

CAMPAIGN ON BEHALF OF FALSELY ACCUSED CARERS AND TEACHERS

Vol
3 - 29

FACTION

Spring
Conference
Report

FACT, INFORMATION, OPINION and NEWS



F.A.C.T. needs your help right now

Falsely Accused Carers and Teachers

Committee and Editorial Team

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FACTION:

FACTION is produced at quarterly intervals at the national committee's discretion, and is provided free of charge to F.A.C.T. members.

The editorial team welcome articles for publication, of between 150 and 1,500 words, and letters of not more than 200 words. These should be sent, preferably by email to: faction@factuk.org or by post to **FACTION, PO Box 15971, Solihull, B93 3GG**

The editorial team reserve the right to edit any article or letter sent for publication.

All submissions must be accompanied by your name and address which, on request, will be withheld from publication.

The views contained in FACTION do not necessarily represent those of F.A.C.T., or its national committee.

Contributors are reminded that FACTION is also published on the internet and therefore is, potentially, available for everyone to read.

Editorial

Welcome to the Spring edition of FACTION.

In this edition you will find a follow up to our previous articles on employment issues. In this issue we offer some suggestions for writing a Statement of Case.

You will also find a report of our Spring Conference.

Many of you will have already received advance notice of the fact that Ian A, Joy, and our chairman have, for a combination of health and family reasons, decided not to put their names forward for re-election to the National Committee in September.

In addition to these vacancies there are also two other vacancies on the committee. This means that the committee will virtually need to be replaced.

None of us want to see F.A.C.T. closed but the reality is that if we are unable to find replacements for those retiring and for the existing vacancies F.A.C.T. may have to fold.

If you have benefited from F.A.C.T.'s existence and want it to continue to support falsely accused carers and teachers and to hold the Government and others to account please consider allowing your name to go forward to serve on the Committee. If you are not a committee person but just want to help please let us know.

Members will see from the discussion paper in the centre fold in this edition there are plenty of jobs to do and various options to consider.

We have called an ad hoc meeting for all those who are keen for F.A.C.T. to continue and are willing to help in some way.

This will take place in Birmingham on **23rd June commencing at 1:00 pm**. If you cannot stay for the whole afternoon why not pop in and register your interest.

Let us hope we get sufficient support and that F.A.C.T. can continue.

Michael

Ed Note:

We apologise to those of you who have not received the full edition of FACTION. The centre fold of this edition has been removed as it contains information only of relevance to F.A.C.T. Members.

We very much hope however that this will not spoil your reading of the remaining articles.

The Vexatious Allegation

By Jo Morris, Barrister, One Inner Temple Lane Chambers



False reports to the police are rare. Most complaints are truthful and accurate and amount to a proper grievance. However, there are some that are either false or wild exaggerations of the truth. There are yet more that may well be true but amount only to such a trivial complaint that a reasonable person would not think it worthy of the attention of the authorities. The subject of such reporting has hitherto had limited redress in law. Unless the Crown were willing to prosecute the accuser the chances of retribution were small. The case of Waxman has brought to notice an area of civil redress.

There is a public interest in the prosecution of all crime. We must encourage genuine reporting and be slow to prosecute a person who has made even a misconceived complaint. It may be contrary to public interest to act against an accuser who made a report in good faith. Public interest must, however, be balanced against an individual's right to be protected from repeated arrests and other instances of state intervention in his life. Also, the scarce resources of the criminal justice system must be used more wisely than pursuing the allegations of an unreasonable person.

There are offences in making a false allegation. It is always open to the Crown to prosecute for perverting the course of justice. That does involve a very high evidential test. Proving that an allegation is false is a different

exercise to showing that it was disbelieved. In addition, prosecutions for perverting the course of justice may deter reporting from genuine victims or prevent a person who has lied admitting they have done so. A fixed penalty fine for wasting police time may be a more acceptable option. It offers both a lower threshold for the Crown to reach and a reduced penalty for the false witness. The threat of a fine for wasting police time is less likely to deter a person from admitting the truth than a potential custodial sentence for perverting the course of justice. However, these actions are police led. The victim of a campaign of vexatious allegations could bring a private prosecution for offences against public justice but he must meet the evidential standard and bear the risk of adverse costs. A private prosecution for wasting police time would require the consent of the DPP which may be refused for the public interest reasons already rehearsed.

