Bindmans

ANNUAL REVIEW

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WELCOME

This is our first Annual Review and through this publication we would like to share some highlights of our clients' and teams' achievements.

It has been an encouraging year at Bindmans LLP. We are incredibly proud of our work. Our teams advised on complex and fulfilling matters, drawing on their multi-disciplinary expertise, and approaching the law and each individual case with creativity and passion.

We have grown as a firm – we welcomed new talented individuals and introduced new services. We continued to support our communities through social responsibility initiatives as well as individually, by providing free legal advice and raising funds for charitable projects.

We would like to take the opportunity to thank our colleagues, peers and experts who share our commitment to justice and promoting fairness; and who help us provide the best possible representation to all our clients. Most of all, we wish to thank our clients; this annual review tells some of their stories.

CONTENTS

WHAT'S IN A NAME?

On 28 November 2015, a woman of no public profile died. Her family were sad but not surprised. 'C', as she became known, hit the headlines because she had chosen to die. What attracted such lurid reporting was the judge's description of C's unconventional and 'sparkly' life-style. Interesting to some perhaps, but should we all know her name?

She had been refusing life-saving medical treatment that her doctors wished to give her: without such treatment, death was inevitable. It was for that reason that her family were sad but not surprised by her death, and why two weeks before, the NHS Trust treating her had made an urgent application to the Court of Protection for determination as to C's capacity to consent to (and so refuse) renal dialysis.

At a hearing in the High Court 5 days after the NHS Trust's application was issued, MacDonald J found that C had capacity to decide whether to refuse such treatment, and, in those circumstances, that the court was not entitled to intervene in her decision.

The principle is both clear and long-established: if we have capacity, we can choose to accept or refuse medical treatment, regardless of whether that decision is unwise, or even "unreasonable, illogical or even immoral", as MacDonald J speculated some might find C's decision. "Over himself, over his own body and mind, the individual is sovereign", as MacDonald J reminded himself.

Within the space of a few hours of MacDonald J's judgment being made public, photographs on Facebook and Instagram of C, her children, and friends, were obtained and published: some were pixilated, and others cropped, but almost all were of people clearly recognisable to those who knew them. Addresses and telephone numbers were obtained. Quotations which didn't ring true were attributed to 'pals', 'mates', and 'anonymous sources'. Journalists approached C's family, her friends, people whom she hadn't seen for many years, or who had met her only

REGARDLESS OF WHETHER **C'S DECISION** IS UNWISE, OR EVEN "UNREASONABLE, ILLOGICAL OR EVEN IMMORAL", "OVER HIMSELF, OVER HIS OWN BODY AND MIND, **THE INDIVIDUAL IS SOVEREIGN**", MACDONALD J REMINDED HIMSELF.

a handful of times, if at all. Those who were approached were taken aback by the intrusion; her family were devastated. Because worse than the unsolicited approaches, was the tenor of the 'reporting': driven in the main not by a wish to report and comment on the basis on which the Court had reached its decision, but by a prurient interest in C's personal life and, in particular, her sexual and relationship history (including with her children).

Although a Reporting Restriction Order had been made which prevented C from being identified, this only had effect during her lifetime. What would naming C add to that type of reporting? C's family (despite our asking on their behalf) were never told, but that is what the press wanted to do. On the evening of 2 December 2015, we made an out of hours application to have the Order which prevented C from being named extended: an application granted on an interim basis by Theis J, who said that "there is no public interest in C or her family being identified".

The photographs, articles, sensationalist headlines and door stepping continued until the matter came before Charles J on 9 December 2015. He upheld Theis J's order.

By the time his judgment was made public on 25 April 2016, the press had changed tack: they no longer sought to argue that our application should be dismissed, rather that the Order should expire on C's youngest daughter's 18th birthday: a suggestion described by the court as "callous". Rather than allow the names of C or her family to be published, the court extended the protection of anonymity, including – highly unusually – to cover any reporting of C's inquest.

We buy the papers, seek out the websites, and follow the links. But what about those who have not sought the headlines? We may be interested in the name, but should we know it? No. In this case, the court set the limit.

WE BUY THE PAPERS, SEEK OUT THE WEBSITES, AND FOLLOW THE LINKS. BUT WHAT ABOUT THOSE WHO HAVE NOT SOUGHT THE HEADLINES? WE MAY BE INTERESTED IN THE **NAME**, BUT SHOULD WE KNOW IT? NO. IN THIS CASE, **THE COURT SET THE LIMIT**.

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PREVENT DUTY AND "EXTREMISM"

The Prevent strategy is infiltrating into all areas of our lives and having a major impact on many Muslims who feel besieged by this ill thought out and controversial policy. It has been roundly condemned by Open Society, The Muslim Council of Britain, Rights Watch and other NGO's as well as academics affected by its reach in Universities.

Three legal actions we are engaged in illustrate its effect and how some Muslims are reacting to this insidious policy.

JUDICIAL REVIEW CASE

Dr Salman Butt who came to a seminar at the firm exploring issues around Prevent has issued judicial review proceedings challenging the lawfulness of the Prevent policy as well as the lawfulness of the way in which the Home Office's Extremism Analysis Unit collects data about individuals.

Dr Butt has been named as an extremist and hate preacher who has lectured at universities and was denounced by the former Prime Minister, David Cameron, in a press release dated 17 September 2015. A three day hearing in the High Court took place at the beginning of December 2016 to consider these issues. Dr Butt's case is lining up to be a test case.

EARLIER THIS YEAR WE HOSTED A SUCCESSFUL DEBATE WITH UCL: **"THE PREVENT GUIDANCE: PREVENTING EXTREMISM OR PROMOTING PREJUDICE"**. A VIDEO IS AVAILABLE TO WATCH ON OUR WEBSITE.

DEFAMATION

In related defamation proceedings Dr Butt is challenging the damage to his reputation of being labelled an extremist. This comes hot on the heels of another case, that of Shekel Begg against the BBC. In that case the BBC argued justification by relying on a number of speeches Mr Begg had made. Mr Justice Haddon-Cave conducted a detailed linguistic syntactical and theological analysis of Mr Begg's speeches. No doubt the same will happen with Dr Butt, but we hope to opposite effect. We are busy fending off applications to derail the case at present which should be listed for hearing in mid 2017.

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#JUSTICEFORLB

Connor Sparrowhark, affectionately known as Laughing Boy, was an 18 year old who loved buses, London and speaking his mind. Connor also had autism, a learning disability and epilepsy. On 4 July 2013, he drowned in the bath of a specialist inpatient unit run by Southern Health NHS Foundation Trust after he suffered an epileptic seizure. He had been on the unit for 107 days. His death was entirely preventable.

In the days after Connor died, his death was written off by Southern Health as having been from natural causes and raising no concerns. However, after his family fought for an independent investigation, it was finally revealed that Connor's death was preventable and that there had been numerous and significant failings in his care including in relation to risk assessment, observations and clinical leadership. In October 2015, a jury at the inquest into Connor's death concluded that Connor's death had been contributed by neglect and again, identified serious failings in Connor's care and systemic failings on the unit where he died, including in relation to insufficient staff training on epilepsy and communication with Connor's family.

Due to serious concerns about Southern Health's response to Connor's death, NHS England agreed to commission an independent review of all mental health and learning disability deaths at Southern Health NHS Foundation Trust. The Mazars report was published in December 2015. It revealed a failure to report, investigate and learn from hundreds of deaths of patients in the Trust's care, including that less than 1% of deaths in Learning Disability services were investigated. As a result of Mazars' findings, the Secretary of State for Health has commissioned the Care Quality Commission to review the investigation and learning processes of all NHS Trusts in England. The CQC's report is due to be published in December 2016.

Belatedly and nearly three years after Connor's death, in June 2016, Southern Health accepted full responsibility for Connor's death and admitted that it was negligent and violated both Connor's and his family's human rights.

Alongside the legal struggles, the #JusticeforLB campaign has also undertaken numerous positive and inspiring projects, such as the #107days campaign, to celebrate Connor's life and express outrage at his death; producing the Justice Quilt, made from hundreds of pieces of cloth contributed from people all around the world in support of the campaign; and the #CaminoLB, walking the Camino de Santiago with a cardboard bus to raise awareness and support.

#JusticeforLB continues to fight tirelessly for justice for Connor and to improve the standards of care provided to those with a learning disability. I hope the fight will not have to last much longer.

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LUISA FERREIRA FIGHTS FOR LAW CHANGE HAVING LOST HER SISTER WITH DOWN'S SYNDROME

CURRENT LAW FAILS TO PROTECT MENTALLY INCAPACITATED PATIENTS IN HOSPITALS.

Luisa Ferreira's sister Maria Ferreira, who suffered from Down's Syndrome died on 7 December 2013 in intensive care at King's College Hospital. An inquest into her death was opened on 16 December 2013. On 23 January 2015 the Senior Coroner for Inner London South decided that Maria was not in state detention within the meaning of s.7(2)(a) and 48(1) and (2) Coroners and Justice Act 2009 because she was not deprived of her liberty for the purposes of Article 5 ECHR.

The Divisional Court held that Maria was not in state detention at the time of her death. Luisa Ferreira argues that the Divisional Court has got it wrong on a number of grounds and Cheshire West was not applied correctly. The case was heard on 12 and 13 December in the Court of Appeal. The Law Commission is presently conducting a review of the Mental Capacity Act in relation to Article 5 ECHR and deprivation of liberty. In the meantime on 16 November the Government accepted an amendment to the Policing and Crime Bill moved by Baroness Finlay to remove deaths under Schedule A1 authorisations (and where the person is subject to a relevant order of the Court of Protection) from the definition of "state detention" for the purposes of the Coroners and Justice Act 2009. Assuming that the Bill is amended and it is then accepted by the House of Commons, and is enacted in this form, there would be no mandatory inquests where a person dies in a care home or hospital under a DOLS authorisation (or where a person dies subject to an order made by the Court of Protection which has the effect of authorising the deprivation of their liberty). This would include automatically someone like Maria Ferreira. The exception is broadly drafted and very unfortunate as its impact will deprive many patients with mental incapacity of any safeguards. Luisa Ferreria's case is timely and will seek to have that position overturned and to extend protection to those who were in de facto state detention.

