ISSUE #3

Quarterly Civil Team Newsletter

CORNWALL ST

✦

30 April 2026

Welcome from Cornwall Street Civil Team

Welcome to the third edition of the Cornwall Street Barristers Civil Team Newsletter.

We trust you will find this edition informative and insightful. If so, please do forward it to colleagues and others who may enjoy it.

If you have been involved in - or become aware of - any legal development that you would like the Team to cover, please email civil@cornwallstreet.co.uk.

CONTENTS

Lost Years Reclaimed - CCC v Sheffield Teaching Hospitals NHS Foundation Trust [2026] UKSC 5

Employment Rights Act 2025 – Harassment

Michael Trevelyan Represents Successful Claimant in £100,000.00 Contract Dispute

Spotlight on: Simon Bradshaw

News & Updates

Disclaimer: Our newsletters are not legal advice. This Newsletter was written using the law as it stood in April 2026.

Editors:
Esther Sheppard and Imogen Smalley

Introduction

This edition provides a compilation of varied reading, from the recent decision of the Supreme Court regarding 'lost years' in personal injury claims, to exploring developments in employment rights.

This edition's 'Spotlight on' focusses on civil and family finance tenant Simon Bradshaw (2008 Call).

The following topics appear in this quarter's edition.

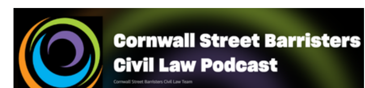
- **Tim Jacques** explores the recent Supreme Court case of CCC v Sheffield Teaching Hospitals NHS Foundation Trust [2026] UKSC 5.
- **Nicholas Kennan** writes on the two 2026 employment law developments: a) from October this year, the strengthening of protective measures against all forms of harassment; and b) from 6 April 2026, the inclusion of sexual harassment as a qualifying disclosure for the purposes of whistleblowing (s23 ERA 2025).
- **Michael Trevelyan** shares his success in a recent contract case worth £100,000.
- **Simon Bradshaw (2008 Call)** shares his trials and tribulations in our regular 'spot light on' feature.

We hope that you enjoy this edition of the Civil Team Newsletter.

Have you heard our Civil Law Podcast?

Michael Trevelyan explores all things civil law in his podcast. The episodes are under 30 minutes and provide bitesize insights into topics such as: compensation to secondary victims and crypto currency.

You can listen to the podcast on Amazon music here.



Lost Years Reclaimed - CCC v Sheffield Teaching Hospitals NHS Foundation Trust [2026] UKSC 5

Tim Jacques

In personal injury and clinical negligence litigation a 'lost years' claim is a claim for damages for income that a claimant would have earned had their life expectancy not been reduced by the negligent act or omission.

The jurisdiction to award damages for lost years was established by the House of Lords in Pickett v British Rail Engineering Ltd [1982] AC 136. The conventional approach is to apply a multiplier reflecting the number of lost years to a multiplicand reflecting the annual loss of income net of both tax and the living expenses that the claimant is likely to have incurred had he / she continued to live during those lost years.

However, in Croke v Wiseman [1982] 1 WLR 71 the Court of Appeal determined that such awards could not be made in cases where the claimant is a young child. Considerations of social policy underpinned the decision. The Court considered that in the case of a mature claimant, any lost years damages awarded would be available to support his / her dependants. However, such considerations did not apply to young children, who have no such dependants.

Almost half a century later, in February 2026, the Supreme Court determined that Croke had been wrongly decided. Its judgment in CCC v Sheffield Teaching Hospitals NHS Foundation Trust [2026] UKSC 5 concerned a claim brought on behalf of an 8-year-old girl who had suffered a hypoxic brain injury during her birth as a result of the defendant's negligence. It was common ground that her life expectancy was 29. She brought a claim of c.£800,000 in respect of her lost years.

The Supreme Court determined by a majority of 4-1 that Croke was incorrect for the following reasons:

i. A claim for 'lost years' is a claim for a claimant's own loss, and there is therefore no reason why it should depend upon whether he or she has dependants.

ii. The court cannot properly exclude the recovery of damages as a matter of principle on the ground of a claimant's age.

iii. Whilst there may be more areas of uncertainty in assessing a claim by a young child, difficulty in assessment is not a reason for declining to award damages. The evidential difficulties caused by a defendant, in inflicting a severe injury on a young child, should not be allowed to deprive that child of just compensation.

