperately worried about their loved ones behind bars."



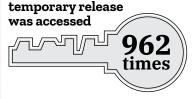
"Prison sentences should not turn into death sentences: How APPEAL is leading a fight to protect prisoners in the UK from COVID19"

Live Law India featured APPEAL's effort to combat the pandemic in the UK, highlighting our campaigning for measures to protect the mental health of those who remain behind bars, who are far more isolated than those of us in the free world.

PROVIDING INFORMATION







Justice at last: Peter's conviction quashed



The justice system let us down, but APPEAL didn't

> **66** Peter's daughter



Peter and his daughter

eter's conviction for historic sex offences was auashed in the Court of Appeal in 2021 (we cannot give his real name or the date of this victory due to reporting restrictions). He had fought to clear his name from the moment he was convicted, seeking legal advice from numerous firms of solicitors. Due to the constraints of Legal Aid, no lawyer was able to devote enough time and resources to properly investigating his case. Then he found APPEAL.

We took on Peter's case and after a thorough screening process, followed by in-depth investigation and analysis, we were able to uncover fresh evidence robust enough to take to the Court of Appeal. We had to fight every step of the way to obtain the evidence we needed. Of the 948 hours the APPEAL team spent on the case, less than 1% of that work was actually funded by Legal Aid.

WHAT IT TAKES TO WIN

5YEARS of commitment to the case by APPEAL's lawyers, investigators and pro bono barrister





Justice denied: the Freshwater Five



Maisie Beere, Jess Green, Danny Payne, Scott Birtwistle and Nicky Green, outside the Royal Court of Justice during the hearing of the case

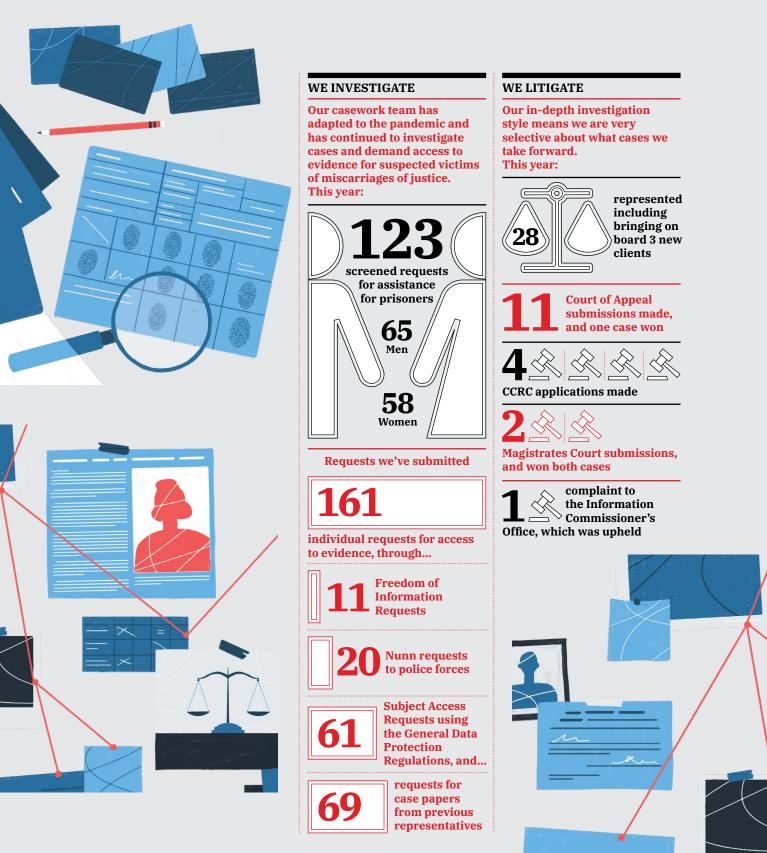
PPEAL took the case of Jon Beere and Danny Payne, two members of the 'Freshwater Five' – all of whom maintain their innocence of a £53m cocaine smuggling plot – to the Court of Appeal in February 2021. (The other three members of the Five had already lost exhausted their opportunities to appeal). Judges considered

fresh expert evidence, uncovered by APPEAL, which undermined the prosecution's case against the five men that they conspired to use a fishing boat to collect drugs from a containership in the English Channel and later deposited them in Freshwater Bay. The 'Freshwater Five' had been sentenced to a total of 104 years' imprisonment in 2011 after being convicted by an 11-1 majority jury verdict. Troublingly, their convictions were upheld despite the Court of Appeal finding that a failure to disclose evidence at their trial "should not have happened". In its judgment, the Court of Appeal said of this disclosure failure that the prosecution expert made a "serious and surprising mistake".