Maria Ferreira, King's College Hospital intensive care. London

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PUBLIC SECTOR PENSIONS EQUALITY

The government introduced reforms to public sector pension schemes following the recommendations of Lord Hutton in 2011. The changes have a detrimental impact of the overall value of the pensions for a number of reasons, one of them being a move away from final salary schemes. However, those within 10 years of their retirement age on 1 April 2012 are unaffected: they benefit from transitional protections, meaning that they continue to accrue pension rights under the old salary scheme rules. This inequality between older and younger public service workers amounts to direct age discrimination.

We act for a group of high court judges who have been affected by the change to their pensions when the reforms were introduced last year. Challenging the legitimacy of the reforms in the Employment Tribunal, we asked why a high court judge, doing exactly the same kind of work as their older colleague, has been treated differently and less favourably simply because of their date of birth. The reforms also have an indirect effect on diversity within the judiciary. Women and those from BAME backgrounds are more likely to be within the unprotected group of younger judges. This also has a detrimental effect on the recruitment and arguably discourages diversity within the judiciary at a time when less than ten percent of judges are from BAME backgrounds and only around a quarter of judges are women.

The government has admitted that the reforms amount to age discrimination (and indirect sex and race discrimination). However, they argue the reforms are not unlawful because they are a proportionate means of achieving a legitimate aim – that is, to reform public sector pensions but to protect those closest to retirement from the changes. We dispute that the reforms are legitimate or proportionate. If the judges are successful in challenging the reforms, the outcome could have far-reaching consequences for other public service pension schemes.

THE GOVERNMENT HAS ADMITTED THAT THE REFORMS AMOUNT TO **AGE DISCRIMINATION** BUT ARE NOT UNLAWFUL

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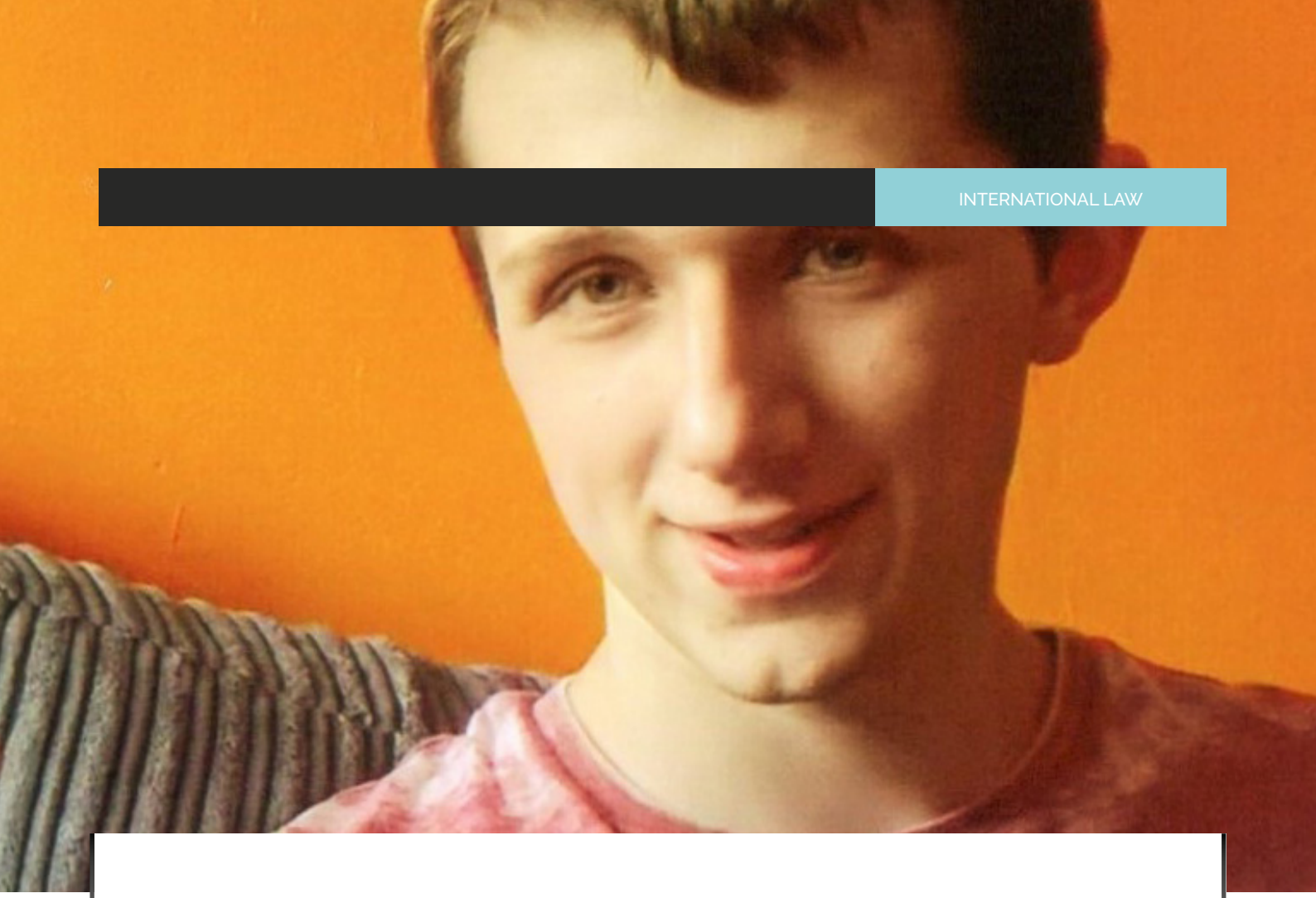


BRITISH MAN TRIED TO 'RID THE WORLD OF TRUMP' WHILE HEARING VOICES

MICHAEL SANDFORD, 20, BRITISH, AND WITH HEALTH ISSUES, TRIED TO GRAB A POLICEMAN'S GUN AT A DONALD TRUMP RALLY IN LAS VEGAS, ON 16 JUNE 2016. HE HAS BEEN SENTENCED TO 12 MONTHS AND A DAY.

When I was contacted by Catherine Bond-Muir, asking whether I would act for Michael Sandford, I could not say anything but yes. This 20 year old young British man, had tried to grab a policeman's gun at a Donald Trump rally held at Treasure Island Casino in Las Vegas on 16 June 2016. Michael Sandford, was subsequently charged with offences of being an illegal alien in possession of an unauthorised firearm and a charge of disrupting government business and official function. Michael was held in a detention centre in the Nevada desert, USA.

It soon became clear that Michael Sandford suffers from a myriad of health issues. If he had been in the UK, Michael would have most likely been transferred under Section 37/ 41 of the Mental Health Act 1983 into the mental health system for treatment. However, this has not happened in the US. As well as autism, Michael suffers with depression, anxiety attacks, OCD and physical health issues such as gastro-intestinal problems and Crohn's Disease.

Saimo Chahal and Michael's US Defence Attorney, The Court House, Las Vegas. September 2016

Michael has been very scared and disturbed by his imprisonment and the shock of being so far from family and friends. He has admitted that he did not know what he was doing at the time of the offence. Michael is very keen to return to the UK to be close to his family.

Michael has a loving and caring family; his mother, Lynne, sister Jessica, and grandmother, who all care deeply about Michael and want him to return to the UK. Lynne Sandford candidly admits that what Michael did was wrong, but says that Michael is deserving of compassion given his multiple mental and physical health problems. It is his mental health problems which drove him to do what he did. She fears that he will not survive a lengthy prison sentence in a US prison.

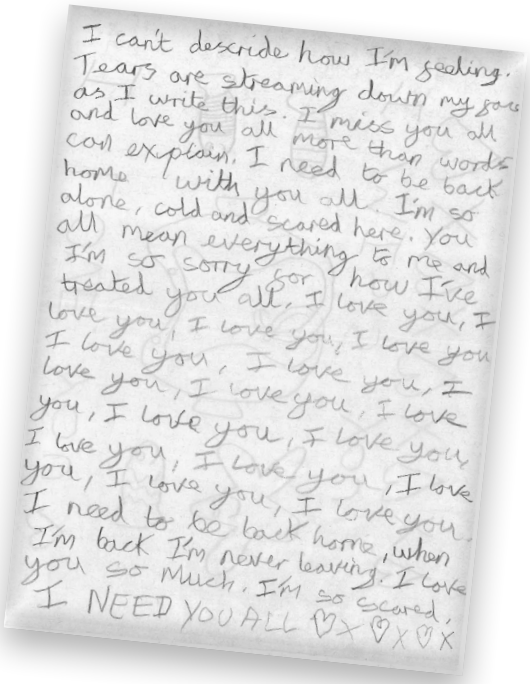
The detention centre where Michael was detained only permits contact by video link which requires families to drive out to the centre, over an hour's drive into the desert from Las Vegas in order to have contact. In July we asked Michael's Defence Attorney to lodge an application for face to face contact. This was wholly exceptional but granted. So it was that Lynne and I were able to have contact with Michael on 10 and 11 September 2016 at the Court House, Las Vegas when we also took the opportunity to discuss the plea agreement with him which he signed while we were there. A TV crew from ITN documented our every move.

A good deal was agreed: Michael should receive between 15-24 months, but the judge would decide on 13 December 2016. Provided that Michael was sentenced between 15 months – 24 months, then he would serve that sentence. If the Judge went below the 18 month window then the prosecution would be entitled to appeal. If the sentence imposed were to be more than 24 months then Michael could appeal.

Michael's family went out to support him in Las Vegas during his sentencing.

Michael Sandford was sentenced to 12 months and a day by Judge Mahon sitting at the Court House, Las Vegas, USA for being an 'illegal alien' knowingly in possession of a firearm and impeding and disrupting government business.

Lynne Sandford, Michael's grandmother and sister on their visit to see Michael. September 2016


I can't describe how I'm feeling. Tears are streaming down my face as I write this. I miss you all and love you all more than words can explain, I need to be back home with you all. I'm so alone, cold and scared here. You all mean everything to me and I'm so sorry for how I've treated you all, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I love you, I need to be back home, when I'm back I'm never leaving. I love you so much, I'm so scared, I NEED YOU ALL ♡x♡x♡x

Letter from Michael Sandford to his family

The press has been hugely interested in Michael's case and Mr Trump, becoming President has given an added edge of uncertainty.

It's a huge relief to Michael's family that the sentence reflects the mitigating circumstances in Michael's case. I hope there will not be an appeal by the State Prosecutor. If all goes well Michael could be back in the UK by mid April. All his family and friends are eagerly awaiting Michael's return.

