

# JUSTICE FOR WOMEN



men, women and murder

[www.justiceforwomen.org.uk](http://www.justiceforwomen.org.uk)

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## Newsletter 2008

Welcome to the 2008 edition of the Justice for Women newsletter. We provide a report on a recent Justice for Women case in the Court of Appeal that was dismissed. For those of us involved in campaigning on this issue and supporting women seeking to overturn their murder convictions over the last fifteen years, this result is extremely depressing and appears to reflect a complete reversal of the progress made in the 1990s, at the height of our public campaigning, when we began to believe that justice for women was possible. Now, not only do we see appeals cynically dismissed, but we are also hearing of increasing numbers of cases of women convicted of murder at trial in circumstances where their lawyers fail to put forward the history of domestic violence and judges and juries are not accepting or understanding that such history is a relevant defence. We report on new cases recently taken on by Justice for Women that illustrate these flaws in the system. Undoubtedly, part of the problem is the law itself, which still favours men killing in anger over women killing out of desperation. We outlined in our 2006 newsletter the disastrous Privy Council judgment in *R v Holley*, which has effectively overturned the judgments of the 1990s cases we supported (including *Thornton*, *Ahluwalia* and *Humphreys*).

However, there is hope. In July, the government announced proposals to reform the law of homicide, particularly in respect of the defences of 'provocation' and 'diminished responsibility'. This follows two Law Commission consultations, on which we have previously reported. The Ministry of Justice subsequently commenced a further consultation to which Justice for Women also contributed. We then joined with other feminist groups to devise a shared proposal

for reform. We were delighted to read the Ministry of Justice proposals contained in their consultation paper *Murder, manslaughter and infanticide: proposals for reform of the law*, as they have clearly adopted some of our main ideas for reform. A further consultation is in progress and it is hoped this will be followed by implementation through Parliament. We report in detail on the government's reform programme and our own proposals for reform and attempts to build a broad feminist coalition to jointly lobby for change. We invite any readers who feel they may be able to input into our lobbying and other campaigning activities on the reform of homicide law to contact us.

**It is with great sadness that we also report on the untimely death of Pauline Campbell and our plans for a memorial and public meeting to continue her vital campaigning work on the issue of women in prison.**



**Pauline Campbell**

**A tireless crusader against the deaths of women in prison**

### R V Sharon Akers [2007] EWCA 2066

*(References in square brackets denote text taken directly from the judgement)*

Sharon was convicted on 19<sup>th</sup> May 2004 in the Crown Court at St Albans of the murder of her partner Nick Doolan. She appealed against her conviction with the leave of the single judge on 19<sup>th</sup> July 2007. The appeal was dismissed.

At her trial, Sharon had relied on the defences of lack of intent to kill and provocation. There was insufficient psychiatric evidence to rely on a defence of diminished responsibility, although the defence had been able to adduce evidence that Sharon suffered from an emotionally unstable personality disorder of the borderline type.

The relationship between Sharon and the deceased was volatile from the outset and there had been numerous incidents of physical and sexual abuse by the deceased towards Sharon. There were two physical assaults committed by the deceased on 18<sup>th</sup> July 2003 and 4/5<sup>th</sup> September 2003 which were of particular importance to the defence at trial. After the assault on 4<sup>th</sup>/5<sup>th</sup> September the deceased bombarded Sharon and her family with a great number of abusive text messages. On the night of the killing Sharon had gone to the deceased's address to tell him to stop sending abusive messages to her family. She armed herself with a knife for the purpose of self-defence. The deceased laughed at her when he opened the door and this triggered in Sharon a sudden loss of self-control.

The prosecution case against Sharon was that the killing had been planned. The prosecution was able to adduce compelling evidence in the form of a text message from Sharon to her mother sent shortly before the killing in which she had said she was going to get a knife and kill the deceased. The prosecution also relied on a number of text messages that had been sent by Sharon to the deceased.

The appeal was based on the grounds that the solicitors who acted for Sharon at her trial, Meldrum Young, were acting whilst under a conflict of interest. Further, that this had an effect on the conduct of the trial in that there were deficiencies in the case preparation. The firm had previously acted for the deceased in 1999 when he faced a charge of the attempted murder of a neighbour. Sharon had been aware of this. However she was unaware, at the time of her trial, that they had acted for him in relation to the incident of physical assault against her on 18<sup>th</sup> July and were in the process of acting for him in relation to the (ongoing) investigation concerning the attack on 4<sup>th</sup>/5<sup>th</sup> September.

There was an issue between Meldrum Young and Sharon about whether or not she had been told of their involvement with the deceased. Although Meldrum Young claim that she consented to their representing her in these circumstances, they could not produce a single piece of documentation to verify this. In view of this, the Court decided to hear evidence from Andy Kerry (the solicitor who had conduct of the case). He was cross-examined at length by Michael Mansfield QC.