These men are innocent and have collectively spent decades in prison for a crime they did not commit. They have missed births, the deaths of close family members, and countless other irreplaceable family moments while our so called 'justice' system has kept them kidnapped behind bars. The five men and their families would like to place on record their sincerest thanks to the legal charity APPEAL for their relentless work, and for walking through this nightmare alongside us. Once the dust has settled, we will be back fighting for this horrific miscarriage of justice to be overturned.

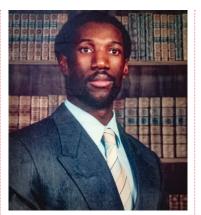
Statement by The Freshwater Five families

Demanding the evidence



Alvin: The English death penalty

fter spending over two decades in prison for two murders for which he steadfastly maintained his innocence, Alvin died in custody in 2019. In 1997 Alvin, who was black, was convicted of shooting a tourist during an armed robbery despite witnesses describing the gunman as white. Subsequently, tests undermined the forensic evidence presented at his trial casting significant doubt on Alvin's participation in this offence.



More than three years into his life sentence, Alvin was convicted

of another murder, with prosecutors relying on expert testimony which the CCRC later described as flawed. APPEAL has now presented the CCRC with compelling fresh evidence, including expert reports undermining fingerprint evidence which was central to the prosecution's case in relation to both murders. Along with Alvin's family, APPEAL remains determined to posthumously clear his name.

Andy: Steps towards freedom



ndy was released from prison in December 2020 having served over 17 years for a stranger rape he did not commit. Through hard-won battles to get access to crucial evidence, including taking the police to court, we discovered vital information, undermining the credibility of key prosecution witnesses, which had not been available to the original jury. Having persuaded the police to allow new forensic analysis, we commissioned tests which detected unknown male DNA in crime-specific areas, including the fingernail scrapings from the hand the victim said she used to scratch the attacker's face. Armed with this compelling new

evidence that another man was responsible, we are applying to get Andy's case back before the Court of Appeal. We are determined to see Andy exonerated and the system which led to his wrongful imprisonment denounced.



"Andrew Malkinson: I'm walking free THE SUNDAY TIMES after 17 years — now to clear my name"

Generating public outrage

e have secured media coverage on both sides of the political spectrum, including in

print, on the radio and TV and in podcasts. We have also supported many of the people that we represent in talking to the press.

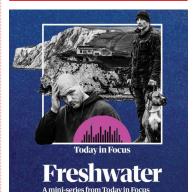
APPEAL'S MEDIA COVERAGE

We have featured in 24 broadcasts or publications across 13 media outlets from both sides of the political spectrum, and at local and national level.

A.	Live Law _{ir}
The Justice Gap.	WIRED
IHUFFPOSTI	THE MALE TIMES
Guardian	yahoo!
DailyanMail	BBC
EveningStandard.	County Press
islandecho	







<u>A Guardian article featuring the</u> <u>Freshwater Five produced the</u> <u>highest level of engagement, and</u> <u>was shared more than 3.5k times</u> <u>on social media.</u>

The Guardian's Today in Focus six-part podcast, going into depth on the Freshwater Five case, attracted more than a million listens and was number one in the current affairs podcast charts.

