

Important judgment for social work teams facing ‘failure to remove’ claims

24 January 2025  Sarah Erwin-Jones

As it becomes more and more difficult for individuals who suffered harm and neglect within their families to bring claims against local authorities in negligence, we see claims presented in different ways, with a current trend being for claims under Articles 3 and 8 of the European Convention on Human Rights.

The law moves on incrementally with many claims concerning the police being of relevance to children’s social care providers and vice versa. So whilst these are Police Appeals, they are important for local authorities.

In this combined appeal known as Woodcock v CC Northamptonshire, concerning two different constabularies the facts were pretty stark:

- In one case, the police were holding a computer owned by the abuser for several years. That computer clearly contained indecent images of albeit unidentifiable children created by the abuser. A few years later that abuser went on to sexually assault 5 young children.
- In the second case the police were aware that the Claimant was at risk of very serious violence from her ex-partner and had advised her on what she might do to keep herself safe. The ex partner later seriously harmed her in her home.

Despite these saddening facts, the court made it clear that they were not sufficient to persuade the court to extend the circumstances under which it was prepared to impose a duty of care to protect an individual from harm caused by a third party. It was similarly rigorous in its application of the criteria required under Article 3 of the European Convention on Human Rights. The information known during the investigation into the indecent images on the laptop was not sufficient to engage Article 3. A generalised future risk of contact offences would not satisfy the requirement of a real and immediate risk of ill-treatment.

It is notable that both appeals followed a full trial of the facts. There was no question of these cases being dealt with by way of summary judgment or strike out and the decisions were said to be on the very specific facts of these cases.

The key message here is to invest in collecting all relevant evidence, including witness evidence as soon as possible, and that becomes even more important if staff turnover is high. Good witness evidence may even persuade claimants to drop their claims earlier, reducing cost and any litigation stress on your social work teams.

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