Rook and Ward on

Sexual Offences Law & Practice

4th Edition

HH Judge Peter Rook QC
Robert Ward CBE

SWEET & MAXWELL

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Fourth Edition

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ROOK & WARD
ON
SEXUAL OFFENCES
LAW AND PRACTICE

Fourth Edition

Dedicated to
Susanna, Annabel, Sophie and Joshua
and
Mai, Ruby and Honor
for their ever continuing forbearance.

Foreword

By the Rt Hon. Lord Justice Pitchford,
Lord Justice of Appeal

I have read in draft much of the 2010 edition of Rook and Ward on Sexual Offences, always with respect and admiration, particularly for the scope and depth of the treatment of its subject. Since the authors published their first edition in 1990, Rook and Ward has become a standard work for those who practise in this area of criminal law and for those who have a serious academic or other interest in the subject. The authors have been in the vanguard of analysis and comment upon many new and sometimes controversial developments both in the law and in the conduct of trials of sexual offences. Their expertise in the field has enabled them to make an invaluable contribution to the learning and comprehension of the professions and the judiciary.

The investigation of offences, the admissibility of evidence and the conduct of criminal trials involving those who have or are alleged to have been victims of sexual offences have all been the subject of much authoritative research and Parliamentary activity since HH Judge Peter Rook QC and Robert Ward first embarked on their project. The detailed attention they have, in successive editions, given to these developments by tracing the history of changes and by offering searching analysis of them, has been of great benefit. The landscape for the administration of criminal justice in this field has changed dramatically since the enactment of the Sexual Offences Act 2003 and this book continues to keep us engaged and informed.

For advocates who conduct criminal trials for the prosecution or the defence, Rook and Ward has become an essential reference. Its treatment in depth of the requirements of investigation, the preparation and delivery of evidence and the responsibilities of the advocates leaves the reader in no doubt of the dedication with which advocates are required to approach their task of assisting the court and the participants in the trial of and sentencing for a sexual offence.

Judges who preside in the Crown Court over trials of sexual offences are required to undertake specialised training to which both the authors have made distinguished contributions. Expertise in the trial of sexual offences is, however, only part of the story. Judges require constant access to authoritative works of reference. This is one of them.

I have no doubt that this fourth edition of Rook and Ward will be received with relief and enthusiasm.

Foreword to the Third Edition

By the Rt Hon. Lord Justice Rose.
Vice-President of the Court of Appeal, Criminal Division

The Sexual Offences Act 2003 is only part of the current legislative torrent. Such torrents require careful navigation if judges, magistrates and practitioners are to stay afloat. As the two previous editions of this book have shown, Peter Rook and Robert Ward are reliable pilots with particular expertise in this area. This third edition provides a most welcome chart to the law on sexual offences in the light of the recent Act.

New offences and sentences, issues in relation to previous sexual history, disclosure, medical and DNA evidence, and the regime for vulnerable witnesses are among the many subjects helpfully discussed by reference to statutes, English and Commonwealth authorities and academic writings.

I warmly commend the new edition of this admirable book.

Foreword to the Second Edition

By the Rt Hon. Mr Justice Blofeld

It is a privilege to pay tribute to such a useful book as this. It is essential for practitioners to have available books on specific areas of law accurately set out and clearly expounded. Since the publication of the first edition of this book there have been a number of subjects in the law relating to sexual offences which have needed updating. Until the arrival of this book it has been difficult to find all the relevant information gathered together in one place. It is, therefore, a necessary tool for all criminal practitioners.

It is invidious to select one part of this book above another, but I find that the chapters concerning Public Interest Immunity disclosure, the procedures relating to evidence about children and DNA evidence particularly helpful. They set out the matters clearly, explain the problems and bring together the differing strands of statutory law, case law and academic criticism that fall for consideration. Some of these subjects will certainly develop further in the future. I would single out the chapters concerning DNA evidence, specifically the passages dealing with its scientific evaluation and its statistical relevance, as being of particular importance.