Chris Saltrese Solicitors

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www.chrissaltrese.co.uk/

Chris Saltrese Solicitors is a law firm providing a premium service in representing clients accused of sexual offences and domestic violence, in criminal proceedings.

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- domestic or relationship disputes
- contact disputes
- mental health problems
- financial incentives

and have no prior experience of the criminal justice system. Often these allegations involve uncorroborated, historic allegations.

In this complex arena specialist legal advice and representation is vital especially as recent changes in the law, designed to convict genuine offenders, also put the innocent at greater risk of injustice.

We particularly welcome carers, teachers, and health care professionals who have been accused of abuse and are likely to be subject to a criminal investigation.

Where allegations have been made we would be happy to advise, whether or not criminal investigations are underway.

For further information please contact

Chris Saltrese Solicitors
13 Scarisbrick New Road
Southport, PR8 6PU
Phone: 01704 535 512

Contd. on page 4

Many of these allegations are not false but are only petty grievances. A person who falls victim to such allegations should consider suing in the civil courts for harassment. The Protection from Harassment Act 1997 sets down that conduct is harassment if 'a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other'. A reasonable person would surely think that making repeated trivial allegations about another amounted to harassment. Contact can be either direct or indirect. Reports to the police or the local council lead to investigations. However sensitively they are performed such contact is unwelcome to most people. If these reports are vexatious that amounts to indirect contact. This action is not limited to reports to the police or the local authority. Complaints to an employer or a private organisation, such as a sports club, could be included.

The case of Waxman may be used to support a claim at the civil courts. This case involved long standing harassment of Ms. Waxman by Mr. Fogel. Mr. Fogel was the subject of a restraining order. He brought civil proceedings against Ms. Waxman. CPS did not prosecute on the basis that the order did not prohibit bringing civil proceedings. Ms. Waxman brought a case against CPS seeking damages. The Court decided that the commencement and service of civil proceedings was a form of conduct that might well cause anxiety, alarm and distress and so were capable of amounting to harassment. Mr. Fogel was using the Courts to harass Ms. Waxman. There are those who use the police and the councils in a similar way.

A civil action should be preferred to a complaint to the police. Although costs are a consideration at the civil courts the standard of proof is lower. Both compensation and an injunction order can be sought. It is unrealistic to seek an injunction order which prevents a person ever raising complaint to the authorities. Even an incredible witness may be a genuine victim in the future. One possible compromise is an order that prevents the harasser from calling the authorities save for a genuine emergency. That may not address the situation fully since, in many cases, the problem lies in the fact that the person concerned lacks the judgement to see the difference between a genuine emergency and mild annoyance. However, the mere ruling would be useful. It would undermine the credibility of the accuser permanently. A copy could be sent to the

local constabulary or the council with a request that this be considered before further investigations are commenced. If that were disregarded a complaint to the IPCC may be justified.

This would not be appropriate in every case. A large number of reports from one source may evidence a genuine concern and such reporting must be encouraged. Nevertheless there are instances where extensive reporting has a more sinister motivation and we must offer some protection to its victim. It is a fundamental right of every citizen of the UK to complain to the police or other authority but it is not an absolute right. The right to make reports is capable of restriction in circumstances where it is necessary to protect a legitimate objective.

Jo Morris

One Inner Temple Lane

Before coming to the Bar Jo was a police station legal advisor for six years and has built up a wealth of knowledge of this earlier stage of criminal proceedings. This piece of practical experience combined with the academic training of the Bar gives Jo an advantage over many advocates when considering breaches of PACE 1984 and other aspects of police investigations. She has seen at first hand the vulnerability of clients from the time of first arrest and beyond.

Jo is part of Chambers' public access team because she considers direct access and choice of representation for clients to be vital and also works for the Bar Pro Bono Unit and the Free Representation Unit.