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THE BREXIT LITIGATION: PROTECTING FUNDAMENTAL CITIZENSHIP RIGHTS WITH FOUR CENTURIES OF LEGAL PRECEDENT

The team acts in one of the most important judicial reviews of modern times – the challenge to ministers' use of Royal Prerogative powers to take the UK out of the EU. The team's client, the crowdfunded People's Challenge group, became involved as 'interested parties' to the claim brought by Gina Miller. The group argues that invocation of Article 50 using the prerogative would destroy UK citizens' rights that could not be replicated following UK departure from the EU (such as rights to vote, complain to the Commission or to seek a ruling from an EU institution) along with the rights they can exercise in other EU countries (such as free movement and access to health care). If this is to be done following the 2016 Referendum, they say, it must be Parliament that takes this step because those rights were granted by statute starting with the 1972 European Communities Act. The Divisional Court agreed in a robust judgment on 3 November. Citing case law as far back as 1610, it held "the most fundamental rule of the UK constitution is that Parliament is sovereign" and so what Parliament had granted could not be taken away by ministerial action. Only an Act would do. 11 Supreme Court justices will make the ultimate decision on whether that is right early in 2017 following a hearing this December.

LEGAL AID DEFENDERS

Legal Aid and the principle of universal access to justice which underpins it are under attack. Solicitors can resist this on a daily basis by maintaining publicly-funded work in the face of fee cuts and raising awareness of the importance of the Scheme. But decisive action can also be taken when opportunities to repel Legal Aid cuts arise, as Bindmans' lawyers have shown throughout the year.

First, they led challenges to the hated 'dual contracting' arrangements for Criminal Legal Aid, which would have reduced the number of firms authorised to staff police station and Magistrates' Court rotas from 1,400 to 527. In the run-up to the contract award date, they organised and ran a series of 'Legal Aid Practice Survival Kit' seminars and published articles to make firms aware of their options, including litigation using EU procurement law principles. Just before the decision, a whistleblower revealed the LAA's decision-making to be chaotic and systemically flawed which manifested in dozens of well-respected and highly committed firms being refused contracts. In total, 115 claims were issued challenging this. Bindmans acted in 25 and was then jointly appointed as case management solicitors for the entire claimant group. The claims were successful. In January 2016, the Lord Chancellor announced the abandonment of two-tier contracting and the reversal of an associated fee cut. As a result, a diverse range of Criminal Legal Aid firms continues to provide vital public services to those confronted with the criminal justice system.

The team also represented a legal charity, the Public Law Project, in its challenge to the controversial and racially discriminatory 'residence test' on Civil Legal Aid eligibility. In November 2015, the Court of Appeal held the test was lawful, reversing a Divisional Court ruling that the Lord Chancellor had exceeded his powers and discriminated in a way that could not be justified. Unlike the Court of Appeal, the Divisional Court considered evidence on the anticipated impact of the test was significant, including from Jean Charles de Menezes' family lawyers, a solicitor assisting a disabled woman imprisoned in a kennel by her husband's family and another, acting for children left destitute as a result of local authority responsibility disputes. In April a unanimous Supreme Court upheld the Project's appeal at the end of the first day of a planned two day hearing. The ruling preserved a feature of civil legal aid dating back to the 1940s - its availability to all who have insufficient funds and a sufficiently strong, in-scope claim.

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JUSTICE FOR HEALTH, THE HEALTH SECRETARY AND CONTRACT "IMPOSITION"

The junior doctors' case is all about what happens when loose language is used for political ends, and the very serious consequences which can flow from those words.

The Secretary of State for Health (SSH) had purported to have, and to exercise, a power to impose terms and conditions in the junior doctors' contract – when in fact, he did not have such a power. He failed to make the true nature of his decision making clear.

The words used by the Minister have led to a huge loss of morale and confusion. The junior doctors have taken unprecedented strike action and there has been significant disruption to patient care.

Dr White, Dr McVeigh, Dr Masood, Dr Silman and Dr Mashru, the junior doctors who went on to found the company Justice for Health Ltd, approached Bindmans in February 2016 immediately after Jeremy Hunt had announced a "decision to impose a contract on the junior doctors".

They instructed Saimo Chahal who then set about enlisting the support of three silks and a junior barrister to litigate this complex public law challenge.

This case has demonstrated the incredible camaraderie that can exist between doctors and lawyers in the fight for justice. The doctors were in regular touch with Saimo on a daily basis and put everything they had into the case. The doctors and their colleagues (working in academia and in practice) did not once shy away from the daily back-and-forth that was required to gather robust evidence in this case, despite the increased pressure on their already stretched personal time.

Basmah Sahib became an invaluable part of the team and witnessed first hand the benefit to be derived from a passionate and engaged client: including the advantage of fresh perspectives on ancient precedents.

Justice for Health Junior Doctors (from left to right): Dr Ben White, Dr Marie McVeigh, Dr Amar Mashru, Dr Francesca Silman and Dr Nadia Masood

Turning to the full judgment, Mr Justice Green decided that Jeremy Hunt is not imposing a contract on junior doctors. He never said he had legal powers to impose a contract – save by direction on NHS Trusts which he is not deploying. He knows he cannot compel foundation trusts, GP employees, local authority employees and others; he is at a loss to know why junior doctors thought he was. He was making a recommendation.

Crucially, employers and employees are free to negotiate terms.

The junior doctors who filled Court 4 in the Royal Courts of Justice let out raw gasps of astonishment as counsel for Mr Hunt argued that it was impossible to see how doctors could have thought that a contract was being imposed. The doctors marvelled at such "legal acrobatics".

THE GOOD, THE BAD AND THE SHEER UNFATHOMABLE

Mr Justice Green found that "...the grounds advanced by the Junior Doctors were serious and properly arguable, raised important points of principle about the powers of the Secretary of State ...".

The arguments put forward by the health secretary that parliamentary privilege applied and that the doctors should not be able to rely on Hansard debates and what the minister told parliament, would lead to "some extraordinary" and "unjust results", said the judge. Ms Richards QC, for Justice for Health, likened this to the minister donning a Harry Potter 'invisibility cloak'. This was not acceptable – another point on which the doctors succeeded.

Overall, Justice for Health is satisfied that it was performing a public service in pursuing this litigation, and that, most importantly, its doctor colleagues as well as employers now understand the true legal position – no contract has been imposed on them.

Without the courage and determination of Justice for Health in taking the legal challenge, the legal position simply would not have been established or publicly available.

CROWDJUSTICE

The Junior Doctors were the first to make a huge success of fundraising through the online platform CrowdJustice. The doctors raised over £300,000 for the case in the High Court alone. In the end they had more money than they needed and they donated the rest of the funds to another doctor fighting for justice.

It was incredibly hard to say goodbye and in truth it has not been said. A reunion was held in November and there is talk of six monthly ones after that. So is this the end or just the beginning of a beautiful relationship?

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SURVEILLANCE, INTELLIGENCE - GATHERING AND PREVENTION

THE STATE'S APPROACH TO INTELLIGENCE-GATHERING BEARS ALL THE HALLMARKS OF AN OVERBEARING PARENT SPYING ON THEIR OWN CHILDREN. IF THE MEASURES TAKEN BY THE STATE WERE NOT SO SERIOUS – IMMORAL, UNREGULATED, UNLAWFUL - **THEY WOULD BE LAUGHABLE.**

First it turns out that police units have been spying on political activists for decades. Tens of undercover police have passed themselves off as activists, embedded themselves in protest groups and communities for years, formed relationships with unsuspecting campaigners, engaged in criminal offences, given false names in court and compiled 'intelligence' files even on leading parliamentarians. It has only been through the resourcefulness and doggedness of those affected – often at immense personal and emotional cost - that a 10th of their number have been exposed in public. While happy to invade the privacy of the activists, the police have fought tooth and nail, at great public expense, to conceal the identities of those officers – neither confirming nor denying (NCND) the true identity of most of those exposed and refusing to identify the others who were active but are so far undetected. Following increasing scandals, campaigning and pressure, the exposure – by a courageous whistle-blowing former undercover officer and the Guardian – that the police had targeted the Stephen Lawrence family and campaign, finally led the then Home Secretary, Theresa May, in July 2015 to set up the Undercover Police Inquiry, chaired by Sir Christopher Pitchford. Bindmans represent over 100 of those affected who now have a seat at the Inquiry table, so called 'core participants', including women deceived into relationship with undercover officers, 50 defendants whose convictions have been quashed, leading politicians. The Inquiry will say in the next six months when it is likely to start hearing evidence. That is likely to be in 2018 , the 50th anniversary of the establishment of the principal undercover unit tasked with spying on activists – the Special Demonstration Squad.

This has been the past. Or rather, this is what has come out recently about past and current practices. Picking up on the earlier analogy, we now know that the authoritarian parent has stalked its child's every movement and frisked her as she entered and left the family home. But what of the future? The parent now wants to monitor its child's every electronic communication. In the words of the Telegraph's technology news editor "Theresa May's controversial Investigatory Powers Bill, which have been described as the most extreme snooping laws in a Western democracy, were approved by the House of Lords [last] month and are set to pass into law in the coming weeks. They require internet providers to store customers' web histories for 12 months and make those records available to police, and write computer hacking by spy agencies into law". In the words of Edward Snowden "It goes farther than many autocracies". So, once again, the question is posed - if politicians cannot stop this erosion of rights, can campaigners with the help of their lawyers do so?

The state has not only targeted political activists but the very people able to hold the Government to account and to expose the mass surveillance of a country's civilians- independent journalists. In August 2013 terrorism powers were relied on to detain David Miranda, the partner of Glenn Greenwald, the Guardian journalist, responsible for publishing the Edward Snowden disclosures on mass unfettered surveillance and bulk indiscriminate collection of private data. The police, at the request of Security Services, applied draconian terrorism legislation under Schedule 7 of the Terrorism Act to detain David Miranda (without reasonable suspicion) and seize the journalistic material he carried. The Government justified its actions on the basis that Miranda was concerned in terrorism because his actions were for a political purpose and may have inadvertently and remotely caused harm to the public. Fortunately the Court of Appeal wholeheartedly rejected this concept of an "accidental terrorist" and held that the powers contained in Schedule 7 breach fundamental rights because they "do not afford effective protection" for the basic rights of journalists. Bindmans represented David Miranda from his detention at Heathrow airport through to the Court of Appeal and, as a result of this legal challenge, police practices changed and Parliament was ordered to amend legislation to ensure judicial oversight when such powers were used against journalists.