The defence argued that a failure on the part of the trial lawyers to adduce evidence from the Lister hospital of Sharon's injuries (sustained on 4<sup>th</sup>/5<sup>th</sup> September) was a consequence of the conflict of interest. Not only did they fail to adduce the medical evidence, they actually went as far as to agree that "there were no visible injuries".

The Court observed that "no proper explanation has been given" [28] for the failure to obtain this evidence in time. Unfortunately, the Court held that the evidence would not have been sufficient to increase Sharon's credibility as to the extent of the assault on 4<sup>th</sup>/5<sup>th</sup> September. The only text messages which had been available at the time of the trial were those which were in the inbox of the deceased. He had made a point of saving them and he had used them to exculpate himself from the attack on 18<sup>th</sup> July. The defence argued that they had therefore been put before the jury out of context. Further, no instructions were taken from Sharon on this aspect of the evidence, so that when she gave evidence she was taken by surprise. The Court however held that she could not have given better answers than she did.

Another complaint focused on the fact that the psychiatric evidence about Sharon's self-harm (there had been around ten suicide attempts during her relationship with the deceased) was not used at trial. Much of this concerned previous consistent statements which would have gone to rebut allegations of fabrication. The Court held however that it was 'double-edged' and that the decision not to put the material before the jury was "entirely justified" [38]. The Court however, was disturbed by leading trial counsel's decision not to disclose this material to his own psychiatrist:

“We are, however troubled by the fact that it was withheld, it would appear, from Dr Kinane who was nonetheless called to give evidence. We have not had any explanation from counsel as to why that decision was taken. In view of the fact that that material was understandably withheld from the Court, it is difficult to see how counsel could properly call Dr Kinane knowing that she had not seen all the relevant material.” [38]

This gives a flavour of the unsatisfactory way in which Sharon was represented at her trial.

The Court was not unsympathetic to Sharon's situation, as the following illustrates:

“[A]s will be appreciated from what we have already said about the nature of the appellants defence, this was a case in which she was seeking to show that she was involved in an abusive relationship with the deceased who was the dominant personality and to whom, as is sadly so often the case, she felt continually drawn back, so that ultimately tragedy was to be seen not in the context of the 19<sup>th</sup> December 2003 alone but in the overall context of the relationship between the two of them.” [22]

But despite this, ultimately the Court was not prepared to hold that the trial was unfair.

Sharon has now made a formal complaint about Meldrum Young and the inadequacy of their representation, in particular in relation to the fact that they had acted under a conflict of interest.

Justice for Women is concerned about the issue at the heart of this appeal. Women who find themselves in the same position as Sharon are vulnerable to conflict. This is not the first time we have come upon a case where the woman is represented by the same firm that has acted for her violent partner, now deceased. It is likely to be the case that these women have not had previous experience of the criminal justice system, whereas the violent man they have killed may well have had such experience. Particularly in smaller towns and rural areas where there may only be one or two specialist criminal defence firms, women arrested for possibly the first time may naturally decide to obtain legal advice from the same firm which has represented the deceased in the past on the basis that the firm is known to her, without realising the implications of doing so. We hope that Sharon's complaint, if upheld and publicised, may prevent similar miscarriages of justice occurring as a result of such firms acting under a conflict.

Please continue to send letters and cards of support to Sharon Akers is c/o HMP Send, Ripley Road, Woking, Surrey, GU23 7LJ.

### **Christine Devaney – negligent legal team at trial**

We reported previously on the successful appeal against the murder conviction of Christine Devaney, and her subsequent civil claim for damages against her former solicitor and leading counsel on the grounds that they failed to advise her to obtain a psychiatric report. Christine's appeal was successful following the obtaining of fresh psychiatric evidence that showed she was suffering from diminished responsibility at the time of the offence. The claim has now been settled, although Christine is prevented, by reason of a confidentiality agreement, from publicising its results.

### Jayne Richards

Jayne killed Allan Baxter in December 2004 – Jayne does not remember the actual incident itself. There was a history of domestic violence by Allan Baxter against Jayne, and he was very controlling, but this did not emerge at the original trial. His family were also involved in controlling Jayne – she stated that his family ‘terrified her’. They were present in court during the trial.

In a previous relationship Jayne suffered domestic violence for twelve years, and lost a baby as a result of a violent assault.

Jayne’s defence for the death of Allan Baxter was based on diminished responsibility – showing that Jayne had a personality disorder and was suffering from post natal depression.

The trial lasted three and a half days in total. Proceedings were brought to an early close. When the jury returned with a question (regarding how to distinguish between murder and manslaughter), the judge refused to explain again.