OUR SOCIAL MEDIA

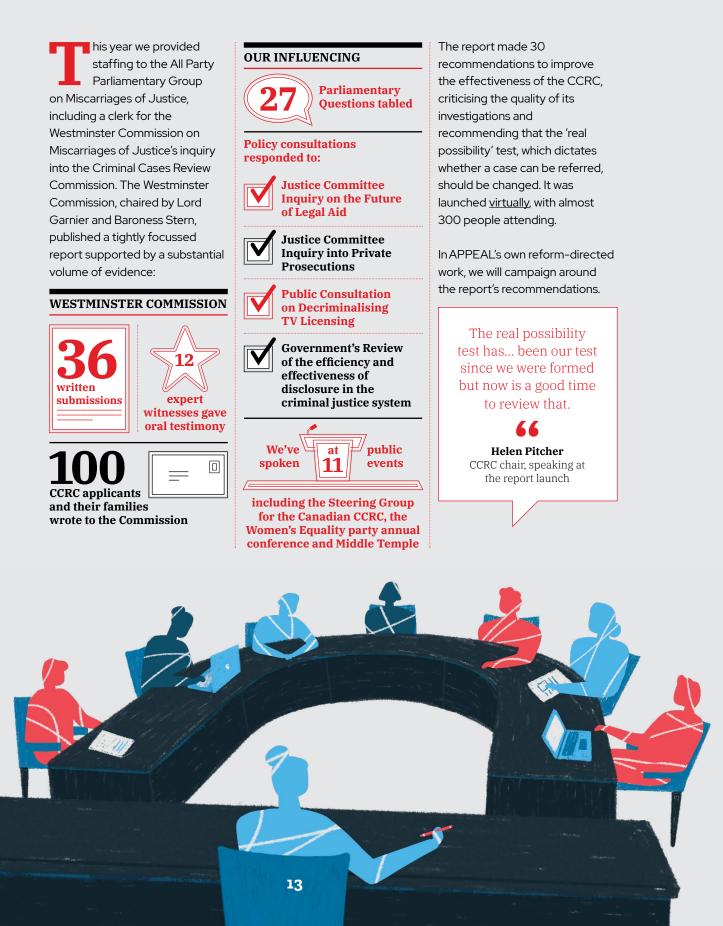
Instagram followers







Campaigning in Parliament



Women's Justice Initiative: Why women?

omen in prison are a highly vulnerable group, many of whom need not be there at all. We need

a justice system that is responsive to the root causes of crime and seeks to rehabilitate women. rather than torpedo their lives.

had

had had

O a drug or

alcohol addiction (

experienced domestic abuse

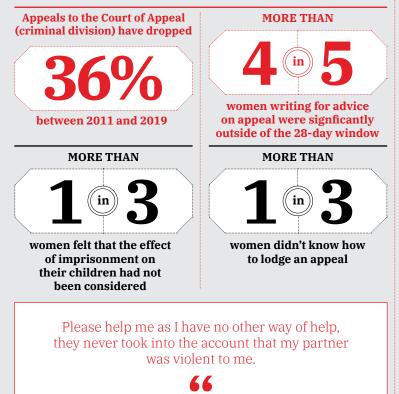
ASSISTANCE REQUESTS

Of the women that wrote to us for assistance this year:



IDENTIFYING BARRIERS

There had been no prior research of women's experiences of appealing, so we conducted an 18-month research project, funded by the Griffins Society and hosted at the Institute of Criminology at the University of Cambridge, to identify the barriers faced by women seeking to overturn unsafe convictions or unfair sentences in the Court of Appeal.



Woman writing to APPEAL from prison

I suffered domestic abuse from my partner and was told nobody not even the judge would believe me. Woman writing to APPEAL from prison



Why TV Licensing prosecutions are a feminist issue

omen account for 73% of TV Licensing prosecutions, despite making up only 49% of licence holders. Magistrates' Court reforms have meant that most TV Licensing cases are heard in private, frequently without the participation of the defendant, leaving many people convicted

without them even knowing. APPEAL is committed to ending this discriminatory and criminalising system of debt enforcement.

OLA'S STORY

Ola (not her real name) was a young student when enforcement officials called at her family home. Her name was on the TV licence because her parents didn't speak English. Her own language skills meant she struggled to use online systems to enter a plea, and her attempts to contact TV Licensing were unsuccessful.

The family moved house and Ola then did not receive the offers of an out-of-court disposal, sent to the old address. She contacted us when she opened a letter informing her she had been convicted in her absence. We were able to make a strong case to the Magistrates' Court that Ola's case should be re-opened, and to TV Licensing that charges should be withdrawn against her. We were successful on both counts.