"Accordingly, where it is clear that the claimant has suffered substantial loss – as the injured child undoubtedly has – but the evidence does not enable it to be precisely quantified, the court must assess damages as best it can on such evidence as is reasonably available. It has to do so, notwithstanding that the loss cannot be measured precisely or with certainty, if the compensatory principle is to be honoured" (para 57).

iv. The parties had agreed that it was not too speculative to assess the claimant's claim for loss of earnings up to the age of 29, which had been compromised in the sum of £160,000. However the defendant sought to argue that the assessment of her loss of earnings minus her probable living expenses after the age of 29 – i.e. during the lost years - was too speculative. The juxtaposition of those two stances exposed the inherent contradiction in its argument.

The decision at last brings clarity to an anomaly in the law of damages that has long been difficult to understand.

Tim deals with cases involving fatal accidents, total career loss, and life-changing injuries. He has a busy advisory practice, and represents clients both at court and during joint settlement meetings. He aims to provide prompt, clear and pragmatic advice at every stage of the litigation process.

"Timothy is an expert in his field and, more than that, frames his advice and expertise so that solicitors and lay clients especially can fully appreciate them. His standard of work is faultless and working with him feels much more of a collaboration that receiving from-on-high opinion or advice." – Legal 500 2025

The content of this note is for general information purposes only, and no warranty, express or implied, is given as to its accuracy nor is any liability accepted for error or omission. Nothing in this note constitutes legal advice or gives rise to a barrister/client relationship. Specific legal advice should be taken in relation to individual circumstances.

Employers cannot have failed to notice the numerous conversations on many business forums about changing employment rights. It has sometimes been difficult to follow those changes as the Employment Rights Bill bounced back-and-forth between the House of Commons and the House of Lords. However, those changes are now starting to take hold, and there are many great sources of information for employers. This short piece certainly isn't a comprehensive review of all of the changes the Government has introduced, but a couple of these align with potentially devastating effect.

Sexual harassment is abhorrent and employers are already under a duty to take reasonable steps to protect employees from sexual harassment in the workplace. If an employment tribunal were to find that an employer had failed to take such reasonable steps then it had the power to uplift an award of compensation by up to 25%. From October this year, protective measures against all forms of harassment are being strengthened again; before considering those, it is worth noting that from 6 April 2026 sexual harassment will become a qualifying disclosure for the purposes of whistleblowing (s23 ERA 2025).

From October 2026 protective measures against all forms of harassment are being strengthened in that employers will be required to take all reasonable steps to prevent both third-party and sexual harassment.

<u>Third-Party Harassment</u>

Section 21 of the ERA 2025 will amend s40 of the ERA 1996 to effectively state that an employer must take all reasonable steps to prevent a third-party from harassing his or her employees in the course of their employment. For the purpose of this section, the third-party cannot be either the employer or another employee.

There is an element of history repeating itself here. In 1997 two waitresses brought a successful claim against their employer for the racist harassment they received from an after dinner speaker (Burton v De Vere Hotels [1996] IRLR 596 (the 'Bernard Manning' case). That decision was later overruled, but the Equality Act 2010 introduced liability for third-party harassment where an employer had failed to take steps that would have been reasonably practical to prevent the harassment complained of and in the knowledge that the employee had been harassed at least twice before. However, that provision was later repealed in 2013. The provisions regarding third-party harassment that are coming into force in October are clearly much more stringent: employers will be expected to take all reasonable steps to prevent this from happening and there is no requirement for the employee to have been harassed previously.

<u>Sexual Harassment</u>

Section 20 of the ERA 2025 simply adds the word "all" before the words "reasonable steps" in s40A of the ERA 1996. By the inclusion of the word "all", the legislator must be taken to have intended to increase the protective requirement placed upon employers but what will be enough to satisfy an employment tribunal that an employer did take "all reasonable steps" to prevent the harassment? On one hand, it could be argued that if an employee were able to point to any failure that may have prevented the harassment then the employer cannot have taken <u>all</u> reasonable steps.

Fortunately, there is the prospect of some guidance being provided pursuant to s22 of the ERA 2025 by way of "*regulations that may specify steps that are to be regarded as reasonable for the purposes of determining whether … an employer has taken, or failed to take, all reasonable steps to prevent sexual harassment…*". Unfortunately, it is unclear whether those regulations will be published before October 2026 but we at least know that they are likely to include information about:

1. Carrying out assessments of a specified description (ie risk assessments);
2. Publishing plans or policies of a specified description (ie action plans);
3. Steps relating to the reporting of sexual harassment (ie a policy); and
4. Steps relaying to the handling of complaints (ie another policy).

The EHRC has published a guide on preventing sexual harassment at work and one could imagine that if an employer had properly implemented this it would be a persuasive argument before an employment tribunal that the employer had at least made significant steps towards taking all reasonable steps to have prevented the harassment.