After three hours the judge asked for a majority verdict – the jury went out for another half hour and returned with an 11-to-1 verdict – finding Jayne guilty of murder. In addition, because Jayne’s QC left before the close of the trial and the junior took over, a jury question on mitigating circumstances was not answered. Jayne’s original legal team said there were no grounds for appeal so she has since changed her solicitor and barrister.

Jayne has been in contact with Justice for Women since early 2008. She was in HMP Holloway until recently but has now moved to Foston Hall in Derby. She is finding it hard to settle there, but is encouraged by the backing of Justice for Women and is hopeful that her new solicitor will help her get a fair hearing and full justice. Letters of support would be really welcome and Jayne can be contacted at:

Jayne Richards PN4722, HMP Foston Hall, Derby, DE65 5DN

### Kirsty Scamp

Kirsty Scamp received a twelve year tariff for killing her violent boyfriend. She was 19 at the time of the offence, and is now 22. Justice for Women are currently examining the details of Kirsty’s case to establish whether there are grounds for appeal.

## Update on proposed reform of the Homicide Laws



Justice for Women and other groups have campaigned for years to achieve legislative reform that would reduce the inequalities experienced between men and women in the application of homicide laws. In particular, we have campaigned to end the injustice of women who have suffered serious violence and thereafter killed their violent partner being convicted of murder. At the same time, we want to stop men who kill their female partners from getting away with murder, where their defences are based on 'nagging' or the alleged, suspected or actual infidelity of the deceased.

### The Law Commission consultations

Following two lengthy consultations by the Law Commission over the last four years, the Ministry of Justice are now in the process of drawing up legislation to reform part of the law on homicide, including in particular the defences of 'provocation' and 'diminished responsibility'. The Law Commission recommendations are contained in *Murder, manslaughter and infanticide* Law Commission Report No. 304, which was published in November 2006.

### The government's reform programme

The present Ministry of Justice proposals do not include the wider recommendations to restructure the law as proposed by the Law Commission. However, it is proposing reform to the two partial defences of provocation and diminished responsibility which, where successful, result in a conviction of manslaughter rather than murder. The proposals for further consultation can be found on the Ministry of Justice website at <http://www.justice.gov.uk/publications/cp1908.htm>

We set out below a summary of their proposals in respect of provocation and diminished responsibility specifically.

### Summary of proposals

The Government proposes to reform the law in the following ways:

#### ***Partial defences***

- To abolish the existing partial defence of provocation and replace it with new partial defences of:
  - killing in response to a fear of serious violence; and
  - (to apply only in exceptional circumstances) killing in response to words and conduct which caused the defendant to have a justifiable sense of being seriously wronged.
- To make clear that sexual infidelity on the part of the victim does not constitute grounds for reducing murder to manslaughter.
- To remove the existing common law requirement for loss of self-control in these circumstances to be "sudden".
- To provide that the "words and conduct" partial defence should not apply where the words and conduct were incited by the defendant for the purpose of providing an excuse to use violence.
- To provide that the "fear of serious violence" partial defence should succeed only where the victim is the source of the violence feared by the defendant and the threat is targeted at the defendant or specified others.
- To provide that neither partial defence should apply where criminal conduct on the part of the defendant is largely responsible for the situation in which he or she finds him or herself.
- To provide that these partial defences should apply only if a person of the defendant's sex and age, with a normal degree of tolerance and self-restraint and in the circumstances of the defendant, might have reacted in the same or in a similar way.
- To ensure that the judge should not be required to leave either of these defences to the jury unless there is evidence on which a reasonable jury, properly directed, could conclude that they might apply.
- To introduce a new partial defence of diminished responsibility based on the concept of a "recognised medical condition", spelling out more clearly what aspects of a defendant's functioning must be affected in order for the partial defence to succeed, and making clear that the abnormality should cause, or be a significant contributory factor in causing the defendant to kill.



## Update on proposed reform of the Homicide Laws cont...



### Justice for Women's response

We believe these proposals go a long way towards improving the position of women who kill their violent partners, and will help end the blatant injustices we have observed in the operation of the homicide laws where domestic killings are concerned. Most importantly, we welcome the introduction of the new defence to replace provocation, where somebody has killed in situations where they fear serious violence. This is because there has been a number of cases Justice for Women have supported that just miss satisfying the test for self defence (either because the use of force is seen to be disproportionate to the threat faced, or because the defendant has waited to respond to violence rather than doing so in the heat of the moment). In such cases, the defendant has been convicted of murder because they cannot use self defence or the test set by provocation of 'a sudden and temporary loss of self control'.