I have already found the first edition of this work to be a useful and valuable tool and I am confident that this second edition will prove even more valuable than its predecessor. I would like to commend the co-authors for all their hard work.

Preface

Since our 3rd edition was published in 2004, there has been no slackening in the pace of change. There have been significant developments across the criminal justice system affecting the trial of sexual offences. We have sought to cover these developments so as to provide, with the assistance of our team of specialist contributors, the most comprehensive edition so far of this work. We hope that those involved in these cases will find life easier with an analysis, all in one volume, of the substantive law, the law as to evidence and procedure, the definitive sentencing guideline and the relevant part of the *Crown Court Bench Book*.

The way the system handles these cases remains high on the public agenda. We detect that there is sometimes a tendency to under-estimate the progress that has been made. Publicity around failures of the system can mask significant improvements in other areas. For instance, quite rightly, the *Worboys* and *Reid* cases were widely reported, highlighting bad practice in rape investigations.[1] When complainants are not treated with dignity, it hugely undermines public confidence.

On the other hand, we should not forget the achievements of Sexual Assault Referral Centres and Independent Sexual Violence Advisors, which illustrate a much greater degree of appropriately skilled and sensitive support for victims.

Public concern remains at the apparent low rate of conviction of non-consensual offences. However, as the Stern Review recently highlighted,[2] the figures need to be put into the public domain with a proper explanation. The frequently reported headline figure of 6.5 per cent of reported rape resulting in conviction[3] is misleading and can often result as a deterrent to reporting. It is also out of step with how conviction rates for other crimes are reported—a more comparable statistic is 58 per cent of cases prosecuted as rape cases, including guilty pleas, result in conviction for rape or another offence. 55 per cent of jury trials result in conviction.

Sexual Offences Act 2003

The Sexual Offences Act 2003, which brought about wholesale changes to the substantive law governing sexual offences, has now been in force for over six years. The Court of Appeal has had an opportunity to address most, but not all, of the key definitions in the 2003 Act.[4] Sooner or later the Court of Appeal will need to consider which of a defendant's characteristics may be taken into account by a jury

[1] It is understood that an inquiry into these investigations is not being pursued: *The Times*, September 15, 2010, *Rape case reform is shelved to cut costs.*

[2] Home Office, The Stern Review: *A Report by Baroness Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales*, March 2010.

[3] For instance, the London Metropolitan University has reported that 6.5 per cent is the lowest rate amongst 33 European countries.

[4] *H (Karl Anthony)* [2005] EWCA Crim 732, "sexual assault", "touching"; *Heard* [2007] EWCA Crim 125, "intentional touching".

when considering whether he had a reasonable belief that the complainant was consenting.

In our 3rd edition we expressed concern that the new Act relied so much on the proper exercise of prosecutorial discretion in respect of consensual sexual conduct between the young. We predicted the possibility of an ECHR challenge to the use of the strict liability provisions in ss.5–8 to prosecute consensual sexual activity between the young. In the event, in *R. v G*[5] the House of Lords considered whether the prosecution of a young defendant aged 15 for the offence of rape of a girl aged 12 contrary to s.5 of the Sexual Offences Act 2003 breached the defendant's art.8 rights, when a prosecution could have been pursued under the offence created by s.13 specifically designed for child sex offences committed by children or young persons, thereby avoiding the stigma of the adult offence of rape. On the agreed facts the complainant consented and the accused thought she was 15. The House of Lords by a majority of 3 to 2 rejected the argument based on the incompatibility of s.5 with art.8. However, despite being in the minority, Lord Hope suggested that there was a lesson to be learnt from this case where a 15-year-old had been prosecuted for an adult offence. It is to be hoped that his lead has been followed.