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HILLSBOROUGH: JUSTICE AT LAST FOR THE 96

The facts are tragically familiar: on 15th April 1989, thousands of football fans travelled to Hillsborough Stadium in Sheffield in high spirits to watch the FA Cup semi-final between Liverpool and Nottingham Forest. Only hours later, the fans' jubilation had turned to horror as a series of decisions were taken that would destroy countless lives, with the repercussions lasting decades.

Ninety-six men, women and children were never to return home. Those responsible would for a long time escape justice. The innocent and the victims, the fans, would be targeted to shoulder the blame.

In 1991 the first inquests into the disaster concluded that the fans' deaths had been accidental. However in 2012 the report of the Hillsborough Independent Panel, established in 2009 to review the evidence, shone new light on police attempts to cover-up their failings. The conclusions of the initial inquests were subsequently quashed by the High Court in December of that year, and fresh inquests were ordered to take place.

On 26th April 2016 the second inquest into the deaths at Hillsborough concluded. The jury, after hearing more than two years of evidence during the longest jury case in British history, made two particularly crucial findings.

The first was that the fans had been unlawfully killed. The senior police officers had predictably resisted such a conclusion even being left to the jury. More surprising was that so had the then-current Chief Constable of South Yorkshire Police, despite his public apologies and pronouncements prior to the inquests.

The jury had been told that in order to reach a conclusion of unlawful killing they would need to be satisfied that the senior police officer in charge of the match, Chief Superintendent David Duckenfield "was responsible for manslaughter by gross negligence of those 96 people". This required them to find that he had breached his duty of care to the fans, and that the breach was "so bad, having regard to the risk of death involved, as in your view to amount to a criminal act or omission".

That the jury was able to reach a conclusion of unlawful killing speaks both of the weight of evidence before them, but also their courage.

The second crucial finding was that the fans, scapegoated for so long by an institutionally defensive police force bent on avoiding criticism at all costs, were in fact completely blameless. To the question "was there any behaviour on the part of the football supporters which caused or contributed to the dangerous situation at the Leppings Lane turnstiles?" the jury unanimously replied "No".

There were also scathing criticisms of the emergency response of the police and ambulance service as the disaster unfolded. Images of senior officers standing by and seemingly doing nothing as those in the pens were being crushed to death will have been impossible to forget.

For many, the jury's conclusions felt like the end of a struggle that had lasted 27 years. For many others, it was only the beginning of justice finally being done.

Of course, the fans in 1989 could not have known what lay ahead. They had awoken on that gloriously sunny morning to the promise of a repeat of the previous year's semi-final. Among their pre-match talk of Alan Hansen's fitness and a possible Wembley final, however, there were already rumblings of discontent that Liverpool had again been allocated

the end of the stadium with the smaller capacity and notoriously poor access. This included the Leppings Lane terrace which, by 1989 and following reconfiguration, could hold vastly fewer than its official capacity suggested. That, and with dangerously inadequate turnstile access that was reduced from the previous year.

Among the many enduring myths about Hillsborough, invented and perpetuated for so long by the police and media, was that fans had arrived late for the match, without tickets and drunk. The inquest considered vast amounts of evidence that completely dispelled that myth, and the jury's conclusions finally provided vindication.

The cause of the build-up of fans outside the Leppings Lane terrace was not late arrivals. It had not been ticketless or drunken fans or hooligans. It was the failure of those responsible for the planning for the semi-final. It was the inherently dangerous nature of the bottleneck approach to that end of the stadium, made worse by the decision to close turnstiles serving it. It was the failure of the policing operation on the day and the obvious lack of leadership.

It was, we now know, the various and manifest failures on the part of those who had for so long been pointing the fingers of blame.

The build-up of fans outside the turnstiles was relieved by the opening of 'exit gates' which allowed fans to stream in to the stadium. In the immediate aftermath of the disaster the match commander, Chief Superintendent David Duckenfield, claimed that fans had forced the gate open - a lie

Liverpool Town Hall

repeated on television by the then Football Association Chairman. That night, the Chief Constable of South Yorkshire Police rowed back from those claims. However, the lie had taken hold and would endure for many years.

In fact, Duckenfield had himself given the order for the gates to be opened, including Gate C. Despite giving that order, he apparently gave no thought to where the fans might go once inside the stadium. Of course, after entering through Gate C they proceeded towards the only obvious route to the Leppings Lane terrace: straight ahead and through the tunnel leading under the West Stand, and out to the crushing and horror that awaited them.

There, immediately, at the very scene of the disaster and as bodies were still being recovered from the terraces, there began the cover-up and the injustice that would take 27 years to fully expose.

Beyond the jury's momentous conclusions and the emotion of reading and re-reading the transcript of that day, the memories for many will be of the personal stories. Of hearing about the flowers arriving at the home of a mother grieving the death of her son at Hillsborough, and among them being a bunch he himself had on the morning of the disaster arranged to be sent to her for her birthday. Of children who had asked to be woken up for a goodnight kiss when their parents arrived home, and of the continued sense of waiting for that moment. Then there are the stories of those who, guilty they had survived when their friends had perished, took their own lives years later.

But also, finally, the outpouring of emotion in court as the jury's conclusions were read out. And of course, the impromptu rendition of "you'll never walk alone" on the steps of the court.

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SUPPORTING MIGRANT WORKERS

In many services industries, a large percentage of low paid jobs are filled by migrant workers. They are often vulnerable to workplace bullying and discrimination. Often, these workers will speak little to no English, have very little knowledge on their employment rights and the duties their employers owe them. This leaves them open to exploitation and unfair treatment at work. Trade Unions play a large part in campaigning to protect these workers' rights.

In 2016 we acted on two major cases, working with the Unions, where vulnerable workers were being subjected to bullying, discrimination and Trade Union detriments.

CASE STUDY: IRENE DE SOUZA AND OTHERS V CARILLION LTD (MULTI PARTY CLAIM)

This year, we saw the conclusion of a long-standing dispute centred on allegations from staff, originally from Goa, that they were subjected to a culture of bullying, intimidation and harassment at the hands of Carillion management during their employment at the Great Western Hospital in Swindon. When grievances following this ill treatment were not upheld, claims on behalf of the 51 members were lodged at the Employment Tribunal.

The full claims included complaints of direct and indirect discrimination because of race and/or religious belief, harassment, breaches of the Working Time Regulations, unlawful deductions of wages and detriment on TU grounds.

After four years of intense litigation 51 GMB union members finally had the opportunity to have their story heard at Bristol Employment Tribunal.

The ET's Judgment ruled that the Claimants were unsuccessful in their claims of direct race discrimination; but claims for unlawful deduction of wages and indirect race discrimination were upheld. The parties reached a settlement and the matter was finally closed with the Claimants satisfied that their complaints had been recognised and justice had been upheld. During the litigation the workers campaigned hard and were able to achieve better terms and conditions of employment at the hospital.

CASE STUDY: X AND Y - TRADE UNION DETRIMENTS

Later in the year, we were contacted by another Union to act for two claimants, X and Y who worked for a leading facilities management service and were deployed as cleaners to a global art business. Both claimants were subjected to various detriments owing to their involvement in TU activities.

In 2015, employees were threatened that any TU related actions or communications may be considered as misconduct. Following, a threat of disciplinary proceedings for X, a peaceful protest was organised by the Union. The following morning, the employees who participated in the protest were sent home from work. Thereafter, during investigations, the employees were 'vilified' for the parts they played in exercising their rights to protest and subjected to a lengthy campaign of bullying and less favourable treatment for participating in TU activities. The company made clear that the reason they were not reinstating X and Y was because of their TU related activities and as a result they could not be trusted.

Ultimately, with our assistance we were able to reach an out of court settlement which ensured the company redeployed both X and Y to new roles they were happy with as well as compensation for the unfair treatment they had been subjected to.

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FORMER CITY BROKER TERRY FARR CLEARED OF FRAUD CHARGES

On 27th January 2016 at Southwark Crown Court our client Terry Farr was acquitted of charges of conspiracy to defraud relating to allegations that he was involved in manipulating Yen Libor rates at the behest of the derivatives trader Tom Hayes.

Terry Farr, previously a City broker, was one of the first people in the UK to be arrested in connection with the Serious Fraud Office's high profile investigation into allegations of Libor manipulation that began after information emerged that panel banks may have deliberately misreported daily Libor rate submissions with the aim of manipulating the rate for their own commercial advantage.

Terry Farr was the first defendant to successfully run a defence based on lack of a dishonest state of mind in the context of Libor manipulation. The investigation and proceedings lasted over three years and the trial itself lasted three months breaking for a couple of weeks over Christmas and New Year. It was a gruelling and stressful process throughout for Mr Farr but he faced the proceedings with enormous courage and dignity supported by his family and friends. It is testament to the meticulous work of lawyers and the power of Mr Farr's naturally given evidence that it took the jury less than a day to return unanimous not guilty verdicts.

Terry Farr's life was on hold for those three years but it is sobering to consider that if this innocent man had been convicted he would have faced many years in prison. We are so pleased that he and his family can now move on.

Terry Farr was represented by Katie Wheatley, Jessica Skinns and Catherine Jackson of our Crime Team and John Ryder QC and Garth Patterson, counsel of 6KBW College Hill.

Terry Farr was represented in linked regulatory proceedings by Shah Qureshi and Sharney Randhawa of our Employment and Professional Discipline Team.

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NATIONAL SECURITY AND SECRET COURTS

We represent Mr Kiani, a former immigration officer with the Home Office, who in 2008 was suspended from duty with immediate effect. Shortly thereafter his security clearance was removed and he was dismissed. He was not given any reasons for his dismissal except that he did not hold the required security clearance.

Mr Kiani brought claims against the Home Office in the Employment Tribunal for race and religious discrimination and unfair dismissal. The Home Office applied to have Mr Kiani and his legal representatives excluded from the case, and asked for the case to be heard in secret. The Tribunal granted the Home Offices' application and placed the entire judicial process behind closed doors on the justification of 'national security'. Mr Kiani was also denied access to relevant documents or information the Home Office possessed, despite his entitlement to such information under the normal court process and in accordance with his right to a fair trial. A special advocate was appointed by the Attorney General to represent Mr Kiani during the secret hearings; however Mr Kiani was prohibited from meeting with the Special Advocate after the Special Advocate had been provided with the secret evidence and so could not give him meaningful instructions.