We also welcome the specific exclusion of sexual infidelity on the part of the victim as grounds for reducing an offence from murder to manslaughter. We have observed far too many cases where a man has successfully used the partial defence of provocation by claiming he was driven to kill because his partner was having an affair (even in cases where she was not but he believed she was). We believe that this specific exclusion (where it is the prime or only cause of the killing), brings the defence into the modern age where homicidal rage should no longer be considered a civilised response to an 'insult' to a man's honour or pride.

Justice for Women plan to prepare a more detailed response to these proposals in line with the government's consultation timetable, which has a deadline of 20<sup>th</sup> October 2008.

## Remembering Pauline Campbell



### Remembering Pauline Campbell – courageous campaigner to end the unnecessary incarceration of vulnerable women and unacceptable number of deaths of women in custody

**A mother who fought to the end** (Article by Julie Bindel, originally published in *The Guardian*, 16<sup>th</sup> May 2008)

*After her daughter, Sarah, took a fatal overdose in prison, Pauline Campbell, became a tireless campaigner against the deaths of women in custody. Julie Bindel pays tribute to a woman who was driven by a passion for justice.*

Pauline Campbell, who was found dead yesterday morning, put the deaths of women in prison on the map. A formidable and tireless campaigner, she had personal experience of deaths in custody. Just over five years ago, her much-loved daughter Sarah, 18, died of a drug overdose at Styal prison. Campbell's body was discovered close to her daughter's grave in Oakhills cemetery in Malpas, Cheshire. As we went to press, it was not clear whether she had killed herself or died of other causes, but it looks bleak.

Sarah died after swallowing 100 sleeping tablets at HMP Styal, on the first night of her three-year sentence. She was Campbell's only child; indeed, her only family member.

Sarah's life had been beset by problems, just like the vast majority of women in prison. When she was four, her father walked out, leaving her with what Campbell described to me as "an intense feeling of loss". Much of Sarah's childhood was blighted by sexual abuse, at the hands of a distant relative. After being raped when she was 15, Sarah became clinically depressed, and turned to heroin to numb the pain. It was when trying to harass a man in the street for money to buy drugs that the course of Sarah's life took an even worse turn. The elderly man suffered a heart attack and died on the spot. Sarah was convicted of manslaughter.

I met Campbell in 2004, at a meeting about women in prison. Sitting rod-straight, her bobbed hairstyle, smart pinstripe suit, and elegant manner were more suited to a female MP than a grieving mother. It was when she opened her mouth and began to speak about prisons being "dumping grounds" for abused, oppressed and desperate women in need of help, rather than punishment, that her vulnerability became obvious. I had a sense of a woman who would be wailing in pain if she was not able to keep herself busy.

Meeting Campbell was like meeting an icon. She was one of those women who suffer the worst tragedy imaginable, but who turn it into positive action. Since late 2003, each time a woman died in custody, she would stage a demonstration outside the prison gates. Along with a few other women, she would wave placards, and shout slogans. Sometimes she sat down in front of incoming prison vans transporting new female prisoners to jail.

Campbell was arrested 15 times over the years. She once said to me that the only way she would give up was when she was carried away in her coffin, and during what turned out to be her final protest, over the death of a young mother, Lisa Marley, she obstructed the highway at Styal and led a protest rally and vigil. Marley had killed herself - one of 41 other women in prison who have done so in the years since Sarah died.

One of my most vivid memories of Campbell was when she was awarded the annual Emma Humphreys memorial prize in 2005, for her exceptional campaigning work. Humphreys spent 10 years in prison for killing the pimp who raped and abused her, before being released on appeal after a campaign by Justice for Women. Just before Campbell was due on stage to collect the prize, I spotted her talking to other nominees, many of whom had suffered, or dealt with, horrific sexual abuse. Campbell was sitting, hands cupping her small, worn face, listening to their stories, and offering support and sympathy. Five minutes later, she was up on stage, in front of a packed audience, giving a rip-roaring speech in which she encouraged everyone to lay down in front of prison gates to protest the deaths of society's most vulnerable women.

The writer Rose George, who nominated Campbell for the prize, remembers her as an "unfailingly elegant and amazingly determined woman, who sat on cold tarmac in front of prison vans all over the country, no matter what".

During the six months that Sarah was on remand in prison, waiting to go to trial for manslaughter, Campbell told me she found it a "nightmare" to carry on. "I was seriously depressed, losing weight, and often crying as I drove home after visiting her at the jail; occasionally driving through traffic lights on red; concentration seriously impaired." On one occasion when Campbell visited, Sarah had ligature marks round her neck from where she had attempted to





hang herself the previous day. "I knew then, of course, that there was a serious risk that Sarah would die in their 'care' - and she did."