It felt really horrible. I had tried to be clear with the Enforcement Officer that I pay all my bills. When I got the letter telling me I was being charged with not paying, I got very depressed. When I told my friends about it they said it would not look good for me for jobs in the future. I was also worried if it could affect my immigration status. Before I contacted APPEAL, I found the process really, really confusing.

Ola

The SINDEPENDENT

"It caused me big stress: U-turn on plans to decriminalise non-payment of TV licence fee 'will disproportionately hit women'" Two women APPEAL supported to challenge their TV licensing prosecutions spoke about their ordeal. Khadija (not her real name) told the Independent 'It caused me big stress. To the extent that now when someone comes to the door, I think something will happen. I have now started to see things differently.' Fortunately, we were able to help stop her prosecution from going ahead."



APPEAL is a founding member of the "Is it a crime to be poor" alliance committed to challenging the criminalisation of poverty.

Bound by Injustice

ur peer support network, named Bound by Injustice by the participants in recognition of the unfortunate bond which unites them, brings together families of wrongfully convicted people, as well as innocent people who have served prison sentences. People whose loved ones are in prison for crimes they didn't commit often tell us that they feel like they are serving their loved one's prison sentence alongside them, wracked with anxiety about their wellbeing, missing their support in daily life, as well as in difficult times such as illness and bereavement. At the same time, they often want to use their voices to speak out against the system which has failed their loved one and advocate for change.

I have felt real support and reassurance since joining the Bound by Injustice Group. I had endured the miscarriage of justice dealt to my son for last 18 years alone. I can now share any concerns and worries I encounter with people in a similar situation to my self and my son.

> Trish, member of Bound by Injustice



Image: Abigail

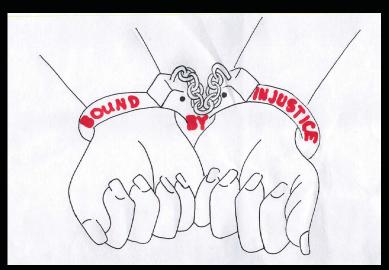


Image: Cookie, BBI member

This year our usual face-toface retreat was replaced by a series of virtual Healing Circles, run by a specialist partner, Healing Justice. These online workshops brought victims of miscarriages of justice and their loved ones together work through their trauma and begin to heal. The programme is still ongoing; in 2020-21 we held 6 Circles, with 30 participants.

Helen: Building Confidence

elen and her siblings were just teenagers when their mum Lizzi was wrongfully convicted of killing their stepdad, James. Lizzi was sentenced to life with a minimum term of 30 years. Helen was a founding member of BBI and found it comforting to connect with families in similar situations. She says the group has given her the confidence to speak out and act on the determination she has always felt to see justice for her mum and others like her.

With APPEAL's support, Helen has already spoken at a number of Parliamentary events and is now hoping to find a job where she can channel her passion to help support families in similar situations and work for a fairer justice system.



Fighting a miscarriage of justice is one of the hardest and loneliest journeys anyone will have to walk but since being with APPEAL and a member of the BBI family I have grown in strength and confidence. With their guidance and support we are not walking this journey alone.



We cannot extract casualties of justice alone

said

of the often

"

Niki,

Mitchell,

working

with us

t APPEAL we punch 2020-21 above our weight. This is thanks not only to the held with increased their professional tenacity of our small core staff 30 h university skills and 92% said it increased team, but also because of the partners students training their knowledge. and generosity and expertise of our session trained partners. Qualified commercial Working at APPEAL solicitors working pro bono, and All the students who provided me with law students from a diverse range replied to our survey first-hand experience rated the training of universities, help us to ensure course Very Good that we offer wrongfully-convicted unsurmountable or Excellent people the depth and breadth of challenges faced by investigation and litigation that prisoners maintaining their innocence. their cases so urgently need. training As well as increasing our capacity, sessions run by providing specialist training and with pro exposure to cases, our pro bono bono firms who joined us on secondment scheme helps raise awareness of from law firm Sidley Austin solicitors the problems in the justice system trained to fight and inspire more professionals to miscarriages fight for change. of justice I believe that my time We are hugely grateful to the 9 working with APPEAL law firms and 3 universities, listed will now forever on page 23, who have partnered determine the direction of solicitors with us this year. surveyed of my legal career in the rated their hope that I am able to experience with us as excellent. prevent even just one and the remainder rated it wrongful conviction very good. from happening. Sheffield Hallam University

PRO BONO SPOTLIGHT

Linklaters: Driving cases forward



Linklaters is one of our most ardent corporate partners. Since coming on board as a key screening partner five years ago,

LINKLATERS HAS

8,000 plus hours dedicated to working with APPEAL



In 2020-21, Linklaters stepped up their support in recognition of the effects of the pandemic on prisoners and their families.