There does not appear to be in the offing any similar guidance with regard to third-party harassment. However, it must be remembered that in order to bring a claim for harassment an employee will still need to show that the conduct complained of could reasonably have had the effect of violating his or her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Moreover, it is unlikely that anybody expressing a view that was a protected religious or philosophical belief would amount to harassment.

For anyone who plays chess, you will know it is uncomfortable when the King is in check from two of the opponent's pieces at the same time. The combined effect of the forthcoming increased protections against sexual harassment and the whistleblowing changes being introduced in April are that an employee who reports sexual harassment will (a) be protected from any detriment and (b) have a claim for automatic unfair dismissal where the principal reason for the dismissal is the disclosure.

This must also raise the prospect of an employee who asserts that he or she has been dismissed for this reason being able to make an application for interim relief, which if successful often results in an order for the employer to pay the employee's salary until the employment tribunal hearing. Given the lead time for employment tribunal hearings, that the sum paid is generally irrecoverable even if the employee's claim is dismissed and that the employment tribunal is generally a costs free forum, it will behove employers to take these changes seriously.

Nicholas is a former solicitor advocate who accepts instructions in professional disciplinary matters, employment, personal injury and clinical negligence.

Michael Trevelyan Represents Successful Claimant in £100,000.00 Contract Dispute

Michael Trevelyan

Michael Trevelyan was recently instructed to represent the Claimant in a three-day multi-track trial heard before Recorder Wyles K.C. at the County Court at Birmingham.

The Claimant's case was that she had loaned £100,000.00 to her then-husband's best friend. The Claimant asserted that her husband had acted as his best friend's agent so as to bind him to the transaction even though there was no direct contact between the parties. Following the breakdown of the relationship the Claimant made demands for repayment but the Defendant asserted that the payment had been made pursuant to a contract in which the Claimant had agreed to purchase gold bars from him. The Defendant's case was that the Claimant had collected the gold bars in two tranches in 2022 and 2023 and therefore the contract had been completed but, in any event, the Claimant's husband was not acting as his agent.

At trial the Claimant and two of her friends gave evidence as did the Defendant, the Claimant's ex-husband, in support of the Defendant, and the Defendant's wife. On the morning of trial Michael successfully opposed two late applications by the Defendant to adduce further evidence being a new witness statement with exhibits and a copy of Scottish pleadings relating to the matrimonial assets of the Claimant and her ex-husband. In respect of the second application Michael successfully navigated unusual issues arising from disclosure of Scottish legal documents and the principles relating to their reliance in proceedings outside of that jurisdiction.

In giving judgment the Court rejected the Defendant's case that there had been a sale of gold bars and instead found that the payment had been a loan. The Judge also found that the Defendant was bound as principal to the actions of the Claimant's husband as agent. Consequently, the Claimant was able to recover the full debt of £100,000.00 in addition to interest. The Claimant had also beaten her Part 36 offer and recovered a range of additional sums including enhanced interest and indemnity costs. The Defendant was also ordered to pay £60,000.00 on account of costs pending detailed assessment.

Michael was ably assisted throughout by one of Chambers' pupils, Ms. Susan Guest, who has now commenced the practising period of her pupillage and is available to accept instructions in all aspects of Chambers' work.

If you would like to instruct Michael or Susan then please contact their Clerks here.

Michael Trevelyan

Michael accepts instructions in a range of civil matters with a particular emphasis on property disputes and contract issues, including business to business and business to consumer.

SPOTLIGHT ON: Simon Bradshaw

Year of Call: 2008

1.For how long have you been practicing with Cornwall Street Barristers?

I began pupillage at Cornwall Street in January 2011, became a tenant in January 2012, and was appointed a Deputy District Judge in May 2020.

2.What are your practice areas?

I have a mixed civil and family finance practice. On the civil side I mainly specialise in business and property law but with regular work in other areas such as defamation and landlord/tenant. A lot of my family finance cases also cross over into this area, such as divorce cases where there is a family business.

3.Briefly, can you describe your route to the bar?

I came to the Bar as a second career after 17 years as an Engineering Officer in the RAF. Towards the end of my RAF service I studied for a law degree with the Open University and found it so interesting I decided to follow up with an LLM in Intellectual Property and Technology Law before doing the Bar course and seeking pupillage.

4.What are your future career ambitions?

I have been sitting as a part-time judge for 5 years now. As well as general civil and family work I am one of the few DDJs at Birmingham to be qualified to sit as a Business and Property Courts DJ in the High Court. I find judicial work interesting and enjoyable and in due course hope to move to a full-time position - although sadly this would involve leaving Cornwall Street.

5.What do you find the biggest challenge and biggest reward of being a barrister?