We are grateful to Jo Morris and her chambers, One Inner Temple Lane, for permission to publish this article which can also be found on their website at <http://www.1itl.com/news/270/>

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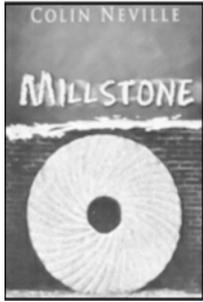
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Book Review

Reviewed by Leon Andre Parks

Millstone

By Colin Neville

FeedARead Publishing

292 pp

£7.99

ISBN 978 1 78176 046 8

This book explores in fictionalised but in a very realistic way the ease by which charges of improper and unprofessional behaviour can be laid on the most, if at times, unwise or naive behaviour on the part of some staff.

The story centres on the life of Bryan a young and fast promoted primary school teacher whose very caring and supportive actions are held against him by a rather authoritarian headteacher, a confused deputy head, a so called "independent" investigator and a section of governors with their own agendas including strongly held religious beliefs and, to a degree, business interests.

Bryan is effectively accused of sexual grooming and inappropriate behaviour in class towards young girls.

Bryan's private life is explored and his actions in and out of class are dissected in some detail.

The way that evidence is produced and manipulated is exposed and the way that evidence is presented is effectively criticised.

Personal and private agendas are laid bare and the conflict of differing roles and beliefs are also presented. A pertinent example is the Catholic priest who is also a governor and wishes to distance the church from allegations and promote the faith against a progressive view of educationally approved children's literature.

The role of professional associations is also presented in the defence of their members.

The application of policies and procedures are also laid bare and set against the evangelical zeal of some specialist investigators.

The ease of how a case is built against an individual is shown along with how difficult it is to defend negative evidence based on supposition and interpretation. The fact that Bryan was a man in a primary school was seen as an immediate concern and that different standards or expectations in conduct were viewed as a conflict between male and female staff roles are shown.

I read this book from cover to cover in one sitting and this shows it is a compelling and engaging read.

As a teacher of some 34 years experience who has supported staff falsely accused I would strongly suggest this is a recommended book as part of initial teacher training and should be considered a part of a professional library at school in part to warn and advise staff how easy it is to be accused and marginalised from the various communities we all live in.

In Bryan's case the events took place over about a ten month period from start to finish- in many real world experiences it takes much longer for there to be a conclusion and, for many, the burden is carried for many years even when proved totally innocent.

We are grateful to Leon Andre Parks for this review

"Quick I am being burgled"

George Phillips was going up to bed when his wife told him that he'd left the light on in the garden shed, which she could see from the bedroom window.

George opened the back door to go turn off the light but saw that there were people in the shed stealing things.

He phoned the police, who asked "Is someone in your house?" and he said no, they're in my shed.

Then they said that all patrols were busy, and that he should simply lock his door and an officer would be along when available.

George said: "Okay", hung up, counted to 30, and phoned the police again.

"Hello, I just called you a few seconds ago because there were people in my shed. Well, you don't have to worry about them now cause I've just shot them all". Then he hung up.

Within five minutes three police cars, and Armed Response unit, and an ambulance showed up at the Phillips residence.

Of course, the police caught the burglars red-handed. One of the policemen said to George "I thought you said that you'd shot them!"

George said. "I thought you said there was nobody available".

URGENT MEETING

A meeting has been arranged for any person who is interested in becoming a F.A.C.T. committee member or who would like to assist F.A.C.T. in other ways.

The meeting will take place at

The Meeting Rooms
St Chad's RC Cathedral
St Chads, Birmingham
on

Saturday 23rd June
Between 1:00 and 3:00pm

The meeting is open for any person whether or not they are a member of F.A.C.T.

For further details please contact

The Secretary
Phone: 01564 742 002

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Clarke and Hartland have successfully defended cases where allegations have been made against carers, teachers, and other professionals.

ORAL HISTORY PROJECT

We have received an encouraging response to our Oral History Project appeal but we still need more volunteers if we are to achieve our goal.

What we have in mind is to record and publish, in anonymised form if necessary, the oral histories of approximately 12 people who have been affected by false allegations.

The project will be carefully managed in accordance with established principles for taking oral histories and ethical practice. The subjects will at all times have complete control over what is published and full control over any recorded interviews.

This project provides a unique opportunity for falsely accused people to have a voice and for their histories to be acknowledged and validated.

If you would like to be involved in this project as either a subject or an information gatherer, or know someone who might be interested, please let us know as soon as possible. The project is expected to last about 18 months.

If you would like to be considered please let the national Secretary or the Editor of FACTion know as soon as possible.