Last year, I interviewed Campbell for a magazine article I was writing about mothers who support their daughters through prison sentences for murder and manslaughter, and how it affects them. The piece never ran because the editor questioned why I was being sympathetic to Sarah. "The readers will be aware that she killed someone, after all," he said. I asked Campbell if she agreed I should pull the piece. "Oh yes," she almost shouted down the phone. "Fuck HIM if he thinks he can further sully my daughter's name."

Deborah Coles, co-director of Inquest, a group that campaigns over deaths in custody, met Campbell shortly after the inquiry into Sarah's death. "I always worried about Pauline," says Coles, "because the obsessive campaigning was taking its toll on her mental and physical health." There is a tendency to underestimate the impact a death in custody has on loved ones, says Coles. In the two years it took for Sarah's case to come before a coroner, Campbell had been forced to battle for disclosure of the circumstances of her daughter's death, the right to legal aid, and was in fear that she would have to sell her home to pay for the privilege of finding out how and why her daughter died. Then there was the stigma she was made to feel because her daughter was in prison for a "violent crime".

"The stigma and shame, not of Sarah, but of the way such crimes are perceived, was such that my heartache and grief has been exacerbated," Campbell told me, when we spoke on the phone last December.

A lawyer who knew Campbell called me when she heard the news about her death. We agreed that neither of us had ever foreseen the early death of someone who seemed so indomitable, so driven by her passion for justice. She said, "The last time I saw Pauline at the launch [of a report on women's deaths in custody], she said that she had a surprise planned, in connection with another inquest due to be heard soon." She wondered now whether it was connected. We do not yet know how Campbell died, but I would not be surprised if her death is somehow her final act of defiance.

It appeared that Campbell had no intention of giving up the fight just yet. In that local news report, Campbell was quoted as saying, "I believe in standing up for principle because it is one of the few ways in which people can make a difference. I refuse to bow to pressure and will stick to my resolve to hold prison death demonstrations outside jails in England when women kill themselves in the so-called care of the state."

In one of the letters Sarah Campbell sent her mother from prison, while on remand, she wrote, "I don't know what I would have done without you these past few months." Campbell's death has left me wondering what on earth we will do without her now.

(Article ends) -----

Pauline Campbell's campaigning and protests held the prison service to account and influenced the government into setting up Baroness Corston's review of women in the criminal justice system.

Pauline was committed not just to campaigning but also to supporting bereaved families. She was one of a number of bereaved parents who turned their own personal loss into a collective response to injustice and state neglect. The need for this campaigning work to continue is demonstrated by the fact that since the death of Pauline's daughter another 41 women have taken their own lives in prison.

*Pauline Campbell's poetry conveys the pain of losing her daughter. We include one of her poems on the next page:*

## Death

What do I know about death?  
Well, I'll tell you what I know.  
It happened to my Sarah,  
and it happened to Emma Humphreys.  
It nearly happened to me.  
Pity it didn't.

Sarah, aged eighteen.  
Emma, aged thirty.  
And me? Fifty-six when it nearly happened to me,  
in December 2004.

I'd had enough, you see, that's what happened.  
So I swallowed lots of pills, all sorts,  
and thought it would do the trick.

I closed my eyes,  
and drifted in and out,  
in and out of consciousness,  
or was it sleep?  
It doesn't really matter.

But it didn't do the trick  
and I woke the next morning,  
surrounded by my vomit, and the memory.  
The memory of all those little pills  
that were supposed to take me to heaven.

I thought it would be a good idea.  
Death would take me away from all the pain.  
Death would take me to heaven,  
to be with my Sarah, together again.

One week in hospital,  
attached to the drip, then I was mended.  
The liver is very poorly, they said,  
but we hope this will make it better.  
And it did.

My mother died when I was three.  
I found about death early, too early.  
She disappeared, my mother, when I was a little girl,  
too young to know where she had gone.

So, the thought of death held no fear.  
I saw it as a journey, an adventure, really,  
to see where it would take me.  
The chance that it would take me somewhere,  
anywhere, to be with Sarah,  
it was a risk worth taking.  
But it didn't work.  
Pity.

**Pauline Campbell**

**5th October 2005**

'On the occasion of receiving an email, notifying me that I had been awarded the Emma Humphreys Memorial Prize 2005, reducing me to tears of joy and sadness.'

This year Justice for Women updated and refined our Mission Statement, as follows:

### Mission Statement

Justice for Women (JfW) contributes to the global effort to eradicate gender-based violence against women, which includes sexual and domestic violence. Its focus is on the criminal justice system of England and Wales. JfW works to identify and change those areas of law, policy and practice relating to gender-based violence against women, where women are discriminated against on the basis of their gender.

(Adopting the definition of violence against women described in Article 1 of the Declaration on the Elimination of Violence Against Women 1983).