Managing your own time, especially working from home when not in court. It is a constant battle to keep up with work while not letting your working day spread into evenings and weekends. But with that comes a great deal of flexibility and freedom as compared with an office job.

6.What inspired you to turn to law as a career?

From 2000 to 2004 I had to help and support a close family member through a difficult but ultimately successful civil legal case that went to the High Court. Although very stressful, I found the legal process fascinating and that is what prompted me to start studying law.

SPOTLIGHT ON: Simon Bradshaw

7.What is a cause/charity you admire?
I and many of my friends are at an age now where relatives' lives are affected by dementia. I support the Alzheimer's Society who provide much helpful advice and support.

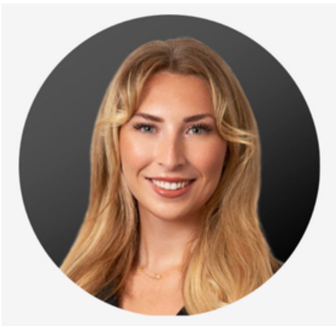
8.What is your favourite cuisine/meal?
My food tastes are wide-ranging but I do enjoy a really good steak! As friends who've tried my baking know I also love anything with cinnamon in it.

9.What is your favourite book/film?
I'd hardly know where to start! Of books read over the last year, I'd pick Service Model by Adrian Tchaikovsky, a funny but very penetrating satire of what happens when you over-automate society. As for recent films, as a science fiction fan I thoroughly enjoyed Project Hail Mary, an excellent adaptation of a book I very much liked.

10.Where is your favourite place to stay or visit?
I grew up near Guildford and love the Surrey Hills and North Downs, some of the most beautiful countryside landscape in England.

Simon accepts instructions in a range of civil matters as well as family finance.

The Civil Team is delighted to announce that Charlotte Hockney has joined Chambers as Practice Manager of the Civil Team.



Chambers is pleased to announce that our pupils – Susan Guest, Georgina Kuponiyi, and Liz Sawyer – are now available to accept instructions across all practice areas following successful completion of their first six months.

Chambers has welcomed Matthew Jahanfar as a probationary tenant. Matthew accepts instructions across the Civil and Family teams.

Seminars

On 15 May 2026, Chambers will be holding an Advocacy in Practice evening for student lawyers. The event will take place at our Birmingham 'headquarters', between 18:00 and 21:00.

If you would like to participate, the sign up page is here.

Contributors

Michael Trevelyan

Michael accepts instructions in a range of civil matters with a particular emphasis on property disputes and contract issues, including business to business and business to consumer.

Tim Jacques

Tim accepts instructions in a range of property matters, including boundary disputes and claims for adverse possession of both registered and unregistered land.

Pupillage News

Our pupils are now on their feet, accepting cases across the entirety of Chambers' practice areas: Susan Guest, Georgina Kuponiyi, and Liz Sawyer.

Chambers also welcomes a probationary tenant, Matthew Jahanfar. As of April 2026, Matthew will be accepting instructions across Civil and Family law.

Nicholas Kennan

Nicholas is a former solicitor advocate who accepts instructions in professional disciplinary matters, employment, personal injury and clinical negligence.

Simon Bradshaw

Simon accepts instructions in a range of civil matters as well as family finance.

Editors

Imogen Smalley

Imogen is a tenant who practises out of Cornwall Street's Oxford Annex. She accepts instructions in civil cases across the South West, the West Midlands and London.

She is a member of the Association of Regulatory and Disciplinary Lawyers, the Planning and Environmental Bar Association, and the West Midlands Family Law Bar Association.

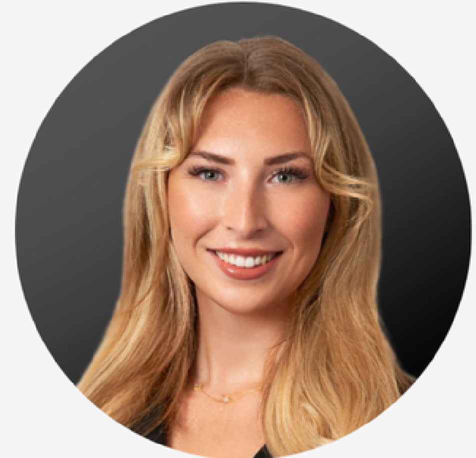
Esther Sheppard

Esther has been a tenant of Cornwall Street Barristers for three years and accepts instructions in a range of civil matters including housing, personal injury and TOLATA cases.

Civil law contacts

Charlotte Hockney

Practice Manager (Civil)
civilteam@cornwallstreet.co.uk



Matthew Fleming

Senior Practice Manager (Birmingham – Family and Civil)

civilteam@cornwallstreet.co.uk