Local defender

Robert Hams
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Of the constituent topics on an HND Business Studies course I undertook on leaving school, law was the most interesting. From that point I decided to pursue a legal career, eventually qualifying as a solicitor through the old Part 1 and Part 2 system.

There are, and always have been, challenges in gathering evidence. I learned at an early stage in my career that in defending local authorities/public bodies no one particular witness is able to provide the full story, and that it is often necessary to piece together defence evidence from a variety of completely disparate sources, usually involving different service areas.

Another difficulty is that as a result of cutbacks in recent years, many potential witnesses have been made redundant and are simply no longer available – or if they are, are unwilling to help. One of the challenges local authorities used to face at trial was that they always seemed to start ‘2-0 down’. But that has changed in recent years with the recognition by the courts of the concept of self-responsibility.

What’s more, there has been a series of favourable landmark decisions across all service areas, culminating in CN v Poole Borough Council. The Court of Appeal decision in this case is undoubtedly my career highlight so far. I owe a huge debt of gratitude to both Paul Stagg and Lord Faulks who ensured the successful outcome for Poole Borough Council.

I have been fortunate to have been involved in several other successful appeal court decisions all in the local authority context. These involved claims brought under the Occupiers Liability Act, for damages for stress/harassment, and to clarify the limitation period in proceedings under the Civil Liability (Contribution) Act 1978.

I have dealt with many stress-related claims against local authorities and represented the successful defendant in the Court of Appeal in Deadman v Bristol City Council. In my experience, stress-related claims are now broader-based across many local authority service areas. One of the changes we have seen over recent years is the impact of the Protection from Harassment Act on these claims, and how that has expanded into the workplace.

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Another development is the very interesting cross-over with Employment Tribunal matters.

The Animals Act 1971 is my least favourite law. I have encountered it on several occasions, usually in the context of cases involving bites to police dog handlers in training incidents. It has always seemed to me to be a most opaque piece of legislation.

YouTube star won revenge porn damages

Lawyer in the news
Dr Ann Olivarius
McAllister Olivarius and AO Advocates
By Monidipa Fouzder

Who? Dr Ann Olivarius, senior partner, McAllister Olivarius and AO Advocates, Maidenhead and New York.

Why is she in the news? Acted for Chrissy Chambers, a YouTube celebrity, whose settlement for substantial damages against a man who uploaded ‘revenge pornography’ videos of her to the internet was announced in the High Court.

Thoughts on the case: ‘The good news is that after four years our client won a substantial payment and an apology in a new area of law. The bad news is that revenge porn is a growth industry – half of young people have shared intimate images because smartphones make it easy, so they are easy to misuse too. We lobbied hard for the criminal law against revenge porn that passed in 2015, but there are way too many cases for prosecutors to handle. I would like to see a civil law that gives victims a much clearer legal path to make perpetrators pay for the incredible havoc they cause.

The websites profiting from hosting the material should also be made liable.’

Dealing with the media: ‘My experience is that most reporters want to do a good job and need help to understand the nuances. We represent women (and men) in workplace discrimination cases and divorces, and child sex abuse survivors in the US and UK. The #MeToo movement shows the power of shining a public light on violations that usually shame people into silence. Media is crucial, because if victims don’t know justice is possible, they suffer alone.

Why become a lawyer? ‘To make the world a better place. I came of age when women were just being allowed entry to male institutions (for me Yale and the Rhodes Scholarships). I want to “pay it forward” so others can have fuller opportunities.’

Career highlights: ‘Designing and bringing the first UK case to hold that sexual harassment at universities is sex discrimination; Nelson Mandela introducing me as someone who “has advised me well and advanced the cause of justice, and improved life opportunities, for hundreds of millions of women, blacks and disadvantaged”.

Career low: ‘Having to settle child sex abuse cases in England for 10% of what the claimant would win in the US on identical facts, because English law underestimates psychological suffering and disallows exemplary/punitive damages. In my experience, the fear of paying large sums wonderfully concentrates the minds of those who run organisations that look after children.’