### Objectives:

In order to comply with its Mission Statement, JfW has adopted the following objectives:

- To work towards an end to discriminatory provisions in the legal and policy framework of England and Wales relating to the criminal justice system as it impacts on gender-based violence against women and to ensure that this framework is effective in preventing continued discrimination against women;
- To change opinion relating to women and men's experience of gender-based violence against women. The targets for this opinion change include the general public, the judiciary, legal practitioners within the criminal justice system, legislators and policy makers;
- To change practice in the criminal justice system relating to gender-based violence against women amongst the Crown Prosecution Service, defence practitioners, the judiciary and other professionals that come into contact with women who have experienced this violence;
- To prevent the onset or continuation of discrimination within the criminal justice system against women who have experienced gender-based violence.

### Strategies:

- Monitor and report publicly on cases ( First instance, appellate and CCRC) of women facing criminal charges for the deaths of male partners or ex-partners by whom they had experienced violence;
- Monitor and report publicly on the response of the criminal justice system to gender-based violence against women as evidenced by domestic homicide and other serious violence against women;
- Monitor and report publicly on cases where women who have experienced gender-based violence face criminal charges resulting from discriminatory treatment on the basis of gender by any aspect of the criminal justice system, in relation to the gender-based violence they have experienced;
- Conduct public campaigns on behalf of and ensure adequate legal representation for individual women who are facing criminal charges as described above or who have been convicted of these charges;
- Develop and maintain networks of women's organisations and other civil society organisations – both within and outside the UK – concerned with gender-based violence against women, and facilitate direct links between women activists.

### Activities:

- Ensure adequate and appropriate legal representation for women facing charges in cases of domestic homicide or other serious violence as a result of gender-based violence against themselves, including by providing expert advice and assistance to legal teams representing these women;  
Develop and maintain links with appropriate bodies including the probation service, solicitors' firms, lawyers' professional organisations and court personnel;  
Provide expert advice to appropriate bodies concerned with legal issues and legal reform including the Law Commission, All-Parliamentary Groups and legislative bodies;
- Identify law, policies and practices that require change and take appropriate action, including advocacy with legislators, policy-makers and the raising of public awareness to effect such change;
- Establish and maintain links with mass media to ensure the widest coverage of issues of concern to JfW;
- Provide an on-call expert resource to journalists seeking to publicise issues of gender-based violence against women;

### Activities cont...

- Organise conferences and seminars, commission research and hold events to raise awareness and funds to support the aims of JfW;
- Maintain a membership of concerned individuals and affiliate organisations and provide them with regular bulletins (both print and electronic);
- Develop and maintain appropriate web-based resources including website and e-lists;
- Organise and deliver appropriate training courses or other educational events for practitioners in the criminal justice system and the judiciary regarding gender-based violence against women;
- Maintain a viable, accountable and transparent organisation, including meeting legal liabilities regarding accounting and management.

### Measuring outcomes:

- Changes in statutory law, policy and jurisprudence relating to gender-based violence against women;
- Extent and nature of media coverage relating to cases of gender-based violence against women, in particular relevant domestic homicide cases and cases of sexual violence;
- Access to high level public bodies, legislators and other decision-makers regarding law, policy and practice on gender-based violence against women;
- Size of membership
- Number of 'hits' on the website and responses to web-based surveys and e-discussions;
- Approaches and follow-up by legal teams representing women facing criminal charges as outlined above;
- Reference in legal cases and media coverage of issues relating to gender-based violence against women;
- Levels of funding of JfW.

### Annex: Normative framework

While JfW is primarily concerned with the substantive law, policy and practice relating to gender-based violence against women in England and Wales, it derives its standards from relevant international law, in particular the:

- European Convention on Human Rights and Fundamental Freedoms
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 and associated jurisprudence;
- Declaration on the Elimination of Violence Against Women 1983 (A/Res/48/104);  
Vienna Declaration and Programme of Action 1993 (A/ CONF.157/23).

## Eaves' campaign against 'Pimpcentre Plus'

The Lilith Project at Eaves has recently highlighted the scandal of positions in the sex industry being advertised by Jobcentre Plus. They outline the issue here as follows:

Jobcentre Plus premises across the country work on behalf of the sex industry to advertise for lapdancers, pole dancers, webcam strippers, adult chat show performers, private dancers, escorts and more. It is hard to understand why a government department would want to encourage young, often vulnerable women and girls looking to enter the labour market into a violent, degrading and inherently exploitative industry; and why they do not consider it their duty to protect those women and girls coming into their jobcentres, rather than perpetuate the stereotype that a woman's sexuality is her only worth.

