

CASE PLAN (NON FAMILY)

Format in accordance with Funding Code Guidance Para 15.3.9.

NAME OF CLIENT

AB

NAME OF FIRM

XY & CO

NATURE OF PROCEEDINGS

Action v Police (and Local Authority)

CASE INFORMATION

A. Summary of Case

We act for the Claimant AB (a child) in proceedings against CD Police (D1) and EF Local Authority (D2). AB alleges that he was abused by X between Jan 2016 – Dec 2016. The basis of the claim is that the abuse by X could have been prevented by one or both Defendants because at least 12 months before the abuse occurred it had come to the attention of both Ds that there were complaints that X had been abusing children but no appropriate action was taken by D1 or D2, leaving X in a position to abuse the Claimant. X was eventually convicted of abuse of AB and others but it was only after the trial that AB's mother was made aware that D1 and D2 had long been aware of concerns about X.

B. Objectives

To obtain damages for personal injuries for negligence and under sections 7 and 8 of the Human rights Act 1998.

C. Case Analysis

The Claimant claims damages for negligence (psychological trauma) and for breach of his ECHR rights (Arts 3 and 8). Disclosure has revealed that both Ds investigated complaints of rape and physical abuse and both Ds decided that no further action was required by way of child protection issues or criminal investigation. No reasons for the decisions were recorded. Accordingly there was no assessment of risk that X posed to AB or other children. It is alleged that both Ds were in breach of their common law duty of care expected of a reasonably competent specialist police officer and social worker in investigating the earlier complaints and their failure to do so to the appropriate standard was causative of the abuse of the Claimant AB as had an

appropriate investigation been carried out it is more likely than not that X would have been arrested and charged before he had an opportunity to abuse AB. It is also alleged that both Ds knew or ought to have known that X posed a real and immediate serious risk to AB and failure to take adequate steps to protect him amounts to a breach of Articles 3 and 8 of the ECHR.

Case Issues

Describe legal issues of liability, causation, limitation or quantum separately and the prospects of success on each.

a. Liability: Describe the issues and assess the chances of success:

Being able to satisfy a Court on the balance of probabilities that both Ds owed AB a duty of care in common law and under the HRA and that both were in breach of both because the conduct of the Ds fell below that expected of a reasonably competent professional and their state of knowledge was such that that they were in breach of their HRA duties.

It will be necessary to refute any defence that no duty of care was owed due to lack of proximity.

Detailed investigation is required but it is likely that prospects will be 50-60%

b. Causation: Describe the issues and assess the chances of success:

Demonstrating that the likely outcome of a proper investigation would have resulted in X being arrested and charged and unable to abuse AB.

% chance of success on causation = 60-80%

c. Limitation: Describe the issues and the chances of success:

Proceedings have been issued within the one year limitation period for HRA claims.

% chance of success on limitation = 100%.

d. Quantum: Describe the issues specify quantum and who assessed it:

Consideration of quantum is premature given AB's young age but it is likely that damages for psychological damage will not be less than £35,000 as he is suffering from anxiety and PTSD.

A report from a consultant psychiatrist will be sought.

The favourable facts are:

1. The preliminary denials of liability are pleaded in general terms
2. The police officer who investigated the earlier complaints was subsequently moved to other duties
3. An IPCC report was critical of police failure to follow process
4. The circumstances of the case are likely to result in a willingness on the part of the Ds to settle

The unfavourable facts are:

1. Until we have an Independent Social Work (ISW) report it is not clear how strong the case is against social services.
2. Failure against D2 presents a risk of the operation of the statutory charge.
3. The law on negligence is uncertain and developing

D. Funding Code Assessment

The legal merits of the claim are moderate to good at present. The claim is valued at least £35,000 but it could be higher. It is considered that the proportionality test is satisfied.

E. Case Theory

The client is likely to succeed since the evidence to date which has not been effectively challenged by the Defendants clearly supports the allegation that the conduct of the Ds fell below that of a reasonably competent professional and that appropriate action would have prevented the damage to AB.

CASE ACTIVITIES & COSTS INFORMATION

F. & G. (i) Costs To-Date									
WORK	COSTS								
Instructions taken Complaint made to the IPCC Protective Proceedings issued Protocol correspondence has been exchanged and limited disclosure has taken place Counsel's opinion obtained	<table> <tr> <td>Profit Costs</td> <td>3,000</td> </tr> <tr> <td>Counsel's Fees</td> <td>2,000</td> </tr> <tr> <td>Disbursements</td> <td><u>2,500</u></td> </tr> <tr> <td>TOTAL COSTS</td> <td>7,500</td> </tr> </table>	Profit Costs	3,000	Counsel's Fees	2,000	Disbursements	<u>2,500</u>	TOTAL COSTS	7,500
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(ii) Future Overall & Staged Costs				
KEY EVENTS & DATES	WORK	TIME ESTIMATE IN HOURS		COSTS
		SOLICITOR	COUNSEL	
	The outstanding work is as follows:			<p>Rates Applied:</p> <p>Prescribed Rates/Contracted Rates</p> <p>1st £25k –</p> <ul style="list-style-type: none"> • Solicitor - £108 ph (prescribed rate plus enhancement) • QC - £180 ph • Junior - £71.55 ph (London) £67.50 ph (plus enhancement as appropriate). <p>Post £25k –</p> <ul style="list-style-type: none"> • Solicitor - £70 ph • QC - £90 ph • Junior - £50 ph