Mr Kiani appealed the decision of the Tribunal to hear his case in secret to the Employment Appeal Tribunal ("EAT"). He argued that, amongst other things, he should be provided either with the secret evidence, or alternatively he be provided with the essence, or a 'gist', of the evidence in line with previous UK and EU case law. He also argued that the Tribunal failed to conduct a judicial assessment or 'balancing exercise' of all the issues. The EAT rejected the appeal and decided that there was no absolute requirement to provide a gist of the evidence to Mr Kiani, and that the Tribunal had undertaken a correct balancing exercise.

Mr Kiani appealed the decision of the EAT to the Court of Appeal ("CA"). He argued before the CA that the EAT had failed to apply EU case law correctly; that there was insufficient material to justify a conclusion that the Tribunal had undertaken a correct balancing exercise; and that the Tribunal was obliged to make its own assessment of whether a Fair Trial was possible in the circumstances, rather than leave it to Mr Kiani to decide this. Mr Kiani also sought a preliminary reference to the Court of Justice of the European Union ("CJEU") to determine issues which remained unclear under EU law.

The CA heard Mr Kiani's appeal as a panel of three Judges, including the then Master of the Rolls Lord Justice Dyson, and Lord Justice Richards and Lord Justice Lewison. Disappointingly the Court of Appeal rejected Mr Kiani's appeal. It held that Mr Kiani was not entitled to a gist of the evidence held by the Home Office and that the Tribunal Judge had conducted an adequate balancing exercise. Lastly the CA also refused to make a reference to the CJEU.

Mr Kiani has claims lodged in the European Court of Human Rights which remain to be determined.

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JUDGES ARE NOT WORKERS

The public eye and the Judiciary have been following closely the case of District Judge (DJ) Gilham. In 2016 Bindmans LLP assisted DJ Gilham in appealing her original 2015 Employment Tribunal (ET) decision that judges are not 'workers' for the purposes of s230(2) of the Employment Rights Act 1996. Under current legislation, judges are not deemed to work under a contract of services they are unable to benefit from whistleblowing legislation and the protection it offers against detrimental treatment.

The recent Employment Appeal Tribunal (EAT) decision concluded against DJ Gilham that District Judges are office-holders and do not work under a contract of employment for services. This decision is in stark contrast with the recent ET decision finding that 'UBER' drivers are indeed workers and not self employed contractors.

JUDICIAL INDEPENDENCE

Though a contract was not found to have existed in the case of DJ Gilham, the EAT Judge agreed with the original ET Judge in finding that the principle of judicial independence as itself, did not preclude the existence of a contract. During the course of the Appeal, this conclusion was challenged by the Respondent whose case remained that if the Crown were the judge's employer under a contract, a real difficulty would arise with the constitutional independence of the judiciary in every case to which the Crown is a party, which necessarily includes every criminal prosecution.

The EAT judge concluded that there are in fact substantial statutory safeguards in place to maintain and preserve the constitutional independence of the judiciary in the form of the Constitutional Reform Act, the judicial oath, security of tenure guaranteed to judges and the independent investigatory function facilitated by the Judicial Discipline (Prescribed Procedures) Regulations 2014 and the Judicial Conduct Rules 2014.

RIGHT TO FREEDOM OF EXPRESSION

In her appeal, DJ Gilham maintained that there is a right to freedom of expression under Article 10 Human Rights Act which extends to whistleblowing protection at work and must be given effect to by reading s.230(3) of the 1996 Act in a way that is compatible with that human right. Unfortunately the EAT Judge disagreed with this argument.

This is not the end of the battle over this long-disputed point of law and both Counsel, Rachel Crasnow QC of Cloisters Chambers, and Partner Emilie Cole of Bindmans LLP remain committed to assist DJ Gilham in appealing her case further to the Court of Appeal level.

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SUPPORTING PROFESSIONALS BEFORE THEIR REGULATORS

We have successfully represented individuals in a number of professions whose livelihoods have been challenged by investigations by their professional regulator. People in this situation are faced with the prospect of losing their career. While there can be no doubt that scrutiny by a regulator is key to ensure good practice of professionals in whom people place trust and reliance, it is also vital that individuals are able to properly defend themselves so that they do not lose their life's work. Here are a number of short examples in which Bindmans are helping people placed in this position.

GENERAL MEDICAL COUNCIL

We act for a number of senior Consultants in fitness to practice proceedings brought by the GMC.

A current client who blew the whistle at his then Trust raising significant patient safety concerns, was reported to the GMC allegedly in retaliation by the Trust's Senior Managers. The individual was swiftly subject to an Interim Orders Panel ("IOP") twice. On both occasions we were successful in defending our client and halting all attempts to unfairly and wrongly restrict our client's practice. Meanwhile the FTP investigation remains on-going.

INSTITUTE AND FACULTY OF ACTUARIES

We act for an Actuary in respect of regulatory proceedings brought by the regulator. Despite no finding of misconduct by the Disciplinary Tribunal Panel, there remained significant concern about the IFoA publishing the full determination on their website. Following intervention on behalf of our client the determination was withdrawn from the public domain pending a further determination on its publication.

FINANCIAL CONDUCT AUTHORITY

Bindmans has successfully assisted a large number of individuals in the Banking and Financial Services sector who have become unfairly embroiled in disciplinary proceedings before the Financial Conduct Authority. This includes Terry Farr, a broker who was successfully acquitted in 2016 of allegations relating to the Libor exchange rate scandal.

We are also instructed by a large number of whistleblowers who have reported suspected malpractice within the Financial Services sector to ensure that they enjoy legal protection. Many of our clients have been treated badly for raising their public interest concerns and we have often secured compensation for them. This includes W, a Senior Executive at a major bank, who blew the whistle about alleged criminality and money laundering for which he was victimised. Bindmans was able to secure over £2M compensation for him.

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ALLEGATIONS OF PROFESSIONAL MISCONDUCT FOLLOWING RETIREMENT

In the teaching profession, even when you have taken the strategic decision to resign and accept early retirement, you are still faced with the daunting prospect that false allegations could come to light and damage your reputation in the years following. A client found himself in this unfortunate position, having been accused of professional misconduct, despite having enjoyed a successful teaching career for nearly 25 years.

The vexatious allegations arose from a false narrative which had homophobic undertones in the way that it manipulated inappropriate assumptions pertaining to his personal life. Further, the allegations were drafted in a such a vague manner that they lacked the specificity required to satisfy the client's right to a fair hearing under Article 6 of the ECHR.

In terms of strategy, it was essential that our client understood the full nature of the case against him in order to identify the admissible evidence to be determined. In cases such as these when allegations remain unparticularised, there is the danger of a professional conduct panel failing to confine its inquiry to relevant issues and returning findings only on those matters that are not properly in issue and based on insufficient evidence.

Unfortunately, from a procedural point of view, professional conduct investigation hearings can take many months to materialise and so it was a war of attrition in terms of robustly defending our client's position until each allegation was withdrawn. After six months we were notified that several allegations had been dropped and then finally, after a further exchange correspondence, the remainder of the allegations were withdrawn and the matter was closed with no further action.

This was an excellent outcome for our client; as his legal representatives, we were anxious to see our client's teaching career to be credited and valued for what it was, years of dedication and professionalism the hope of helping others become a success in life. Issues of professional misconduct can haunt individuals for many years following retirement and it is therefore essential to seek expert legal advice in order to combat the risk of having a finding of misconduct made against you.

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FREEDOM OF EXPRESSION RIGHTS FOR CAMPAIGNING ORGANISATIONS

In May this year, Mr Justice Birss refused to grant an interim injunction which would have prevented Tamsin Allen's client, Captive Animals Protection Society (CAPS), from publishing photographs and videos showing what it believed to be animal mistreatment. The photographs were taken during an open day at Heythrop Zoological Gardens Limited, which runs a private zoo and, as Amazing Animals, provides animals to the film and television industry.

CAPS hired two investigators to visit the Zoo's open day along with 2,000 or so other members of the public and take videos and photographs of the animals. These photographs and videos were then used as part of a campaign against Amazing Animals exposing the inappropriate conditions in which the animals were kept.

The Zoo then issued proceedings against CAPS, seeking an injunction to restrain publication of the photographs and videos. The claimants based their claim on three causes of action: breach of contract, breach of confidence and breach of "non property" performance rights under s.182 and s.183 of the Copyright, Designs and Patents Act 1998.

We, together with counsel David Hirst from 5RB, resisted this application, arguing that the information in the videos and photographs was not confidential proprietary information (and in any event it was largely in the public domain and/or in the public interest to disclose it). We said the contract claim relied on conditions in the ticket or conditions on entry being brought to the attention of the investigators, which they had not been, and that the copyright claim must fail as an animal is not a 'performer' and has no rights under the Act.

Following a hearing, Mr Justice Birss found that there was not a sufficient likelihood that the claimants would obtain a final injunction at trial based on any of these causes of action to justify the interference with journalistic freedom of speech which an interim injunction would have involved.

Mr Justice Birss also found that the majority of the images at issue were matters which already appeared on the internet by reference to HZG. This undermined the likelihood that the Court would be able to restrain publication of the photos even if a permanent injunction was obtained. Although the Judge distinguished the IP claim on performer's rights from the other two causes of action saying that it had a "more than arguable" prospect of success, he did not consider it likely to succeed. Given the journalistic nature of the publication there was a clearly arguable fair dealing defence. There was obviously a public interest in publishing the material in dispute and this case rightly emphasises that campaigning organisations have an important journalistic freedom which needs to be encouraged. The judgment also confirmed the application of S.12 of the Human Rights Act, which sets the bar for prior restraint in Article 12 cases higher where the publication engages journalistic freedom of expression. This is an important decision for campaigning organisations as it confirms that the protections originally designed for journalists apply equally to public interest campaign organisations.

The Judge ordered the claimant to pay CAPS costs of the application and, following a mediation at the office, the claim was withdrawn on the basis of a further payment of costs on confidential terms.

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HOME OFFICE ORDERED TO PAY DAMAGES IN PRIVACY CLAIM

In June this year, Mr Justice Mitting handed down a judgment in a privacy case in which he ordered the Home Office to pay a total of £39,500 to 6 asylum seekers whose private information was accidentally published on a Home Office website and then republished on an American document sharing site.