Prior to a court case brought against the Department for Work and Pensions (the government department responsible for Jobcentre Plus) by Ann Summers in 2003, the DWP had a policy of not advertising any positions connected with 'the sex or personal services industry', acutely aware of the exploitation involved in such industries, and keen to stop women and girls looking for work 'choosing' to enter the sex industry through a lack of viable alternatives. The High Court judge ruled in favour of Ann Summers, calling the DWP's policy 'irrational, unfair and illogical'. The basis of Ann Summer's argument however, was that their chain of shops were not 'sex shops', and therefore not part of the sex industry.

Deflated and clearly confused by their defeat, it would appear that, since the High Court ruling in 2003, the DWP has taken it upon themselves to introduce an open-door policy on any position connected with the sex industry,

hiding behind their supposed 'legal obligation' to advertise any legal job. So now we have a situation where lapdancing, performing pornography to anonymous men's commands over the internet, and escorting are being suggested to women of all ages with no thought of the damage this may cause. When challenged on their position, the DWP is quick to assure people of the 'robust safeguards' they have introduced, specifically designed to protect jobseekers from exploitation. Unsurprisingly perhaps, these safeguards are illogical and entirely ineffective.

The DWP is quick to claim that sex industry vacancies are only discussed with people who specifically enquire about them or who have previously been employed within the industry, and never with jobseekers under the age of 18. In reality however, unless someone is claiming jobseeker's benefit, they are not entitled to meet with a Jobcentre advisor, instead centres offer a series of 'jobpoints' or computers using the same search software as their website. These jobpoints provide no screening for jobseekers to enter their age or previous experience; more worrying still is that only very few vacancies require applicants to apply for the job through the jobcentre, the majority list the mobile phone number and other contact details of whoever has placed the advert and so the jobseeker can simply contact them directly. The fact is that Jobcentre Plus and the DWP have no idea how many women, under-18 or not, have applied for positions in the sex industry after visiting their local jobcentre.

In December last year, then-Minister for Work and Pensions Peter Hain introduced additional safeguards, designed to protect applicants for positions which involve physical contact 'which could be of a sexual nature', such as 'escort work' or 'working in a massage parlour or sauna'. Were the terms 'massage parlour' and

'sauna' not now generally-accepted euphemisms for 'brothel', it would be hard to see why contact of a sexual nature, indeed any physical contact at all in the case of working in a sauna, were even to be expected. In these instances however, the DWP is quick to assure that 'before a vacancy is advertised, employers are asked to complete and return a statement confirming the position does not involve contact of a sexual nature', and once the vacancy has been filled (assuming the jobcentre is indeed aware that the vacancy has been filled), 'Jobcentre Plus will, as part of a routine 48-hour courtesy call to employers, confirm nothing illegal was subsequently found to be part of the job requirements.'

It will come as no surprise then that, despite the Gender Equality Duty coming into effect in April 2007, the DWP managed to score only half a point out of a possible ten in the End Violence Against Women Coalition's annual *Making the Grade 2007* report, ranking them one of the worst government departments for integrating violence against women issues into their work. The report draws specific attention to the DWP's policy of 'advertising exploitative positions in the sex industry', and their reluctance to engage with the issue despite frequent invitations extended to them by the coalition.

Again it would seem that the government are guilty of political cowardice, and only when policy-makers find the courage to stand up to their convictions and commit to tackling gender inequality and violence against women as a priority can we hope that women and girls will stop being aided into an exploitative, violent and abusive industry by the very people who are supposed to be protecting them.

In September 2008, Harriet Harman, Deputy Prime Minister and Minister for Women, expressed shock at the DWP's current stance



and promised to pursue the issue as a matter of priority.

Eaves has recently taken legal advice and is considering mounting a case to force clarification of the 2003 ruling. Please contact the Lilith Project (email: [lilith@eaveshousing.co.uk](mailto:lilith@eaveshousing.co.uk)) for further information and to pledge your support for this campaign.

### Southall Black Sisters achieve victory against Ealing Council

Southall Black Sisters (SBS) has recently been locked in a struggle against Ealing Council with regard to its decision to withdraw funding for their domestic violence services for black and minority ethnic women.

The Council sought to justify its decision on the grounds that a generic domestic violence service will be better placed to meet the requirements of the equality legislation and the 'cohesion' agenda. The Council has made much of the need to reflect the racial diversity of Ealing (meaning the white majority population) in the interests of 'cohesion'. In the process it sought to argue that the very existence of specialist groups like SBS is unlawful under the Race Relations Act.

A challenge was brought by SBS users against Ealing Council for its failure to have proper regard to existing equality legislation, especially the Race Relations Act, in reaching its decision on their funding.

'There is no dichotomy between funding specialist services and cohesion; equality is necessary for cohesion to be achieved.' Lord Justice Moses.

