



4 King's Bench Walk, Temple, London, EC4Y 7DL
Tel: 020 7822 8822
Fax: 020 7822 8844
DX422 London
www.4kbw.net

O'Connor v Bar Standards Board

Disciplinary proceedings. A continuous process.

Portia O'Connor won a landmark decision earlier this month when the Supreme Court unanimously decided to allow her appeal against the Bar Standards Board (BSB) and find that her claim was not time barred.

This decision stems from a line of litigation starting in 2010 when the BSB Complaints Committee brought 6 disciplinary charges against Ms O'Connor. In May 2011 the Disciplinary Tribunal found 5 out of the 6 allegations proved. Ms O'Connor appealed to the Visitors of the Inns of Court who overturned the decision.

Following her appeal, in 2013 Ms O'Connor issued proceedings against the BSB alleging a violation of Article 14 of the European Convention on Human Rights read in conjunction with Article 6 ECHR, contrary to section 6 of the Human Rights Act 1998 (HRA 1998).

The BSB argued that Ms O'Connor's claim was time barred under section 7(5)(a) of the HRA 1998. This section prescribes a time limit to bring proceedings of 1 year from the date on which the act complained of took place. The BSB contended that under this statute time started to run from the moment the initial Disciplinary Tribunal found the allegations against Ms O'Connor as proved and therefore the time limit for bringing a claim expired in 2012. Ms O'Connor submitted that time should run from the verdict of the Visitors of the Inns of Court in August 2012.

In 2014, Ms O'Connor's claim for compensation was struck out with the reason being that it was time barred and in any event the evidence did not support such a claim. Ms O'Connor appealed. Mr Justice Warby ruled that her appeal should be allowed in relation to her human rights claim, but that nevertheless it was time barred.

Ms O'Connor took her dispute to the Court of Appeal where the then Master of the Rolls, Lord Dyson, held that the one-year limitation period under the Human Rights Act 1998 to challenge the BSB ran from when the disciplinary tribunal reached its initial verdict. She was given permission to appeal to the Supreme Court.

The Supreme Court were asked whether the disciplinary proceedings constituted a single continuing act or a series of discrete actions for the purposes of the HRA 1998. The Supreme Court held that the disciplinary proceedings formed a single continuous act even though it consisted of separate steps. This meant that the limitation period commenced when the Visitors of the Inns of Court overturned the Disciplinary Tribunal's decision in August 2012 not when the allegations against Ms O'Connor were

found proved in 2011. The result is that Ms O'Connor was within time when she issued proceedings against the BSB in February 2013.

There will be another court case to determine the merits of Ms O'Connor's claim however the current decision is set to cause waves in the world of disciplinary proceedings.

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