CRITICAL FRESH EVIDENCE UNCOVERED IN A MURDER CASE

A Linklaters screening team of 10 associates and trainees, supervised by two partners, are supporting the investigation of a murder case. In addition to visiting the prisoner on multiple occasions and providing excellent updates to her on the work, their investigation has made considerable progress. The team uncovered evidence that the prisoner was the victim of a coercive relationship, previously unexplored at trial.

Due to Linklaters' tenacity, a co-defendant's mobile phone, with previously unexamined browsing and deleted data from the day of the incident, has been downloaded and re-examined by the police and the CPS. Finally, a potential alternative cause of death has been uncovered by a fresh medical expert identified and instructed by the Linklaters' screening team.

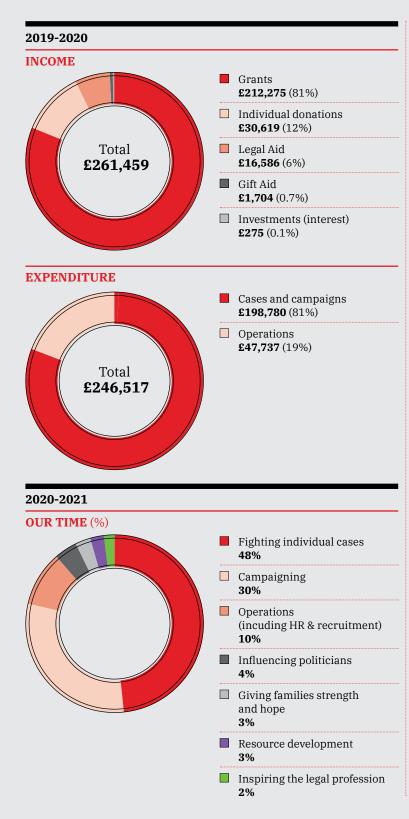
DETAILED EXAMINATION OF POLICE FILES UNDERWAY

In one case APPEAL secured unprecedented access to 3,394 documents totalling 19,618 pages of files. As a small team, we estimated that it would have taken us nearly 2 years to properly review these files. Linklaters have stepped up to provide another screening team of 10, and are making quick work of the review.

Our partnership with APPEAL allows Linklaters lawyers to develop essential skills they can use in practice, while also helping APPEAL's clients access the justice they may have been denied by the legal system. It is an example of pro bono at its best.

> Ben Carroll Partner, Linklaters

Our finances



s a practising defence barrister, I see every Γ day the effects of the parlous state of the criminal justice system on those at the sharp end, against whom the deck is all too often unfairly stacked. Legal Aid falls far short of paying for the level of preparation and investigation that is needed to ensure a fair trial. There is a common misconception that our system works and criminal trials yield the right result. Tragically this is not the case.

The system is broken at every turn. Once you reach the appeal stage, the funding regime is even more limited. APPEAL, as a charity law practice, relies on the support of funders who share our vision and commitment to a fair justice system. Their recognition of the additional pressures of the pandemic has ensured that we have survived this last financial year and our staffing is intact for the year to come.

Every donation to APPEAL is vital in keeping our small team fighting individual cases, giving families strength and hope, inspiring the legal profession, and campaigning for reform.

Joe Hingston Chair

Aims for 2021-22

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

FIGHTING INDIVIDUAL CASES

We will assess the cases of at least 100 prisoners who write to us, and provide them with individual responses.

We will provide holistic representation to at least 15 people whose convictions we believe to be unsafe or whose sentences we believe to be unfair.

ADVOCATING AND INFLUENCING

We will work to implement the recommendations from the Westminster Commission including by feeding into the Royal Commission on Criminal Justice, with a focus on changing the CCRC's referral test, encouraging it to refer more potential miscarriages of justice to the appeal courts.