In our 3rd edition, we noted that Professor John Spencer believed that ss.5–8 of the Act were offences of mens rea, so that a defendant would not be liable to conviction if he was labouring under a mistake that the child was 13 or over.[6] However, in the event, in *R. v G* the House of Lords held that the offence in s.5 is one of which liability as to age (the same will be true of ss.6–8) and is compatible with art.6).

In *R. v C*,[7] in its last case before it became the Supreme Court, the House of Lords overturned the decision of the Court of Appeal widening the interpretation of the definition of "unable to refuse" in respect of the offences in ss.30–33, which are designed to protect those who are mentally disordered. Baroness Hale rejected the old status-based approach which assumed all "defectives" lacked capacity while failing to protect those whose mental disorder deprived them of autonomy in other ways. She endorsed the functionalist approach of the new Act, which underpins the reasoning behind much of the new legislation. For instance, the new definition of consent in s.74 focuses upon the autonomy of the complainant by being couched in terms of freedom of choice. What matters is free agreement with a particular person at a particular time and place. As Baroness Hale put it in *R. v C*:

> "My Lords, it is difficult to think of an activity which is more person and situation specific than sexual relations. One does not consent to sex in general. One consents to this act of sex with this person at this time and in this place."

This, of course, chimes with the regime under s.41 of the Youth Justice and Criminal Evidence Act 1999 which seeks to restrict evidence as to a complainant's

[5] [2009] 1 A.C. 92.
[6] [2004] Crim. L.R. 342 at p.353.
[7] [2009] UKHL 42.

sexual history to what is truly relevant, as well as with the balanced judicial directions to prevent false assumptions that are now to be found in Chapter 17 of the *Crown Court Bench Book*.

Less welcome than the s.74 definition were the s.75 evidential presumptions, which have proved to be toothless. Far from buttressing the new definition of consent, in reality they arise only very rarely. The last few years have shown that they have a tendency to confuse counsel and judges.[8]

Capacity is an integral part of the definition of consent. However, one definition that never made it to the statute book was the proposal that "lack of capacity" through alcohol and/or drugs should be defined for the purposes of the Act. In the wake of the furore that followed the case of *Dougal* at Swansea Crown Court in November 2005, the Office of Criminal Justice Reform published a Consultation Paper[9] proposing a raft of new measures including a definition of capacity. A timely intervention by the Court of Appeal in *Bree*[10] has provided an important steer thereby avoiding the need for a further definition. Our experience during the last three years is that lawyers are now much more alive to the issue of complainants losing capacity.[11]

The same Consultation Paper invited consideration of the admissibility of generic expert evidence in respect of the psychological effects of the trauma of serious sexual assault. The proposal inspired significant opposition in that it was feared that juries hearing opposing expert evidence in this area would be deflected from concentrating on the critical issues in the case. Furthermore, such evidence might erect in the minds of the jury a conceptual model of how a rape victim might be expected to behave, and so lead them to evaluate the complainant's conduct against a false yardstick. In reality there is no classic reaction to sexual assault. However, the proposal did raise an important point. When it comes to considering sexual behaviour, there is a real risk of applying stereotypical images and false assumptions so as to cloud logical reasoning. Even those who maintain that they are wholly immune to such a risk may, upon close self-examination, discover that such assumptions have crept into their thinking.

The drive to change the law so as to allow such evidence to be deployed in rape trials to explain a complainant's behaviour and reactions has lost impetus in the wake of the Court of Appeal's decision in *Doody*,[12] which encouraged balanced judicial comment when directing juries so as to prevent false assumptions in areas that are well-established. Latham L.J.'s judgment endorsed the approach adopted in current judicial training in the area. It has led to Chapter 17 of the *Crown Court Bench Book* where Pitchford L.J. has sustained the momentum for directions so as to prevent false assumptions by both explaining the rationale behind such directions and providing examples. We are very grateful to the Judicial Studies Board for allowing us to include Chapter 17 in Appendix E. We regard balanced

[8] *Gavin White* [2010] EWCA Crim 1929; *Shanji Zhang* [2010] EWCA Crim 2018.
[9] *Convicting Rapists and Protecting Victims – Justice for Victims of Rape* (Spring 2006).
[10] [2007] EWCA Crim 804.
[11] *Hysa* [2007] EWCA Crim 2056; Appendix G of this work.
[12] [2008] EWCA Crim 2394.

judicial comment as one of the major developments in the trial of sexual offences since the implementation of the 2003 Act.

