

## Ryanair justice

On 13 April 2015 a new set of criminal court charges came into force. These were slipped in using secondary legislation without debate or consultation, leading the Law Society to express its outrage at 'back door' criminal court fees.

- If you plead guilty to a summary offence in the magistrates' the charge is £150. However if you plead not guilty but are then convicted the charge more than trebles to £520.
- If you plead guilty to an either way offence in the magistrates' the charge is £180. However if you plead not guilty but are then convicted the charge increases more than fivefold to £1,000.
- In the Crown court, if you plead guilty you will be charged £900, while those convicted at a trial on will have to pay £1,200.

There is no concept of ability to pay and the press has carried reports of destitute asylum seekers (prohibited from working or claiming benefits) being charged. The Law Society, the Bar Council and Howard League for Penal Reform all say that defendants are pleading guilty even when they are innocent.

The Independent reported on a man from Sunderland who threw himself in front of an off-duty policeman's car in a suicide attempt. He had been waiting for a lorry to take his life, but when none came along he jumped in front of a car and ended up in court for causing criminal damage to the vehicle. Gavin Lee, 26, was forced by Sunderland magistrates' court to pay a £180 court charge – as well as £425 in insurance excess for the driver's Mercedes. Lee, who had no previous convictions, was also charged for possessing drugs.

Over 50 magistrates across England have resigned rather than impose the charge. The Guardian reported on one who was initially suspended for offering to pay a destitute defendant's charge himself. Richard Monkhouse, chairman of the Magistrates Association was quoted in the Independent as saying: "It is deeply worrying that we're losing such numbers of experienced magistrates." Whilst we understand the reasons, we are also concerned about magistrates resigning. This will simply lead to a more conservative body of magistrates.

Criticism has come from the top. Last month the current lord chief justice, Lord Thomas, said that the new charges were "imperilling" Magna Carta rights of access to justice. Last week Lord Beecham, Labour's Justice Spokesperson compared the extra charges to "Ryanair justice". The House of Lords voted by a majority of 32 to condemn the new system. The Ministry of Justice has been inundated with complaints from magistrates, lawyers and campaigners about the court charge.

There is some hope of change. The Independent reported that the Justice Secretary, Michael Gove, is preparing to climb down and fundamentally reform the "tax on justice". Options under consideration are to means test the fee while another plan is to allow magistrates discretion to waive the charge in certain circumstances.

The bad news is that no change is expected to be announced until after the Government's Comprehensive Spending Review at the end of November and simply scrapping the charge does not seem to be an option under consideration. Therefore the financial pressure to plead guilty will remain.

All this is tied up with Tory dogma that the courts should be self-financing. In civil cases court fees have reached astronomical proportions, so many cannot afford to bring cases. In the criminal courts it is, of course, the state that makes the law, enforces the law and chooses who to charge with breaking the law. The state should therefore meet the costs, both in terms of courts and Legal Aid.

The question now is what can be done.

We must of course keep up the pressure for the scrapping (not just reform) of the criminal courts charge.

As individuals involved in protest we must not be bullied into pleading guilty: If the case is dropped or you are found 'not guilty' at a trial, the court charge does not apply at all.

For protest groups there is a need to fund raise to pay the charges of individuals: this is a collective attack and needs a collective response.

We also need to encourage lawyers representing defendants to use the law creatively. A court can allow time to pay dependent on means. Applications must be made for time to pay in all cases. A nominal amount, say £1 per month, should be offered. Alternatively an argument could be made that the payments should be deferred by two years, to allow the defendant to make an application under section 21E of the Prosecution of Offences Act 1985 to a magistrates' court to remit the criminal courts charge. Let us test the liberal magistrates and see how far they will push matters without resigning