This was an interesting judgment for a number of reasons. It provided guidance on the level of damages payable in a non-media context where disclosure was accidental. It confirmed that the loss of control over information was an important element of damage caused, and that unnamed family members were still data subjects who could be compensated for a breach of the data protection act (DPA) and the misuse of their private information.

The trial followed 9 months of litigation during which it had been accepted that the confidential information had been published, without consent, and that this had distressed the claimants. No public interest or other defence was pleaded. It seemed surprising that the Home Office continued to defend the claim, and insisted on the claimants giving evidence in person. One wonders if a politician somewhere instructed the lawyers not to agree any payment to asylum seekers without the authority of a judge. If so, it was an expensive decision.

The background was this. The Home Office publishes statistics about the family returns process, where those with children who have no right to remain in the UK may be returned to their country of origin. In 2013, it published these statistics as usual, but by mistake also published a link to a downloadable spreadsheet which contained confidential information of almost 1,600 people in the process. For 4 Claimants, the publication included their name, age, whether they had claimed asylum, the stage the process had reached and the geographical area in which their application was made. The other 2 Claimants' names were not published but they were described on the spreadsheet as family members.

The document remained on the Home Office website for almost 2 weeks, downloaded at least once and republished on a US website and accessed 86 times. Plainly the information about who was seeking asylum was of potential interest to well-resourced and oppressive foreign governments and it appeared that at least one of these had found information about the claimants and detained some of the Claimants' family members as a result of the breach.

We, together with counsel Sara Mansoori from Matrix Chambers represented 6 claimants that comprised of one family and three unrelated individuals who had each made an asylum application. The Judge found that the publication of the information was a misuse of personal information and a breach of the DPA in relation to all 6 claimants. Despite the Home Office arguing that it was not a case where damages should be awarded, the Judge disagreed and awarded £12,500 in two cases, £6,000 in one case, £3,000 in two cases and £2,500 in one case. He also ordered the Home Office to pay all the Claimants' costs.

The Home Office now face the prospect of other claims from others of the 1,600 whose personal details were published. It has sought permission to appeal in respect of the 3 family members on the basis that damages were excessive and that the data relating to the two unnamed family members should not have been treated as personal data. The decision of the Court of Appeal in relation to permission is awaited.

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DEPENDENT RELATIVES

Most people with elderly parents assume that they will have some input into their parents' care as they get older. Until July 2012 a British or settled person could sponsor their parents who were financially dependent on them to come to the UK, provided they could be supported and accommodated here with out public help. In July 2012 the rules permitting adult dependent relatives changed as part of a general change to the Family Migration rules. Under the new rules, relatives have to demonstrate that as a result of age, illness or disability, they require a level of long-term personal care to perform everyday tasks such as washing, dressing and cooking, that can only be provided in the UK by their relative here, and without recourse to public funds.

In the first six months of the rule being implemented, the severely restrictive rules allowed just one elderly dependent relative a visa. It is definitely harder to sponsor elderly and other vulnerable relatives to come to the UK, but it is not impossible.

Early in the introduction of the rule change, Bindmans acted for a man with very significant mental health problems whose condition was not being properly treated in his home country, due in part to the social stigma associated with serious mental illness. There were no family members left to care for him in his home country. Despite the new rule, a successful entry clearance application was made for him to join his family in the UK where his medical condition could be managed successfully.

We have also had success with applications to stay in the UK. One of our clients who was in his late 90s came to visit his British children following the death of his wife. He was accompanied by his carer, who had worked for him for nearly a decade, first in a domestic capacity, but gradually, as his needs became greater with age, as a carer and informal nurse. After he arrived, his health deteriorated to the point that his doctors here advised that he should not fly. Despite this, his application for further leave to remain to live with one of his daughters was rejected. Happily, this negative decision was overturned on appeal, as was the appeal by his carer, who was able to continue to provide care for him in this country.

Although these cases were successful, the rule is undoubtedly harsh. The unofficial All-Party Parliamentary Group on Migration (APPG) has stated that this visa category has "in effect been closed". Whilst this is not true in every case, applications have to be carefully and fully prepared in order to be successful. Community groups are continuing to fight the rule change as a whole, and some cases are going through the courts. What is certain is that this unnecessary and cruel rule should be challenged.

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ACQUISITION OF BRITISH CITIZENSHIP

The Immigration Team has a longstanding interest in nationality matters ranging from discretionary registration applications for children to dealing with issues arising out of naturalisation applications for adults. For many of our clients becoming British is the final stage in the UK becoming their permanent home. For many it is often the final step towards achieving certainty and stability in their immigration position in the UK.

We are frequently instructed by local authorities to make immigration applications for children in their care. The team have been successful in making discretionary citizenship applications for children who are in care and who are subject to immigration control in the UK whether they have limited or indefinite leave to remain and in some exceptional cases holding no leave to remain at all. The team encourage local authorities to make dual applications for children in their care for leave to remain and, in appropriate cases, for discretionary registration. For many of these children obtaining citizenship provides them with a sense of belonging and stability often after a period of disruption and uncertainty.

We have acted for long term UK residents in their naturalisation applications and we have done so for former clients who we have known for many years. The climate in which these applications are now being decided has changed.

Since December 2014 there has been a change in the Home Office's policy in respect of the range of factors looked in relation to whether a young person or adult meets "good character" requirements. The really significant change is that the Home Office now considers an applicant's immigration history over the 10 years prior to the date of the citizenship application. The Immigration Minister at the time James Brokenshire, made it clear that: "Whereas previously discretion would have been exercised in cases where a person who deliberately entered or remained in the UK without permission had attempted to regularise their stay by making an application to the Home Office, we will no longer tolerate this." This change has led to a number of refusals of applications from long term residents in the UK including refugees.

There has also been a significant increase in interest in citizenship applications from EEA nationals who are long-term residents of the UK. Many of these people have lived in the UK for many years. Brexit has thrown their long-term rights to remain in the UK in to doubt and we have seen enquiries from very anxious EEA nationals seeking advice on applying for British citizenship. The Home Office introduced a new hurdle for these long-term residents to pass, which is that prior to making a nationality application they must have already had their permanent residency rights acknowledged and confirmed by the UKVI by way of an application for a document certifying permanent residency.

We are also instructed on a number of cases where the Home Office are looking at whether a grant of citizenship should be nullified or a person be deprived of their citizenship because of allegations of fraud or use of deception or on national security grounds. These cases can affect British born children and adults as well as those who may have acquired British citizenship through naturalisation or registration. These powers of the Home Office are draconian and can have severe impact on individuals and their families. The team are committed to acting in such cases.

It is clear that a new world order is starting to emerge and immigration policy in the UK is likely to take the brunt of these changes in the coming years.

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THE POWER OF LISTENING

In 2016 the Bindmans Personal Injury and Clinical Negligence Team were awarded 'Insurance Firm (Specialism) of the Year' for our personal injury work at the Legal 500 UK Awards 2017. We have also been shortlisted for the Solicitors Journal 'Personal Injury Team of the Year' award, recognising the commitment of the firm to providing legal services for specific communities of vulnerable clients.

We are understandably proud of these prestigious accolades from our peers, in another challenging year that has seen a wide range of cases come to successful conclusion. In all these cases we believe our commitment to excellent communication has been central to positive outcomes for our clients; clients that have been injured, often in traumatic circumstances or as a result of negligent medical treatment and who are distressed and exhausted by their new situation. Only by prioritising and investing in communication can we ensure that our clients' injuries are properly investigated and presented and that sufficient compensation is awarded to meet their financial needs.

For example, we know from years of experience that even a traumatic brain injury may not always be visible on a scan and that it is only with very careful questioning and listening that we are able to elicit sufficient information to fully instruct a neurologist or neuropsychologist. One client, whose case settled successfully this year, had a high paid job in the IT

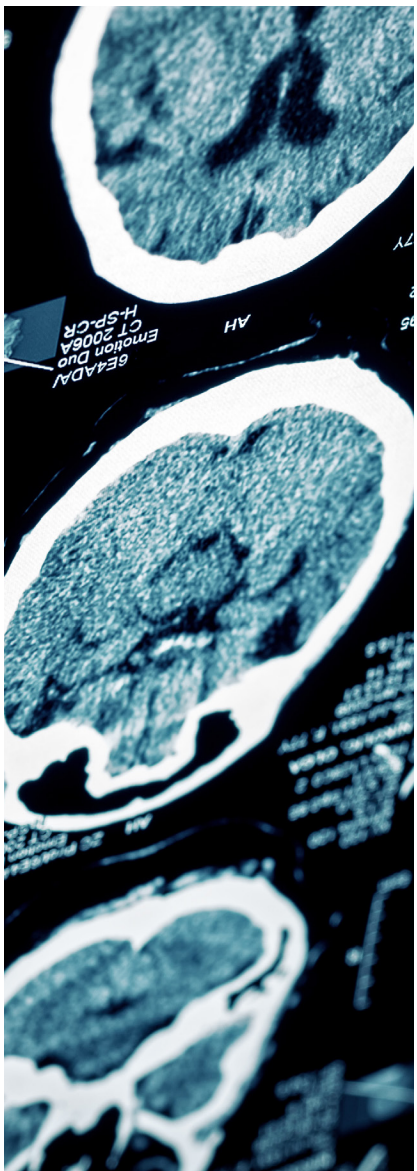
industry. Following the head injury that he suffered when knocked off his bicycle he was no longer able to perform at that very high level, and unable to manage the stress and workload. He had has to re-train and will no doubt succeed in his new chosen field but at significant financial cost. Bindmans were meticulous in assessing every aspect of his case including re-training, loss of income and life-long impact of his accident. We are delighted to report that he has now been properly compensated for his injuries.

Sometimes the communication challenges result from language, or with a different culture. This year we handled two cases brought to us by Polish clients, both of them young men, who whilst working in the South East of England, suffered catastrophic head and orthopaedic injuries in road traffic accidents. As a result of their injuries both men were unable to work and are totally reliant on care provided, principally by their aging parents. The Bindmans solicitors involved took the time to get beyond the language and cultural challenges to fully understand how these men's lives would have played out had they not been injured and the reality of the lives they now faced. Both cases have now been settled for seven figure sums.