It is now clear that the issue of the admissibility of generic expert evidence has been well and truly buried in the proverbial long grass by the Court of Appeal. Just three weeks ago, in *R. v ER*,[13] the Court of Appeal stated that a psychotherapist should not have been called to give such evidence in a historic sex case. The Court actively encouraged balanced judicial comment as the appropriate remedy where the jury needs guidance as to possible victim responses to serious sexual assault. That does not mean that the research and expertise that has built up in this area as to the effects of the trauma of serious sexual assault is not important. It informs all those who have dealings with rape case complainants, particularly those who investigate and present these cases in court. We are fortunate to have an illuminating chapter[14] upon the psychological effects of rape and serious sexual assault from Dr Fiona Mason MB BS FRCPsych DFP, a Consultant Forensic Psychiatrist from St Andrews, Northampton, and the pioneer in this field.

Medical

Dr Beata Cybulska's chapter in our 3rd edition on the medical aspects of sexual assault was well received, and medical practitioners in the area have now persuaded us that children deserve separate treatment. Dr Cybulska is the Clinical Director of "The Bridge" SARC at the University Hospitals Foundation Trust in Bristol. Her excellent chapter is now complemented by a chapter devoted to medical evidence in respect of children by Dr Cath White, the Clinical Director of the Sexual Assault Referral Centre, St. Mary's Hospital, Manchester. Dr White is ideally placed to write this important chapter as she contributed to *The Physical Signs of Child Sexual Abuse* which was published in 2008,[15] setting out the strengths and the limitations of the research evidence behind the most important clinical signs in children. We are delighted she has fortified our team of contributors.

Evidence

Evidential issues are vitally important in sex cases. In our 3rd edition we identified the restrictions upon the admissibility of the complainant's previous sexual history (the s.41 regime) as an area deserving of discrete treatment, and so it was given a separate chapter. Not long after the publication of that edition, the bad character provisions of the Criminal Justice Act 2003 were implemented. In respect of trials of sexual offences, the impact of the provisions has been particularly significant. There have been a large number of appeals to the Court of Appeal in respect of the admission in evidence of previous convictions for sexual offending which have helped clarify the position. This encouraged us to cover the evolution of the law in this area in Chapter 16. Following an idea from one of our contributors,

[13] *R. v ER* [2010] EWCA Crim 2522; *see also Miller* [2010] EWCA Crim 1578.
[14] Chapter 23.
[15] London: Royal College of Paediatrics and Child Health, 2008.

Graham Cooke, we decided that practitioners would appreciate a chapter devoted to the governing principles in respect of expert evidence in sex cases. We are grateful to David Claxton of 18 Red Lion Court for working with us to produce Chapter 20. This, in turn, in the context of the trial of historic sex cases, took us to such controversial areas such as expert evidence as to the operation and functioning of human memory. We would like to thank Professor Michael E. Lamb of Cambridge University for bringing to our attention recent research on children's testimony about experienced and witnessed events.

Disclosure

We are very grateful to Johannah Cutts QC for updating her chapter on disclosure. These issues arise so often in sex cases we are delighted to have such a practical and instructive contribution from a practitioner with vast experience in the area.

