

Acting for survivors of abuse

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BoltBurdonKemp

Context

- Locally
- Nationally
- Internationally

My background

- Islington scandal in 1999
- Test cases
- 25% of fee income
- 9 solicitors working on claims
- Who we sue...

Our clients

- We never defend!
- Children
- Adults abused as children
- Adults with learning difficulties/ disabilities
- Adults assaulted in adulthood
- Sexual, physical, emotional abuse & neglect
- Bankruptcy

Clients' journey

- "Disclosure"
- Crime? Police? CPT? CPS? Conviction?
- S 130, Power of Criminal Courts Sentencing Act 2000
- Reaction to criminal trial

The law

- Trespass against the person
- Negligence
 - Bolam test
 - Woodland v Essex County Council [2013] UKSC 67
 - JB & BB v Leicestershire CC , 6th June 2014

The statutory framework

- The Children & Young Persons Act 1933
- The Children Act 1948
- The Boarding Out of Children Regs 1955
- The Children & Young Persons Acts '63 & '69
- Local Authority (Social Services) Act 1970
- The Children Act 1975
- The Child Care Act 1980
- The Children Act 1989...

Other bits of law

- Misfeasance
- Human Rights Act 1998
- Protection from Harassment Act 1997
- Data Protection Act 1998
- CICA scheme 2012

Vicarious liability

- Doctrine of strict liability – reformed
 - The Catholic Church Welfare Society v Various Claimants [2012] UKSC 56
 - JGE v Trustees of the Portsmouth RC Diocesan Trust [2012] EWCA Civ 938
 - Lister v Hesley Hall [2002] 1 AC 215

Limitation

- A v Hoare & other appeals [2008] UKHL 6
- S 14 Limitation Act : Date of knowledge
- S 33 Limitation Act: Fair trial/ prejudice/
reasons for delay
- Not as a preliminary issue

Defendants

- Institutional defendants – insured!
- Individuals – not insured!
 - Assets?
 - Enforcement issues?

General damages

- PS+LA
- Aggravated damages
- Exemplary damages
 - Outrageous/ scandalous conduct by agent of govt
 - Designed to make a profit over & above any sum which could be recouped by normal award

Special damages

- Treatment
- Loss of earnings
 - A v Archbishop of Birmingham [2005] EWHC 1361 (QB)
 - C v Flintshire CC [2001] EWCA Civ 302
 - Blamire v South Cumbria HA [1993] 2 PIQR Q1

More special damages

- Loss of familial support
- Wasted expenditure on alcohol
 - B v LB of Ealing [2008] EWHC 1262 (QB)
- Policy arguments = can't award for illicit behaviour

Other outcomes

- Rehabilitation
- Apology
 - Statutory duty of candour
- Publicity
- Anonymity
- Justice?

Funding

- Legal aid
- CFA
- Contingency fee
- BTE Insurance
- Private paying

For solicitors

- Risk of 'secondary trauma'
 - Opt in not opt out?
 - Discussion/ support/ supervision/ reviews
 - Holidays/ flexible working/ training
- Great work, real law, making a difference
- Job satisfaction & passion!