



Small Firms Legal News Update

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2 May 2013

Cases

Personal Injury

Tacagni v Cornwall CC. 2013 WL 1742002. Court of Appeal (Civil Division) (CA (Civ Div)).

Lewison, L.J.; McCombe, L.J.; Laws, L.J.. 24 April 2013

A judge had erred in holding that a local authority was one-third liable for a claimant's personal injuries incurred when she fell approximately two metres from a raised pathway onto the road below after a few drinks and in the dark with no torch. He had left out a material factor in his evaluation: the degree of care that was to be expected of an ordinary visitor under the Occupiers' Liability Act 1957 s.2(3).

Appeal allowed.

Legislation

Administration of Justice

Crime and Courts Act 2013

An Act to establish, and make provision about, the National Crime Agency; to abolish the Serious Organised Crime Agency and the National Policing Improvement Agency; to make provision about the judiciary and the structure, administration, proceedings and powers of courts and tribunals; to make provision about border control; to make provision about drugs and driving; and for connected purpose.

Royal Assent: 25 April 2013

Regulatory Developments

Criminal Law

Greater protection for homeowners.

By Ministry of Justice. 25 April 2013

The Crime and Courts Act came into effect on April 25, 2013, under which anyone who is confronted by a burglar and has reason to fear for their safety, or the safety of their family, and in the heat of the moment uses force that is reasonable in the circumstances but in the cold light of day seems disproportionate, will not be guilty of an offence. Force which is "grossly" disproportionate will still not be permitted.

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Legislation referred: Crime and Courts Act 2013

Legal Advice and Funding

New guidance on crime billing and fees.

By Ministry of Justice. 25 April 2013

A Ministry of Justice (MoJ) publication sets out two updated guidance documents, which aim to help with the claiming, processing and assessment of costs in criminal legal aid cases. The reworked documents are: the Criminal Bills Assessment Manual, which outlines the MoJ's approach to costs assessment when claims are submitted for work in criminal legal aid cases under the Standard Crime Contract 2010; and the Crown Court Fee Guidance, which consolidates the Litigators' Graduated Fee Scheme Guidance and Advocates' Graduated Fee Scheme Guidance into one document.

[Read the full text here](#)

News

Criminal Law

Man fined for racial insult against Welsh. Times, April 29, 2013, 16. By Kate Burgess. Also Reported in Daily Telegraph, April 29, 2013, 5

English holidaymaker Anthony Taaffe has been fined GBP 150 after he admitted using the phrase "sheep-s**gger" as a racially insulting term during a confrontation at the Presthaven Sands holiday park in Wales. He admitted racially aggravated disorderly behaviour and was required to pay a victims' surcharge of GBP 20. summer of 2013, which will cap compensation and introduce fees for bringing employment tribunal claims.

Criminal Law

Rape charge for men who ignore women's wishes. Times, April 25, 2013, 18. By Frances Gibb.

The Lord Chief Justice and two other judges have ruled that men who deliberately ignore the wishes of women with whom they are having sex can be guilty of rape. The judges made their comments in a challenge brought by a woman to a decision of the Director of Public Prosecutions not to prosecute her former partner for rape after concluding that it would be "impossible to prove" that the man's decision not to comply with the woman's specific wishes during intercourse was not "spontaneous". The judges ruled in the woman's favour and have ordered a review of the case.

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Further Reading

Civil Procedure

Adapt to survive. T.E.L. & T.J. 2013, 146(May), 21-23. By Kate Mundy; Russell Simpson.

Considers how the Jackson reforms will affect lawyers who specialise in litigation about wills, trusts and estates. Discusses the effect on contingency fee arrangements and after the event insurance, which often are used to fund such litigation. Examines the proposed damages-based agreements.

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