Happy Birthday

Kevin

7th August

Enjoy the day as
best as you can.

We will all be
thinking of you.

The Protection of Freedoms Act (2012)

The Protection of Freedoms Act (2012) has now completed its passage through Parliament and has received Royal Assent.

The Act will be phased in over time once the legislative timetable has been agreed.

The key changes as far as safeguarding issues are concerned include:

- abolishing the registration and monitoring requirements of the Vetting and Barring Scheme
- redefining the scope of 'regulated activities'
- abolishing 'controlled activities'

The provisions also mean that the services of the Criminal Records Bureau and Independent Safeguarding Authority will be merged into a single, new non-departmental public body called the Disclosure and Barring Service (DBS). The planned operational date for this change is December 2012.

Until this time both the ISA and CRB will continue as usual and the safeguarding regulations introduced in October 2009 will continue to apply, including the following:

- a person who is barred by the Independent Safeguarding Authority from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer with those groups.
- any organisation that knowingly employs a barred individual to work with children or vulnerable adults will also be breaking the law
- organisations will still have a responsibility to inform the ISA whenever they dismiss a member of staff or a volunteer because they have harmed a child or vulnerable adult, or would have done so if they had not left.

The Criminal Records Bureau will continue to be responsible for the disclosure of criminal records and the Independent Safeguarding Authority for barring decisions.

Richard Webster Memorial Lecture

The Richard Webster Memorial Lecture

will take place at the

Catrin Finch Centre, Glyndwr University, Wrexham

on Saturday 13 October 2012

commencing at 1.00 pm.

Speakers Include

Claire Curtis-Thomas

former MP and Chair of the All Party Parliamentary Group on Abuse Investigations

and

Dr. Michael Naughton

Senior Lecturer at Bristol University and Co Founder of the Innocence Network

There will be a booking fee of £5 which will include tea/coffee and biscuits.

Applications, enclosing the booking fee, should be made to

The Secretary, F.A.C.T. North Wales,

9 Bryn Estyn Road, Rhosnesni, Wrexham LL13 9ND .

As places are limited they will be allocated on a 'first come -first served basis'

Further details and directions to the venue will be sent out with the ticket.

Focus on employment

Writing a Statement of Case

In the previous edition of FACTion we examined four stages of the disciplinary process - notification of complaint stage (including suspension), the investigative stage, the hearing stage, and the appeal stage.

In this edition we examine what practical steps the accused can take once it is decided that there is a case to answer and that the matter should proceed to a disciplinary hearing.

Let us assume that the accused (whether suspended or not) has already been invited to an investigative hearing, and has been fully informed of the allegations made against them.

Let us also assume that the employee has obtained the support of a trades union official or a work place colleague, and has already been provided with an agreed minute of the questions asked and the answers given at the investigative meeting.

Let us also assume that the investigating officer has carried out a full and thorough investigation into the *facts* which potentially support the allegation(s) made as well as those *facts* which points the persons innocence, and has informed the employer that there is a case to answer.

If there is no case to answer the employer is unlikely to taken any action except possibly to give support or in appropriate circumstances managerial advice.

If there is a case to answer the employee can expect to be told that the matter will proceed to a disciplinary hearing, and that they will receive, in due, course confirmation of any disciplinary charge(s) and a bundle of evidence which the employer relies on in support of his/her case.

This bundle of information will normally include:-

- details of the employers disciplinary process together with a plan setting out the process to be followed and relevant time-scales
- a statement of the potential outcomes of the case should it be proven (including any possibility of dismissal)
- a description of the employee's current role and status
- details of the initial complaint made or concerns expressed, by whom and in what circumstances
- a summary of the action the employer took to investigate the complaint
- details of what action the investigating officer took, together with a list of all the persons they interviewed
- copies of all witness statements (signed)
- copies of any other relevant information relied upon by the employer such as diagrams, plans, codes of practice, policies and procedures etc.
- a timetable in terms of process and time scales.

As you can see from the above the employer is required to set out in detail the action they have taken and the information they rely on in support of their case. They must also give the accused sufficient time to arrange representation, take advice and to prepare their own response to the disciplinary charges.

Often the sheer volume of information received, which in many cases may have taken several weeks if not months to gather, can be quite daunting. It is therefore very important not to get overwhelmed by the volume and complexity of the task in hand.