In situations such as these, a familiar question is how we find carers who are not only able to support and work with our clients, but whom the family will accept and be able to make long term reliable relationships with. In one of these cases our client lives in a small town in Poland, some distance from a city; here the issue

OUR TEAM WON **'INSURANCE FIRM (SPECIALISM) OF THE YEAR'** AWARD AT THE **LEGAL 500 UK AWARDS 2017**

is not only how we find carers but also how we arrange and quantify the neuro-rehabilitation advised by English rehabilitation experts at long distance. At its very simplest, we had to envisage how our client will manage living in a town enveloped by deep snow for four months a year; not just being unable to walk to the shops or to physio, but unable to find suitable ground floor housing when most



properties have entrances a few steps up, above snow level, with no space for ramps. Anticipating and presenting the financial cost of meeting these needs is a skill we have had to master in new ways this year. This is only possible with the support of excellent interpreters and translators, some of whom almost act as case managers, liaising with treating doctors, therapists and the client, as well as cultural advisors.

Some of our clients have been fortunate enough at Bindmans to have a solicitor who speaks their first language. For example Yagmur Ekici, a Turkish speaker, acts for many of our Turkish clients and through Yagmur we are now working with ITSEB, the Association of Turkish Speaking Health Professionals, to improve medical services for the local Turkish community and to highlight the difficulties that they have had in recent years.

Personal injury, either through accident or medical negligence is a life-changing event that impacts on every aspect of a client's life. Our total commitment to understanding and evaluating the full story of client's needs now and in the future is at the heart of everything we do as Bindmans; and the commitment of which we are proudest.

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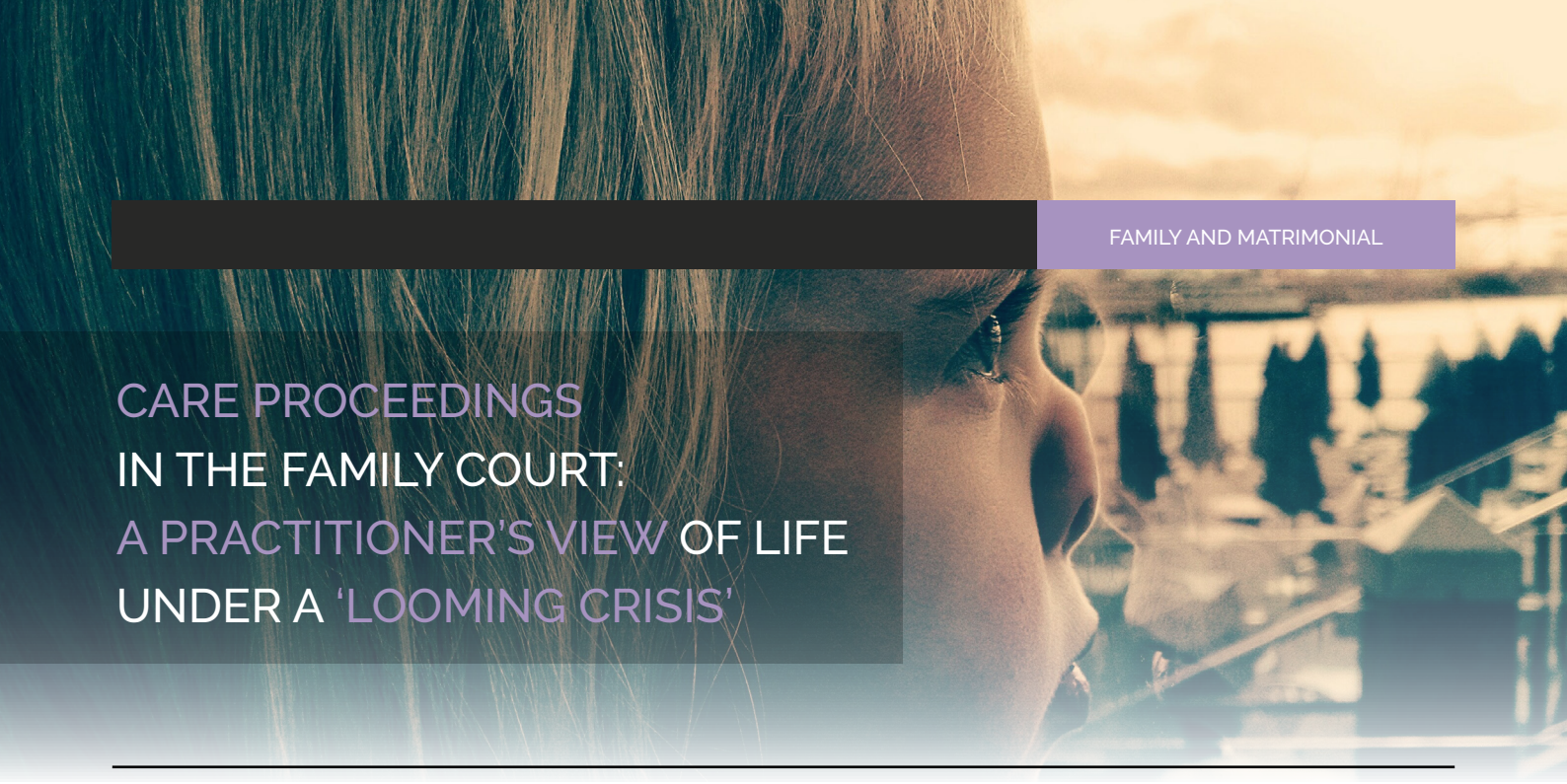

FAMILY AND MATRIMONIAL

CARE PROCEEDINGS IN THE FAMILY COURT: A PRACTITIONER'S VIEW OF LIFE UNDER A 'LOOMING CRISIS'

England's family court judges are tasked not only with settling divorces and helping parents come to arrangements for their children following separation, but also with deciding cases where they must determine whether children can remain in the care of their parents or whether their welfare requires that they are removed by social workers and placed elsewhere. In these cases, initiated by local authorities holding concerns about a child within their area and usually referred to as 'care proceedings', the consequences for the child and family concerned can be wide-reaching and permanent. If a child is found to have suffered or to be at risk of suffering significant harm, and if that child's welfare requires it, he/she can be adopted and familial ties severed even if that is contrary to the will of the parent - a measure often described as 'draconian' but which is broadly accepted (in the UK at least) to sometimes be a proportionate response to the very real risks that some children face through exposure to inadequate parenting or deliberate abuse.

As a practitioner working with parents whose children are the subject of care proceedings it has always been clear to me that these cases are highly stressful for the families concerned. The issues involved are deeply personal and the stakes for the child and family could hardly be higher. However, we now know that the care system itself is under increasing stress - this Autumn we found ourselves warned by Sir James Munby, the President of the Family Division of the high court of a 'looming crisis' within the family court system it handles a 'seemingly relentless' rise in the number of new care cases (the figures are startling). Social workers, lawyers, judges and Children's Guardians are working at full stretch to handle these issues and sometimes one wonders whether that strain might show in the quality of analysis applied in a busy social worker's report or in the time that a court can afford to spend addressing an issue that a parent thinks important. What challenges does this pressure on the system raise for a lawyer representing a child's family?

FINDING TIME TO KEEP UP WITH DEVELOPMENTS

We are told by Munby J that changing local authority practice must be playing a significant role in causing the increase in the number of care cases. This is certainly my experience. Recent court rulings have made local authorities unwilling to accommodate children in care for long periods without oversight from the family court, so we see a trend in them issuing care cases more readily. Practitioners need to be alive to this development in practice so that parents are not caught unaware when a case is taken to court quickly, but also need to be aware of the remedies available to parents when a local authority fails to progress cases involving child protection concerns quickly enough, especially when a child is accommodated in care voluntarily in the meantime.

Local authorities have also become more alive to the risks which are sometimes said to exist for children where parents have allegedly extreme or radical political views/ ideologies, such allegations more often than not levelled at Muslim

parents. In the family department at Bindmans we regularly hear from and help parents who have found social services involved with their children following referrals made by teachers or medical staff under the duties imposed on professionals by the government's controversial and much-criticised Prevent initiative to spot and report signs of 'radicalisation' of children. Concerns around alleged risk of radicalisation of a child did not often present as child-protection concerns until very recently, and present new and challenging issues to lawyers trying to help parents navigate a system which can sometimes seem risk-averse and intolerant of religious and political ideas outside of the mainstream.

We have a reputation for acting in care proceedings involving new and developing areas of law and practice - under the shadow of our 'looming crisis' we continue to see the law and trends relating to child protection developing thick and fast and recognise the importance of allowing time to develop our understanding of new issues affecting our clients and their cases.

KEEPING TRACK OF THE DETAIL

Not all care cases involve novel issues - that makes them no less important to the clients involved. As has been the case for decades, many care cases involve issues which have long been recognised as having an impact on parenting capacity and child welfare - use of drugs and alcohol, domestic violence in the home, and parental mental health issues. In this period of heavy local authority and court workloads it is more important than ever for lawyers acting for parents and children to ensure that no less a standard of analysis and proof is given to these cases than those involving less common issues. Having recently assisted a client in the Court of Appeal in respect of a case where insufficient regard was given to the reliability of the conclusions of a standard drug-test and in which the initial decision (since overturned) was that the child should be adopted,

THE WORK IS ABOUT MORE THAN THE LETTER OF THE LAW - **LOOMING CRISIS** OR NOT - THE CLIENT AND THE CHILD CONCERNED MUST REMAIN THE **FOCUS** OF THE LAWYER

I find myself acutely aware of the need not to take the reliability of even 'basic' evidence for granted and reminded that there is rarely a 'straightforward' case, no matter how it might be presented by an overstretched local authority.

MAKING TIME FOR THE CLIENT

Perhaps most importantly, when other services are stretched and social workers may find less time to talk through problems with parents (especially once care proceedings are before the court), a lawyer must try to engage with a client and spend whatever time is necessary to develop a trusting professional relationship. The work is about more than the letter of the law - looming crisis or not, the client and the child concerned must remain the focus of the lawyer concerned if he/she is to ensure that those interests do not get lost amongst a social worker's busy caseload and a court's packed morning list.