		SOLICITOR	COUNSEL	
Stage One:				Stage One Totals:
Issue of proceedings to CMC	<p>Considering Defences x 2</p> <p>Considering / drafting Part 18 requests and D's responses</p> <p>Drafting Replies</p> <p>Completing and agreeing Directions questionnaire</p> <p>Preparing Schedule of Loss</p> <p>Considering D's Schedules</p> <p>Preparing draft Directions and considering D's draft Directions</p> <p>Chronology</p> <p>Witness and Expert lists</p> <p>Costs Budgeting</p> <p>Preparing for/ Attending Hearing</p> <p>Instructing Counsel to advise following CMC</p> <p>Considering Disclosure</p>			<p>Solicitor: x hours @ £108 =</p> <p>Leading Counsel: x hours @ £180 ph =</p> <p>Junior: x hours @ £112.50 ph =</p> <p>Disbursements:</p>

Attendance on Client and
correspondence with D

		SOLICITOR	COUNSEL	
Stage 2:				Stage 2 Totals:
Complying with Orders Made at CMC and all steps Up to Trial preparation	<p>Complete consideration of D's disclosure</p> <p>Prepare Claimants' list and consider D's list</p> <p>Considering disclosure issues with QC and considering advice</p> <p>Amendments to witness statements Considering D's witness statements QC to advise briefly on statements</p> <p>QC to amend PoC if necessary</p> <p>Considering Amended Defences</p> <p>Identifying and instructing ISW and child psychiatric report</p> <p>QC to advise briefly on reports</p> <p>Preparing list of issues for experts and considering replies</p> <p>Considering D's expert evidence</p> <p>Instructing Junior Counsel to advise on quantum</p>			<p>Solicitor: x hours @ £108 =</p> <p>Leading Counsel: x hours @ £180 ph =</p> <p>Junior: x hours @ £112.50 ph =</p> <p>Disbursements:</p>

Setting agenda for experts' meetings

		SOLICITOR	COUNSEL	
<p>Stage 3:</p> <p>Trial preparation</p>	<p>Considering experts' joint meetings</p> <p>Consideration of settlement offers and JSM</p> <p>Attendance at JSM</p> <p>Organise Trial Bundles</p> <p>Arrange for witness attendance</p> <p>Prepare brief for pre-Trial conference with QC and Junior</p> <p>Attend conference with Counsel</p>			<p>Stage 3 Totals:</p> <p>Solicitor: x hours @ £108 =</p> <p>Leading Counsel: x hours @ £180 ph =</p> <p>Junior: x hours @ £112.50 ph =</p> <p>Disbursements:</p>
<p>Stage 4:</p> <p>Trial – listed 3 days</p>	<p>Attend 3 day hearing</p> <p>Attend pre- and post- hearing conferences</p> <p>Travel and waiting time</p> <p>Travel and Accommodation costs</p>			<p>Stage 4 Totals:</p> <p>Solicitor: x hours @ £108 =</p> <p>Leading Counsel: x hours @ £180 ph =</p> <p>Junior: x hours @ £112.50 ph =</p> <p>Disbursements:</p>

(iii) Costs Summary

	Profit Costs	Counsel's Fees	Disbursements	Total
Costs to date	£3,000	£2,000	£2,500	£7,500
Future Costs – Stage 1		Leading Counsel: Junior Counsel:		
Future Costs – Stage 2		Leading Counsel: Junior Counsel:		
Future Costs – Stage 3		Leading Counsel: Junior Counsel:		
Future Costs – Stage 4		Leading Counsel: Junior Counsel:		

TOTAL COSTS:

H. Cost Sharing Agreement

There is no cost sharing agreement in force with other parties.

CASE MANAGEMENT INFORMATION

I. Team Personnel (including Solicitors Employees, Experts and Counsel and/or Solicitor Advocate)

The case will continue to be conducted throughout by Mr. D who is a partner in the firm. The major decisions on management and strategy have been taken by him. He has been assisted by F.G. who is a Legal Executive and has been with the firm for 6 years concentrating on AAP work. The division of the work has been as follows:

DE - overall conduct and supervision of the case as to management, strategy and research and expert evidence analysis, instructing and briefing counsel, attendance at court.

FC - collation of records, obtain lay witness evidence, preparing proofs.

The firm has a Legal Aid Agency Actions against the Police franchise and has conducted numerous cases to a successful conclusion for the past 10 years and the case is well within the competence of the firm which is adequately resourced to conduct it.

Experts

The expert witnesses are Social Work Expert Miss Y & Dr. Z. child psychiatrist who are recognised authorities in their fields Their charging rates are reasonable and both have substantial experience.

Counsel

Mr. G.H. QC Leading Counsel and Miss I.J. Junior Counsel will represent the claimant under authority granted by the Legal Aid Agency. They have an extensive experience practices and Mr. G.H. QC is a joint author to one of the leading text books in the area. He has a high success rate in cases. He has been involved in the case from an early stage.

I confirm that a copy of this case plan has been sent to the client/litigation friend. He/She has been advised that if the case is successful some of the costs of the work set out in the case plan may not be paid by the other side and instead would be taken out of the Client's compensation.

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