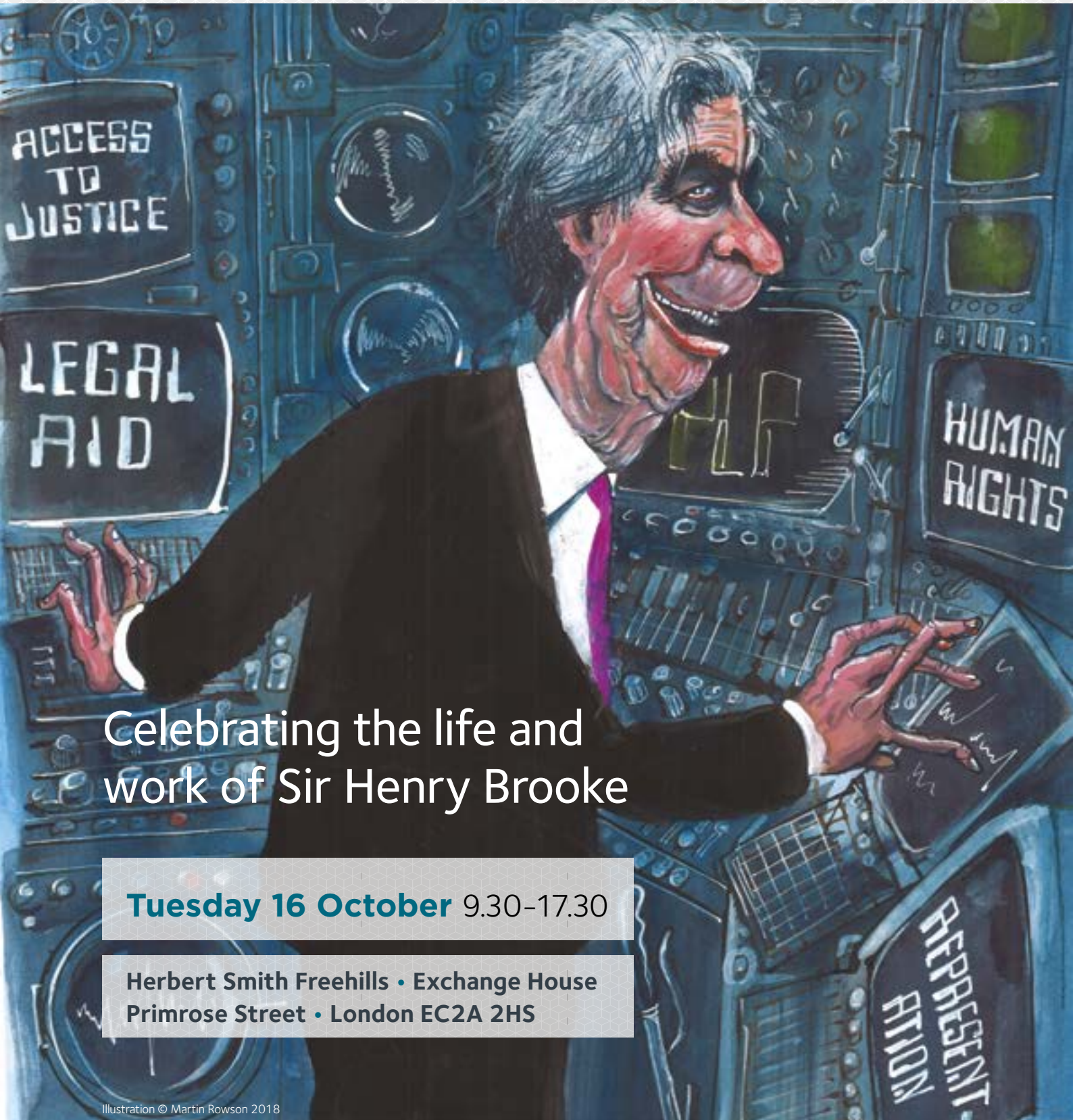


Judicial Review Trends and Forecasts 2018



Celebrating the life and
work of Sir Henry Brooke

Tuesday 16 October 9.30-17.30

Herbert Smith Freehills • Exchange House
Primrose Street • London EC2A 2HS

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Public
Law
Project



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Blackstone
CHAMBERS

MORNING SESSION

Chair: Shaheed Fatima QC, Blackstone Chambers

9.30 Introduction

Jo Hickman, Director, Public Law Project

9.35 Opening address

The Rt Hon Lord Carnwath of Notting Hill CVO

10.00 The duty on the state to ensure women's rights

The case brought against the Metropolitan police by DSD and NBV, two of Worboys' victims, succeeded because it relied on a wider context of structural and institutional failings by the police to adequately investigate crimes against women. Subsequently those proceedings and the evidence arising allowed the same two claimants to bring an unprecedented judicial review of the parole board. This talk will look at the use of research and evidence in both cases and the difficulty in balancing the need to protect victims and ensure their rights with the independence of the parole board.

Harriet Wistrich,
Centre for Women's Justice and Birnberg Peirce

10.30 Top public law cases of the year

Hanif Mussa, Blackstone Chambers
Alison Pickup, Legal Director, Public Law Project
Jasveer Randhawa, Herbert Smith Freehills

11.15 Break

11.35 Update on Public Law Project research

Dr Tomlinson will introduce PLP's research strategy to 2020, published earlier this year. This includes research on online tribunals, Brexit and the Rule of Law, Access to justice, and judicial review, and modelling casework—research synergies.