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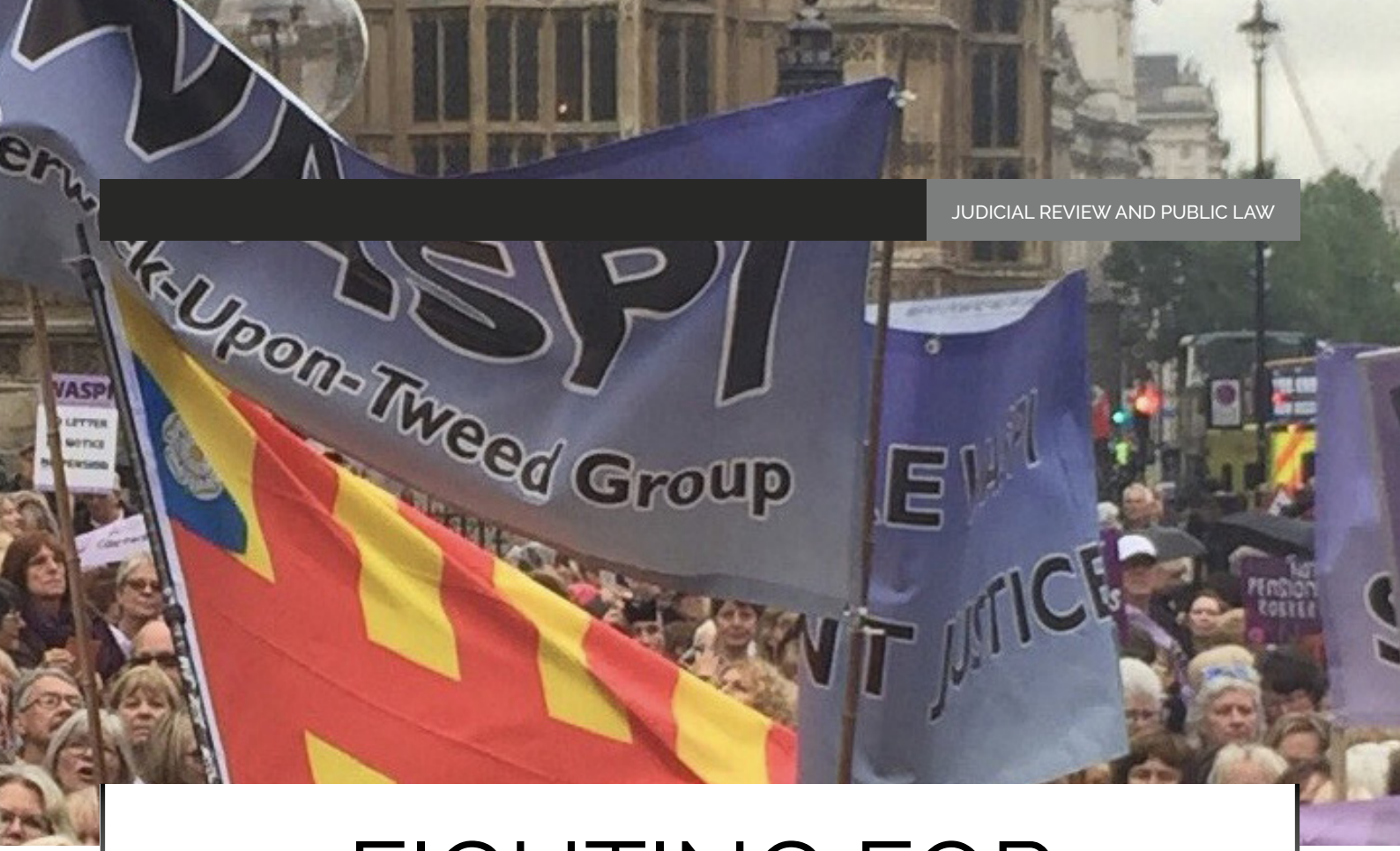

FIGHTING FOR FAIRNESS IN PENSIONS

Bindmans is advising Women Against State Pension Age Inequality Ltd (WASPI), a campaign group that is fighting the injustice done to women born in the 1950s (on or after 6 April 1951) by the failure properly to communicate dramatic changes to their State Pension Age. In particular, incremental changes to the State Pension Age made by Government between 1995 and 2011 affect around 2.5 million women, many of whom are only now becoming aware of and properly understanding the impact of the changes. Many women expected to retire at 60, and were dismayed to find out only when they were 58 or 59 that they had to wait up to another six years for their pension, which has inevitably caused them financial hardship and distress.

WASPI has campaigned extensively to get the government to accept that they need to take action to rectify the wrongs done to these women, and is now considering, with the assistance of Bindmans, the legal remedies available including through judicial review and complaints regarding maladministration.

CHANGES TO THE **STATE PENSION AGE** MADE BY THE GOVERNMENT BETWEEN **1995 -2011** AFFECT AROUND **2.5 MILLION WOMEN**

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FIGHTING FOR THE RIGHTS OF INTERNATIONAL STUDENTS

Over the course of the past year the public law team has worked extensively for the rights of international students in the UK. A crisis was triggered by a 2014 BBC Panorama investigation which showed organised fraud in the taking of an English language test (the Test of English for International Communication, or TOEIC) licenced by the Home Office and used to demonstrate the requisite level of English in immigration applications. In June 2014 the Immigration Minister announced that ETS (Educational Testing Services), the company which operates the test, had identified 29,000 occurrences of fraud and a further 19,000 potentially fraudulent tests by means of comparison of many thousands of voice clips of the tests. The Home Office adopted ETS' findings without question and immediately began taking action against students: summarily cancelling leave to remain of thousands of students, removing hundreds from the UK, and providing only generic evidence explaining the basis of the cases against them. The vast majority of students were ineligible to appeal from within the UK and were given no other means of answering the allegations.

The public law team has acted in three of lead cases: *R (Abu Gazi) v Secretary of State for the Home Department IJR [2015] UKUT 327 (IAC)* on the availability of an in-country right of appeal to challenge the allegations; *Majumder and Qadir v Secretary of State for the Home Department [2016] EWCA Civ 1167* (for Mr Majumder in the Court of Appeal) on the sufficiency of the Home Office evidence in appeal cases; and *R (Mohammad Mohibullah) v Secretary of State for the Home Department JR/2171/2015* on the lawfulness of the Secretary of State's actions in bringing about the student's dismissal from their course for reason of the allegation (and thereby circumventing the usual appeal rights).

The team has worked closely throughout with the National Union of Students, who are actively involved in seeking justice for affected students, including in respect of instructing an expert voice analyst to assess the reliability of ETS' analysis processes and in preparing detailed submissions to the Home Affairs Select Committee Inquiry into the issues.

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IN BRIEF

BINDMANS RANKED AS TOP-TIER FIRM IN THE 2016 LEGAL 500 DIRECTORY

As the 2016 edition of Legal 500 was published, we maintained our position in the top tier ranked firm. 17 of our practice areas were recommended including seven in the top tier and the new ranking in Reputation Management. 25 of our lawyers achieved recommendations.

BINDMANS LLP ACHIEVES TOP RANKINGS IN CHAMBERS AND PARTNERS UK 2017

The firm has been recommended as a Leading Firm and ranked Band 1 across seven practice areas. Ten of Bindmans' lawyers ranked in top categories and many more teams and individuals recognised in the directory.

WELCOME TO OUR NEW SITE
bindmans.com

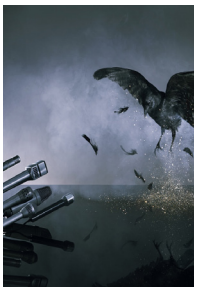
FRESH DESIGN

NEW SERVICES

LATEST NEWS & LEGAL DEVELOPMENTS

LAUNCH OF OUR NEW WEBSITE

In the Summer of 2016, we were proud to launch our brand new mobile-friendly website. It includes a brief timeline of our history, in depth information about our expanding legal services, new insight section with thought leadership and an online payment portal.



LAUNCH OF THE 'REPUTATION AND CRISIS MANAGEMENT' SERVICE

Earlier this year we launched 'Reputation and Crisis Management' service, headed by Partners from the Crime, Media, Police Actions, Family, Employment and Immigration departments, offering 24/7 response to control the crisis and minimise reputational damages

DEDICATED BREXIT HUB

Following the EU Referendum, we created a Brexit hub on our website which includes the latest news and developments as well as guidance for British and EU citizens.

CORPORATE SOCIAL RESPONSIBILITY

We are proud of our commitment to our communities and continuous efforts of our staff to fundraise and focuse charitable support on those in need.

A YEAR OF RECOGNITIONS

Outstanding Achievement, Human Rights – Close to Home, Private Practice Solicitor of the Year, Outstanding Newcomer in the Field of Children Law, Boutique Firm of the Year, Top Crime Team, Insurance Firm of the Year, Employment Team of the Year, Personal Injury Team of the Year, Legal Aid Team of the Year... The awards and acknowledgements Bindmans received in 2016 are the recognition of the creativity and dynamism in our teams' work, and the breath of the cutting edge legal expertise we offer.

We are proud of the results we achieve for our clients and overcoming the barriers they face in seeking justice. It is very gratifying indeed to have our work recognised time and time again by our clients, peers and communities.

MAY 2016

Bindmans shortlisted in the 'Boutique Firm of the Year' category at the Lawyer Awards 2016

Triple honour for Bindmans at first Solicitors' Journal Awards Ceremony; The firm was unique in being shortlisted for three awards ['Employment Team of the Year', 'Personal Injury Team of the Year' and 'Legal Aid Team of the Year'] and went on to win as 'Legal Aid Team of the Year'

JUL 2016

Hillsborough Family Legal Teams including Bindmans jointly awarded the Legal Aid Lawyer of the Year

OCT 2016

Bindmans' John Halford wins Law Society Excellence Award ' in Private Practice Solicitor of the Year category

Bindmans' Charlotte Haworth Hird, #JusticeforLB and INQUEST jointly awarded a Liberty Human Rights Award in 'Human Rights Close to Home' category

NOV 2016

Bindmans' Personal Injury Team wins 'Insurance Firm (Specialism) of the Year' at The Legal 500 UK Awards 2017

Hillsborough Family Legal Teams including Bindmans jointly awarded the 'Outstanding Achievement' Award at the Modern Law Awards 2016

Bindmans' Crime Team 'Highly Commended' at the Modern Law Awards 2016

Jamie Phillips awarded the Association of Lawyers for Children 'Outstanding Newcomer in the Field of Children Law' Award 2016

ANNUAL REVIEW 2016

HOW CAN WE HELP?

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