DNA, Law and Statistics

Graham Cooke has been with us since our 2nd edition. He has updated his lucid and valuable chapter[16] on how to approach DNA evidence at a time when cold case reviews are leading to cases being re-opened after significant passage of time in the light of fresh DNA findings. His chapter provides an overview of DNA technology and then discusses the relevant law and statistical issues connected with DNA evidence. Many issues have become clarified since our 3rd edition. The National Database has continued to expand. There have been important changes in the rules and procedure relating to expert evidence and the linked duties of disclosure. We are very fortunate to have the benefit of both his legal and statistical expertise.

Special Measures

We would like to thank Alexandra Ward of 9–12 Bell Yard for her well-researched chapter on special measures,[17] an area so frequently relevant in sex cases where the vulnerable are often complainants. The last decade has seen a marked change of approach. The Youth Justice and Criminal Evidence Act 1999 introduced a radical new regime by which special measures were made available to enable vulnerable witnesses (including witnesses with major communication difficulties) to give evidence, or to improve the quality of their evidence. This has enabled the evidence of those suffering from profound levels of disability to be put before juries where less than half a generation ago the criminal courts would not have contemplated attempting to receive such evidence. A striking example is *Watts*,[18] a case recently heard at Exeter Crown Court, where the four complainants were residents in the same residential care home at which the appellant was a part-time worker. All four women were wheelchair-bound, three with cerebral palsy, and one tetraplegic with an acquired brain injury. The Court of Appeal rejected the appellant's contention that none of the complainants gave coherent and reliable

[16] Chapter 24.
[17] Chapter 18.
[18] [2010] EWCA Crim 1824.

evidence on which a reasonable jury properly directed could have convicted with any safety.

The use of intermediaries now forms an integral part of the structure of the special measures regime as the 1999 Act contemplates the reception of evidence in circumstances where a witness who satisfies the statutory test as to competence, may nevertheless lack sufficient communication skills to give evidence without the use of an intermediary. Those who have seen intermediaries in operation have found them to be of great assistance. In the right case, they can provide insight into the witness's particular difficulties and facilitate communication.

Intermediaries can play an important role in respect of young children. We commend the suggestion of Joyce Plotnikoff that there will be a need for them where there is a risk that the child might not be prepared to say that they have not understood a question from a person in authority. Need will depend upon the particular child.

Intermediaries, on their own, cannot solve the current problems encountered in respect of children's evidence. Many feel that the criminal justice system is still failing child victims of sexual offences. We welcome the acknowledgement of the Court of Appeal in *Barker*[19] that the age of a child is not determinative of his or her ability to give truthful and accurate evidence. The Court also stated that children's evidence should be placed on the same level as that of all other witnesses, but the advocate's forensic techniques, in particular relating to cross-examination, have to be adapted "to enable the child to give the best evidence of which he or she is capable" while ensuring that the defendant's right to a fair trial is undiminished. When the issue is whether the child is lying or mistaken, the advocate should ask "short, simple" questions which put the essential elements of the defendant's case, and "fully to ventilate before the jury" evidence bearing upon the child's credibility. Nevertheless, even allowing for the improvements in advocacy which the Advocacy Training Council will bring about, many feel that somehow the current system achieves the worst of all worlds.[20] A poorly conducted ABE interview[21] is placed before the jury as the child's evidence-in-chief. The child is then cross-examined a year later in a traditional adversarial way which may actually seek to exploit the child's developmental limitations. This is most unlikely to assist fact-finders in resolving the critical matters in issue. The child's evidence must be tested, but cross-examination should be much earlier and it should be conducted in a developmentally appropriate way. Often the defence case is simply that the prosecution version of events did not happen, so little is achieved by putting detail to the child witness. We find that we have undergone a Pauline conversion to the idea of, at the very least, piloting the full *Pigot*[22]

[19] [2010] EWCA Crim 4; see also *Malicki* [2009] EWCA Crim 365 which is likely now to be regarded as a case on its own facts.

[20] Christopher Kinch QC, *Nuffield Foundation Seminar,* June 10, 2010.

