

## **Protocol re Naming of Staff in Court Judgements**

The following protocol applies to any staff who work within the Council and who may, in the course of carrying out their duties, be named in court proceedings.

There may be instances when an ex-employee, who has left the employment of the Council, is going to be named in relation to a case they were working on when employed by the Council or where an agency worker or contractor is going to be named. In such circumstances, the individual will be contacted to be informed that they are about to be named and offered a briefing on the issue and be signposted to further support as appropriate.

The process of being named in court proceedings can be a positive experience, especially if an individual is praised for their work, and it is expected that staff who may be named in court proceedings will be prepared for this as it will form part of the professional standards for their role.

The Council does acknowledge, however, that for some staff the thought and reality of being named in court proceedings can be a difficult experience. This protocol aims to support those staff who are publically identified in their professional capacity due to the work they do.

The protocol has been agreed jointly with the Trade Unions. Although it has come about in response to the Transparency in the Family Courts – Publication of Judgements Practice Guidance issued on 16 January 2014 by Sir James Munby, President of the Family Division, it applies equally to all staff who are named in proceedings of any court and should be applied as such.

The specific section of the guidance that is relevant to the Council is section 20, which states: -

“In all cases where a judge gives permission for a judgement to be published:

- (i) public authorities and expert witnesses should be named in the judgement approved for publication, unless there are compelling reasons why they should not be so named;”

### **First Steps**

When the Council or an employee becomes aware that it is likely an employee is to be publically identified due to their work for the council, in a court judgement, the first steps to be taken are: -

- A discussion between the manager and employee – to include any specific concerns the employee has about risks, either to themselves or others; to encourage the employee to contact their professional body or Trade Union, if they are a member; to carry out a risk assessment; and to signpost the employee towards any support that may be

available, i.e. Counselling through Occupational Health. If an employee does not want to speak to their professional body or Trade Union, they may be referred to the appropriate contact in Communications.

- Consideration should be given as to whether there are “compelling reasons” that can be put forward as to why the employee should not be named, as appropriate.
  - In some circumstances there will be nothing the council can do to stop publication
  - Depending on the circumstances, it may be possible to make a request to the court to stop publication
  - It should be noted that even if publication is stopped, those privy to the proceedings know the parties identities and could name them separately
- Former members of staff, agency workers and contractors will be contacted.

## **Media Contact**

All contact from any part of the media should be referred to Communications, in line with the Council’s Code of Conduct. The Code of Conduct<sup>1</sup> covers this issue and states “The Council has established a Communications Section, which is responsible for all-official press releases and statements. Individuals who are asked by the media to make comments should refer such requests direct to that section.”

Consideration should be given to an appropriate Senior Officer being nominated to act as spokesperson with regards to the particular case. This is especially important as the council acknowledges that often the person named in a judgement is not a senior officer and is acting in line with instructions/guidance from their seniors. There is potential for the media to focus on the named individual, even though they are representing the council’s position and not their own. Senior officers should: -

- Take full responsibility for the conduct of the case
- Act as spokesperson for media contacts and interviews

If the member of staff concerned is a member of a professional body or Trade Union, then Communications should liaise with the appropriate professional body or Trade Union’s press office about media handling.

## **Council’s Responsibilities**

The council has a duty of care to its staff and takes a proactive approach to working with staff around positive practice, which is part of the council’s everyday culture, aiming to attain best practice. This duty of care means that managers must: -

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<sup>1</sup> Section 13.4

- Take all reasonable steps to ensure the health, safety and wellbeing of their staff
- Take all reasonable steps to prevent physical and mental injury to staff arising from their work and take steps to prevent work related stress. Such steps could include consideration of counselling through Occupational Health; other negotiated support; Occupational Health referral; a sensitive approach to the application of the Sickness Procedure; and reasonable adjustments (where appropriate)
- Complete a robust risk assessment in relation to the likely consequences of a staff members being named
- Take all reasonable steps to protect employees from harassment by reporters. Such steps could include consideration of granting paid special leave, arranging temporary work accommodation or complaining to the Press Standards Organisation
- Take all reasonable steps to protect the employee from threats and attacks by the public or service users. Such steps could include consideration re security guards/added security features to then staff members home or work place; provision of temporary alternative work accommodation; tagging of staff addresses with the Police, so the Police are aware of the background and can prioritise calls for help; and with agreement, consideration of temporarily redeploying the employee to an alternative role

### **Pro Active Steps**

Being registered with the Health and Care Professionals Council (HCPC), which staff covered by this protocol are, means that professional standards need to be adhered to. Dealing with such issues is part of professional practice and leads towards: -

- Ensuring that staff feel confident and able to deal with challenging situations at court, i.e. by providing training on court skills and legal updates as appropriate, which could include simulated cross examination practice
- Managers ensuring that staff are given adequate time and support (administrative/supervisory/legal) to prepare for proceedings
- Providing encouragement and help to staff to review their personal social media profiles and check their privacy settings. Staff are reminded that whatever they put on their social media is public and the council has guidance on the use of social media at work, which must be complied with, as must any requirements linked to HCPC registration

### **Representation at Meetings**

Staff would not normally be accompanied at informal meetings in respect of publicity by their professional body or Trade Union representative or work colleague, but given the serious nature and potential consequences of a staff member being named in court proceedings, staff should be able to be accompanied to meetings to discuss such issues, for example: -

- Discussions about an application for anonymity
- A risk assessment/safety planning meeting
- Discussions about media handling

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