Dr Joe Tomlinson, Lecturer in Public Law, King's College London and Research Director, Public Law Project

11.50 A tribute to Sir Henry Brooke

Baroness Helena Kennedy of The Shaws QC, FRSA

12.00 Morning breakout sessions

Please choose one of four:

1. Immigration law and policy after Brexit

Whatever settlement emerges from the ongoing negotiations between the EU and the UK, Brexit will lead to significant changes in immigration law and policy in the United Kingdom. This breakout session explores the challenges that this will pose to public law, including:

- Proposed substantive changes to immigration law and policy, particularly the 'Settled Status' proposal for EU citizens currently resident in the UK.
- The administrative or regulatory infrastructure in place to implement these changes.
- Broader issues of justice (including human rights) arising in this specific context.

Chair: Byron Karemba, Public Law Project
Adrian Berry, Garden Court Chambers
Prof Elspeth Guild, Queen Mary University of London and Kingsley Knapp

2. AI Justice: Artificial intelligence decision-making and the law

Concerns about the introduction of AI technologies into decision-making processes within government and the justice system have been voiced for some time, yet their growing use is inevitable. Can AI deployment for greater efficiencies be separated from the potential for human rights breaches by algorithm, or 'bias by design' on a scale previously unheard of? Is AI decision making in the justice system a 'new frontier' in discrimination law?

Chair: Dr Joe Tomlinson, Public Law Project
Robin Allen QC and Dee Masters, Cloisters Chambers
Penelope Gibbs, Transform Justice
Megan Goulding, Liberty

3. Cost Capping Orders (CCOs) and costs for interveners: Experiences of The Criminal Justice and Courts Act 2015

Louise and Jo will talk about how their organisations and their clients have fared under the new rules that came into force in 2016, using examples from their casework and including tips on how this works in practice in terms of funding cases and interventions in the future.

Chair: Ben Jaffey QC, Blackstone Chambers
Jo Underwood, Shelter Children's Legal Service
Louise Whitfield, Deighton Pierce Glynn

4. Judicial review of the Regulators

This seminar looks at the application of judicial review principles to the regulators across a range of commercial sectors, and focuses on recent cases and also particular trends.

Andrew Lidbetter and Mark Smyth,
Herbert Smith Freehills

13.00 Lunch

AFTERNOON SESSION

14.00 The public law panel: Brexit and our crumbling constitution

Presentation: Sir Jeffrey Jowell QC, Blackstone Chambers

Chair: Prof Jeff King, University College London

Panel: Prof Richard Ekins, Associate Professor, University of Oxford and Head of Policy Exchange's Judicial Power Project; The Rt Hon Dominic Grieve QC MP;

Kate O'Regan, Director, Bonavero Institute of Human Rights;

Alexandra Runswick, Director, Unlock Democracy

15.15 Break

15.30 Afternoon breakout sessions

Please choose one of four:

1. Discrimination law and minority rights update

From transgender rights to equality in education, civil partnerships to baking, discrimination law continues to be one of the fastest developing areas of public law. This session looks at key recent cases, with a focus on developments in trans rights and gender recognition and a close look at recent attempts by the courts to weigh competing rights and duties.

Chair: Sara Lomri, Public Law Project

Anne Collins, Clifford Chance LLP

Emma Dixon, Blackstone Chambers

Sarah Hannett, Matrix Chambers

2. The devil is in the data – public remedies to private intrusions

How public law can provide redress for the wrongs caused by profiling, data retention, and disclosure, whether by public authorities or private actors, including Cambridge Analytica, and an overview of current public law challenges to profiling and data retention by public authorities such as the police.

Jude Bunting, Doughty Street Chambers

Frederike Kaltheuner, Privacy International

Ravi Naik, ITN Solicitors

3. The position of “retained” EU law in domestic law after Brexit

The purpose of the European Union (Withdrawal) Act was to “provide a functioning statute book on the day the UK leaves the EU” while, as a general rule, providing that “the same rules and laws will apply” after exit day as before. However the Act does not simply convert EU law into domestic law but places limitations on the scope of EU law that is converted, and on its status. The index

of defined expressions in the Act identifies no less than 8 different types of retained law. This session will give some preliminary views on the following questions:

- what kinds of EU law have been retained?
- how can that law be amended by the executive, and what constraints are there on amendments?
- what supervisory role will the courts play?

Chair: Lord Anderson of Ipswich KBE QC

Maya Lester QC, Brick Court Chambers

James Segan, Blackstone Chambers

Prof Alison Young, Sir David Williams Professor of Public Law at Cambridge

4. Public protection and the criminalisation of vulnerable people

Is the use of injunctions and orders aimed at protecting the public and curbing anti-social behaviour, such as ASBIs, ASBOs and PSPOs, leading to the unnecessary and inappropriate criminalisation of vulnerable people? Would legal representation lead to substantially different outcomes for those affected by orders and injunctions? What should services for the vulnerable, including in mental health, addiction and homelessness, consider their role to be when faced with inappropriate state action against their clients?

Chair: Jo Hickman, Public Law Project

Rosie Brighouse, Liberty

Christina Marriott, Director, Revolving Doors Agency

James Stark, Garden Court North

16.40 Legal aid and access to justice

Carol Storer OBE, Director, Legal Aid Practitioners Group

17.00 Closing address

Dinah Rose QC, Blackstone Chambers