



MTYBA'S EXPAND YOUR PRACTICE SERIES

PART 1: POCA FOR DUMMIES

On the 26th February 2020, "POCA for Dummies" kick started MTYBA's new 'Expand Your Practice' series of talks aimed at young barristers who are looking for ways of expanding their practice to be more successful and sustainable from a business perspective.

At this interactive lecture which was presented by Proceeds of Crime expert Colin Witcher, of Church Court Chambers, he outlined the important case law and legislation and gave anecdotal accounts of the benefits of developing confidence in confiscation work for those wishing to supplement a traditional criminal practice or develop a specialism.

It became evident applying for confiscation orders goes beyond the cases involving multi-million-pound properties owned by drug dealers and that the Government are using POCA to recoup finances from those who are benefiting from criminal behaviour at all levels of criminality.

Colin displayed his own enthusiasm for the work POCA creates and persuasively conveyed the importance of all pupils and young barristers having a basic understanding of confiscation.

The emphasis throughout the evening was on communicating clearly to all clients the potential ramifications of not considering confiscation and its effects from the first client conference. If counsel fails to advise on POCA there could be questions of professional negligence raised. Comprehensive coverage of advice in regards to POCA in your attendance note is essential.

The skills involved in preparing for a POCA hearing are negotiation, good mathematical skills, a business mindset, and an ability to ensure full disclosure from your client. Withholding details of bank accounts and assets is not recommended apparently as it usual for the truth to surface and the Crown to use this to attack the credibility of the defendant if they have to give evidence.

It was explained that most POCA cases are settled before the final hearing by an agreement between defence and prosecution Counsel with the judge rarely deviating from the agreement although it was emphasised that it is worth being prepared to explain the reasoning behind any agreement for difficult judges.

For those wondering if there is hope of a sustainable criminal practice, a light at the end of the tunnel emerges through confiscation work.

Upcoming events in this series:

- 1) Sports Law with Richard Harry of Sports Resolution: 08 April 2020;
- 2) Court of Protection: 21 April 2020.

Hayley Blundell | MTYBA Secretary