On 18 July at the High Court, in a dramatic turn of events, Ealing Council withdrew their case after one and a half days of a hearing

which saw their defence rapidly unravelling. From the outset, it became apparent to the presiding judge, Lord Justice Moses and to all those present in the courtroom including the packed public gallery, that Ealing Council was skating on really thin ice in attempting to justify its decision to cut funding to SBS, and to commission instead one generic borough-wide service on domestic violence on the grounds of 'equality' and 'cohesion'.

Southall Black Sisters began the process of challenging Ealing Council exactly one year ago. They received tremendous support from their services users and other individuals and organisations.

Here we reproduce a circular from SBS regarding the judgement in this significant case:

### Southall Black Sisters' Victory against Ealing Council

'An equal society protects and promotes equality, real freedom and substantive opportunity to live in the ways people value and would choose, so that everyone can flourish. An equal society recognises people's different needs, situations and goals and removes the barriers that limit what people can do and can be'. (Lord Justice Moses quoting the chairman of the Equalities Review in the final report *Fairness and Freedom*, 2007).

In his written judgment on our battle to survive as a specialist secular, anti-racist and feminist organisation in the face of threatened funding cuts by Ealing Council, Lord Justice Moses reiterates some important principles about equality which will have wider ramifications for all those struggling to maintain funding for specialist services and for the struggle for equality generally:

- There is clear duty on local authorities to assess the negative impact of any policy

or change in services on racial groups or indeed other groups *before* the policy is adopted and if there is adverse impact, to find ways to minimise or eliminate the risk;

- Rearguard action – i.e. any attempt by a local authority to carry out equality impact assessments to justify policies already determined or a tick box approach to equality impact assessment – will not be lawful;
- Targeting services to specific racial groups and positive action to eliminate racism does not undermine the principles of cohesion or the Race Relations. 'Cohesion is achieved by overcoming barriers. That may require the needs of ethnic minorities to be met in a particular and focussed way. The Southall Black Sisters illustrates that principle... There is no dichotomy between the promotion of equality and cohesion and the provision of specialist services to an ethnic minority.'
- Specialist services are entitled to give themselves a name which announces the specialist nature of their purpose. 'Specialist services for a racial minority from a specialist source is anti-discriminatory and furthers the objectives of equality and cohesion.'

This judgment is important not only because it strikes a blow at those who try to diminish the principle of racial equality but also because it reminds us of what the struggle for equality should be about – the right to be free from racism and all forms of oppression that place a limit on what people can do and can be.

SBS are interested to hear from any organisations or individuals who make use of this judgment.



## The Feminist Coalition Against Prostitution (FCAP) believe that prostitution is violence against women

- FCAP is a UK wide group advocating a common approach to prostitution for the whole of the UK
- All feminist individuals and groups, from all backgrounds, are invited to join this Coalition
- We are calling for the decriminalisation of all women, children and men involved in prostitution – and demand that all criminal records for loitering and/or soliciting be wiped so that survivors are not barred from employment branded as 'sex offenders'
- We urge the UK Government, the Scottish Parliament and Welsh Assembly to consider a Swedish-style law to make buying sex illegal and to invest money in exit services such as housing, education and training, legal advice, welfare benefits and health care
- We believe that prostitution is not inevitable – end demand.

For more information please go to the FCAP website at: <http://www.fcap.btik.com/>

FCAP are unfunded and welcome donations to the campaign to build a world where nobody is for sale – to make a donation to FCAP please email: [londonfeminist@yahoo.co.uk](mailto:londonfeminist@yahoo.co.uk)

## Events

### Justice for Women event

As a memorial to Pauline Campbell, tireless crusader against the deaths of women in custody who died on 15<sup>th</sup> May this year, Justice for Women, in association with Inquest and the Emma Humphreys Memorial Prize are hosting a **Public Meeting and Exhibition**. This meeting will be an opportunity to both remember Pauline, and to look at ways to continue her fight to end the deaths of women in prison and implement changes, such as those recommended in Baroness Corston's report (see <http://www.homeoffice.gov.uk/documents/corston-report/>).

Speakers will include friends of Pauline, those who campaigned alongside her about the deaths of women in prison, and politicians.

**Date:** Saturday 27<sup>th</sup> September 2008 from 2pm - 6pm

**Venue:** Human Rights Action Centre  
Amnesty International  
17-25 New Inn Yard (off Curtain Road)  
London EC2A 3EA

Please join us to pay tribute to a courageous activist and campaigner and speak out against the deaths of women in prison.

### Emma Humphreys Memorial Prize – Tenth Anniversary

2008 is the tenth anniversary of this important memorial that was set up following the death of Emma Humphreys, who Justice for Women supported in her successful appeal against conviction in 1995. This year's event will take place on Friday 24<sup>th</sup> October 2008 at The Drill Hall in central London. For further details please visit the EHMP website at [www.emmahumphreys.org](http://www.emmahumphreys.org)