We will highlight the failings

in disclosure of evidence in criminal cases.

We will campaign for the retention of audio recordings of trial for longer than 7 years.

We will campaign for the government to decriminalise TV licence non-payment.

TACKLING STRUCTURAL INJUSTICE

Women's Justice Initiative: We will represent women convicted of offences that arose directly from domestic abuse or coercive control, and will campaign for them to be offered the same protection that is currently in place for other vulnerable groups.

Racial Justice Initiative: We will actively seek partners to support research and campaigning around the part race plays in wrongful convictions, and the accessibility and effectiveness of the appeals process for minoritised communities.

GIVING FAMILIES STRENGTH AND HOPE

We will hold remote and, where permitted, in-person events for the Bound by Injustice support group with therapeutic and community-building goals.

INSPIRING THE LEGAL PROFESSION

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

We will train and supervise a further 50 lawyers and 30 students on our cases.

We will strive to ensure that more than half of students describe their experience with us as changing their view of their role as a lawyer when it comes to challenging injustice.



Staff and trustees



Emily Bolton Founder & Director

Emily leads APPEAL, overseeing all our work as well as her own cases. She is a practising solicitor and formerly an attorney-at-law in the State of Louisiana.



Alex Kane Case Analyst

Alex screens the cases of prisoners who write to us, securing access to key documents in order to select the cases with most merit for us to progress.



James Burley Investigator

Through tracking down experts, records and forensic evidence, James uncovers the fresh evidence needed to challenge wrongful convictions.



Lindsay Owen Resource Development Associate

Lindsay builds and maintains relationships with the generous supporters who believe in our work; from universities and commercial law firms, to charitable foundations, to individuals who want to donate what they can.



Charlotte Threipland Communications and Policy Lead

Charlotte uses the systemic injustices exposed by our casework to build awareness of miscarriages of justice among the media and policymakers, and drives forwards APPEAL's campaigns.



Emma Torr In House Barrister

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



Tara Casey Women's Justice Caseworker

Tara supports the Women's Justice Initiative, dealing with the cases of individual women who write to us, and campaigning against the use of imprisonment for debt.



Naima Sakande Women's Justice Advocate

Naima leads the Women's Justice Initiative, overseeing case investigation for criminal appeals on behalf of women with histories of domestic abuse and mental illness. She also oversees APPEAL's communications.

Board of Trustees

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 2020-21 they were: Joe Hingston (Chair), Christopher David, Adeela Khan and Glyn Maddocks QC (Hon). We also receive advice from a broad-ranging Advisory Group, which includes people with lived experience of miscarriages of justice.

Cheering our champions



ur work is only possible thanks 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 2020-21.

FUNDERS

Big D's BBQ Eleanor Rathbone Charitable Trust Evan Cornish Highway One Trust Humanade Lankelly Chase Foundation Laura Kinsella Foundation Legal Education Foundation Lloyds Bank Foundation Roddick Foundation Woodford Family Charitable Trust

LAW FIRMS

Debevoise & Plimpton LLP Dechert LLP Kingsley Napley Latham & Watkins LLP Linklaters Ropes & Gray LLP Sidley Austin LLP Partners of Simpson Thacher & Bartlett LLP White & Case LLP WilmerHale

UNIVERSITIES

City University Nottingham University Sheffield Hallam University

CHAMBERS

9 Bedford Row 23 Essex Street Doughty Street Garden Court Lamb Building Matrix One Pump Court Pump Court Chambers QEB Hollis Whiteman

EXPERT ORGANISATIONS

Bell Yard Communications Compliance Office École des sciences criminelles, Université de Lausanne Lost Boys Detective Agency UCL Centre for the Forensic Sciences Private experts in forensic and other sciences

CREATIVE PROFESSIONALS

Thanks also to the creative professionals who donated their time and skills to produce this report: Kirstin Smith, illustrator www.kirstinsmith.work David Grant, graphic designer, www.grantstate.com Ben Broomfield, photographer, @photobenphoto



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Registered Charity Number: 1144162 SRA authorisation number: 621184 Company Number: 7556168.

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