[21] It is understood that ACPO are currently introducing a new system of shorter interviews. In many cases the prosecution will rely solely upon the complainant's account given in answer to the initial open-ended questions rather than the later line by line dissection of that account.

[22] Home Office, Report on the advisory group on video-recorded evidence (1989), Chairman His Honour Thomas Pigot QC.

scheme whereby there would be pre-trial cross-examination of the child. Section 28 of the Youth Justice and Criminal Evidence Act 1999 allows for this, but as yet it has not been implemented. The system has been adopted in Western Australia with success. Professor John Spencer has pointed out[23] that the pre-trial provisions to take young children's evidence may be required by European Law since EU member states are required to put in place mechanisms enabling the evidence of vulnerable victims to be given without them having to appear in open court.[24]

Historic cases

We recognise that a detailed consideration of issues that arise in historic sex cases was a major gap in our 3rd edition. We have endeavoured to put that right with a chapter on historic cases.[25] The abolition of the requirement of corroboration in 1994, combined with society's increasing awareness of the extent of harm caused to victims of such offences, has led to more prosecutions of these offences. There have been a significant number of historic cases involving those resident in care homes. More recently, the historic cases have tended to be in relation to abuse within the "family setting". Whilst there is now a much greater understanding of the reasons for late reporting, the criminal justice system needs to ensure that defendants prosecuted in respect of stale allegations receive a fair trial. Abuse applications are common in historic cases so we have endeavoured to analyse some of the more importance cases over the last 10 years to provide guidance as to the way to approach these cases. We are grateful to Mark Barlow and HH Judge Patricia Lees for reading our draft Chapter 26 and for their constructive suggestions. We would also like to thank Barend van Leeuwen for his thoughts when undertaking some valuable research for us in this area.

Youth Courts

Chapter 31 represents another gap that we have identified in our 3rd edition. The Youth Court has the jurisdiction to try very serious sexual offences, and many should be tried there since it is the policy of the legislature that those under 18 years of age and particularly children of under 15 should, wherever possible, be tried in the Youth Court. Nevertheless, in July this year the Court of Appeal in *W and M*[26] had occasion to express dismay that it became necessary for two 10-year-olds and an eight-year-old, all of impeccable upbringing, to be the key participants in a trial before the Crown Court,[27] with all the attendant publicity, on alternative charges of rape and attempted rape. The Court recorded its particular concern about the effect that a publicly staged trial in this arena was likely to have on the ability of the little girl, whatever had happened, to move on with her life with the

[23] J. Spencer, "Children's Evidence: the Barker case and the case for Pigot" *3 Archbold News* 5-8 (2010).

[24] See *The Framework Decision on the Rights of Victims* (2001).

[25] Chapter 26.

[26] [2010] EWCA Crim 1926.

[27] In fact the Old Bailey.

minimum adverse impact. Clearly, given the likely sentence, the Youth Court should have retained jurisdiction. We are most grateful to Gillian Jones, ably assisted by Naomi Parsons, both of 18 Red Lion Court, for producing an excellent chapter on the trial of sexual offences in the Youth Court.

Sentencing

Sentencing those guilty of sexual offences can be complex. We owe a huge debt to Tim Moloney QC who has not only written a valuable chapter on sentencing sex offenders, but has contributed two further chapters. One covers notification, whilst the other deals with relevant ancillary orders such as sexual offences prevention orders which are currently providing the Court of Appeal with a significant amount of work. At the time of writing, we understand there will be a Green Paper in December 2010 involving a full examination of sentencing policy to ensure that the justice system reduces reoffending by introducing more effective sentencing policies and considering the use of restorative justice for adult and youth crimes.

