Righting wrongs

Dr Michael Naughton can justifiably claim to be a leading expert on the subject of wrongful convictions. In January 2005 he established the UK’s first Innocence Project at Bristol University where he is also a Senior Lecturer in Law. His work, and that of his colleagues at the Innocence Project, has been instrumental in a number of decisions by the Criminal Cases Review Commission (CCRC) to refer cases back to the Court of Appeal. Naughton, well acquainted with the fallibility of our justice system, is the perfect candidate to draft this booklet.

Most readers will be familiar with the more famous cases of wrongful convictions, such as the Birmingham Six and Guildford Four. One of the purposes of this book, though, is to challenge the perception that such cases are confined to a murky past of corrupt police officers and a complicit judiciary. They continue to occur for a variety of reasons; false confessions, incompetent police or defence work and police misconduct to name but a few. Naughton argues that the procedural limitations of the appeals process and the CCRC – particularly the general requirement that new evidence can only be considered if it was not available at the original trial – means that those who have been wrongfully convicted are not always able to overturn a verdict on appeal. They also face significant disadvantages within the prison system as continued claims of innocence can result in longer custody and lack of access to rehabilitation programmes.

His criticisms of how little allowance the justice system makes for the possibility that innocent people can get caught up in it seem fair. He argues that innocence projects have a better approach to reviewing cases than the CCRC or Court of Appeal because they focus on proving ‘factual innocence’ and looking at the whole of a case, rather than simply searching for a procedural anomaly that may have made a conviction ‘unsafe’. Ultimately though, to clear someone’s name a central goal of an innocence project must still be overturning their conviction. They must therefore also work within the legal framework of appeals which is not strictly concerned with factual innocence but simply whether a conviction is safe.

Naughton dedicates a chapter to the fact that those who have successfully had their convictions overturned still face stigma. He argues that we must restore the presumption of innocence. The chapter in question does not offer any advice on how this is to be done per se, but lists cases of people who have successfully overturned their convictions but have continued to face criticism in the media.

This booklet highlights the problems faced by the wrongfully convicted who are stuck within a system which cannot accommodate innocence.

However, its main purpose is not to campaign on their behalf, but instead to offer guidance on how to challenge wrongful convictions. There is a comprehensive overview of the appeals process and relevant law, advice on how to gather evidence to challenge a wrongful conviction and even pragmatic advice such as how to launch a media campaign. In that respect, practitioners are clearly not the intended target of this book as they are likely to be familiar with much of the legal guidance. For the wrongfully convicted and their families and friends who want to challenge their convictions, this book will be of great assistance.

Michael Goold

Protecting due process

The other considerable strength of this book is the breadth of its research. As one of the most sparingly used jurisdictions exercised by the Courts, it is difficult to find contemporary and reported cases. However, the authors have collated both first instance transcripts and unreported cases in order to demonstrate the development of fertile areas for abuse of process arguments; for example the increasing number of complex fraud cases suffering from a prejudicial lack of disclosure.

Finally, the text’s clear layout and indexing, improved from the last edition, means that it is easy to reference and navigate. It also contains within its appendices core statutory instruments including the Attorney General’s Guidelines on Disclosure as well as sample skeleton arguments and a short insight on tactical and practical considerations. This really is a book that is not meant to sit on the bookshelf gathering dust; it is meant to be used and provides an invaluable tool to any lawyer or law student who is alive to protecting due process and the right of their client to a fair trial.

Anna Morris