The major development since our last edition has been the publication by the Sentencing Guidance Council of their Definitive Guideline which applies to all those sentenced for sexual offences, whenever committed, from April 2007. The Guideline is assisting in ensuring that there is consistency in sentencing which is all-important for maintaining public confidence in the criminal justice system. In the three years since its publication, the Guideline has won over many critics. Our experience is that some of those who criticise it tend to be those who do not use it properly, by focusing solely on the tables without proper reference to other factors set out elsewhere in the Guideline. Valuable assistance as to the appropriate approach can be gleaned from the judgment of Pitchford J. (as he then was) in *Larcombe*.[28] We have set out the part of the Guideline that is relevant to a specific offence in the chapter dealing with that particular offence. So as not unwittingly to encourage others to confine themselves to the sentencing tables, we have included the full text of the Definitive Guideline at Appendix A. The newly formed Sentencing Council has the Guideline in its sights, and a consultation paper suggested a new approach is likely within the foreseeable future.

Most sexual offences are serious specified offences under the Sexual Offences Act 2003 and so the dangerousness regime in the Criminal Justice Act 2003 will apply. This means that sentencers will frequently have to consider whether the defendant represents a significant risk of serious harm by the commission of further specified offences. To conduct this exercise, the evaluation of risk is all-important. Furthermore, the nature of available sex offender programmes may be a factor when a sentencer is considering whether an alternative sentencing package will eliminate or sufficiently reduce the risk the defendant may pose. In recognition of this need, we are delighted that Dr Ruth Mann of the Rehabilitation Services Group, National Offender Management Service, has contributed her

[28] [2008] EWCA Crim 2310.

expertise and written a chapter[29] on the assessment and treatment of sex offenders after sentencing.

Northern Ireland

Many of the provisions in the Sexual Offences Act 2003 have now been adopted by Northern Ireland in its own legislation. In the light of this, we felt it timely to include a chapter on the law governing sexual offences in Northern Ireland. We are delighted that HH Judge David McFarland, who is at the forefront of judicial training in Northern Ireland, has written Chapter 22 explaining how the provisions have been implemented in that jurisdiction.

Many others have provided us with considerable help. First and foremost, we would like to thank Professor David Ormerod, Professor of Criminal Justice of Queen Mary College, 18 Red Lion Court and now Law Commissioner. His help has taken many forms. He has alerted us to stop-press developments before we were aware of them. His encyclopaedic knowledge of case law is formidable, and the desire to tap this reservoir is at times irresistible. Furthermore, he is always a willing sounding board for new ideas even when, we suspect, he has a pressing workload of his own.

We are also particularly grateful to Jo Miles, University Lecturer and fellow of Trinity College, Cambridge, for finding time in her busy academic life to read our Chapter 1 on rape and provide us with highly constructive comments. Thanks are also due to Neil Kibble of Lancaster University, the s.41 Youth Justice and Criminal Evidence Act guru, for allowing us to print his helpful flowchart in our appendix, to HH Judge Wait for permitting us to draw on his list of draft sexual offences prevention orders in Appendix B and to HH Judge Tim Mort to allow us to use part of a lecture he gave at the Judicial Studies Board serious sexual offences seminar at Warwick University.

Psychiatric issues arise both when considering a defendant's relevant characteristics and, of course, in Chapter 7 which covers sexual offences specifically designed to protect the mentally disordered. We would like to acknowledge the major assistance that we have received from Alexandra Ward in respect of Chapter 7. We are also indebted to Charles De Lacey, a Clinical Nurse Specialist in psychiatry[30] and a member of the Central Criminal Court Mental Health Liaison Scheme, for his valuable contributions on psychiatric issues.

William Hotham deserves special mention for his industry. He assisted in up-dating Chapter 6. He also took on the exacting task of checking the extensive appendices and making sure that they were up-to-date.

During the writing of our last edition Mohammed Fakrul Islam was the long suffering 18 Red Lion Court librarian who would find obscure authorities and publications for us at short notice. Notwithstanding his elevation to a tenancy in those chambers, he has continued to provide the same service during the writing of the 4th edition. We cannot thank him enough.

[29] Chapter 30.

[30] With the Central and North West London NHS Foundation Trust.