Begin by immediately making your representative aware of these developments and arrange to meet them on an urgent basis. When you do so you will not only need to discuss the detail provided by the employer but also what strategy you should adopt in preparing your defence.

In most instances you should consider preparing a *written statement of case* as part of your defence.

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Can you afford not to contact us if you are facing false allegations?

Check list

- ✓ Check the details contained in the cover letter. Note the date and venue of the hearing and any particular instructions the employer has given you.
- ✓ Immediately inform your trades union representative or legal advisor of these developments.
- ✓ Consider the need to ask for more time to prepare your case and indicate why this is necessary.
- ✓ Should you need to communicate with your employers do so in writing so you can evidence the fact.
- ✓ Check that you have received all the papers which have been listed in the covering letter and on any contents page, including any appendices.
- ✓ Set aside time to read the papers. You will be anxious to know all that is included so you might wish to scan read it first before setting aside time to read it thoroughly.
- ✓ Read through it with two separate objectives in mind, firstly to examine process issues (is what is proposed consistent with the employer's disciplinary procedures and rules of natural justice?) and secondly by examining the evidence and facts. Note down any omissions, inaccuracies, errors of fact and counter arguments *as you come across them*.
- ✓ Concentrate on the facts rather than any opinions which have been expressed. Some of it won't make pleasant reading but try not to respond emotionally.
- ✓ Check all recorded dates for accuracy and sequencing. If necessary produce a time line of significant events/issues.
- ✓ Cross reference all facts. Keep in mind that information which appears suspiciously consistent may be just as relevant as information which is contradicted by others.
- ✓ Identify colleagues who, potentially, may have information relevant to your defence.
- ✓ If necessary, begin a paper trail of all relevant policies and procedures, legislation, admin records etc. which might assist in searching out the truth.
- ✓ Consider what additional evidence you might need in order to rebut or disprove the allegations. Make a plan to active this.
- ✓ Think strategically as it is sometimes beneficial not to declare your hand until you are at the hearing.

Format and Structure

Getting the format and structure of your evidence right is important. Approach the task logically and avoid unnecessary repetition. You will find it easier if you prepare two files - one which deals with your rebuttal and evidence of innocence - your statement of case, and another which contains all the supplementary and miscellaneous information which backs up your account and supports your case in the form of exhibits. These could be documents which either you have obtained or your employer has provided. For example you might want to refer to your job description or some particular policy or procedure, or you might want to refer to some Government guidance or some expert opinion or to some police evidence relating to the complainant.

Here are some suggestions for getting started

Divide your response into numbered sections (each separated by a section divider) and then use numbered paragraphs/sub paragraphs as shown in the sample below, as you outline your argument.

SECTION 1: Introduction - setting the scene.

Para 1.1 Begin with an opening statement e.g.

My name is [FULL NAME]. I am employed by [EMPLOYER'S NAME] as a [JOB TITLE]. I have held this post since [DATE]

Para 1.2 Confirm the details of your current situation.

On [DATE] I was informed that a complaint of (ACCURATELY DESCRIBE) had been made against me. I was then suspended from my duties pending further investigation.

Para 1.3 Make a brief reference to your employment history.

I have been employed by [EMPLOYER'S NAME]. Prior to that I have worked as [DESCRIBE] and have an exemplary career record

Para 1.4 Context.

I make this statement in response to my employer's STATEMENT OF CASE which I received on [DATE] and to the particular questions and issues which it raises. Throughout I have taken care to comment on the facts of the case as presented to me.

Para 1.5 Where it has been necessary for me to refer to evidence contained within my employer's statement of case I have done so using the format [HEARING BUNDLE, Section ??, Page ??, Para ??] See examples below

Note: this assumes that the employers statement of case is structured in this way. If not adapt as necessary.

Para 1.6 Where it has been necessary for me to refer to supplementary evidence in my statement of case I have done so using the format [EXHIBITS BUNDLE, Section ??, Page ??, Para ??] These exhibits have been placed in a

separate lever arch file for ease of reference.

Note. In effect you will be submitting two bundles, one your statement of case and the other consisting only of supplementary information in the form of numbered exhibits. Both should be paginated for ease of reference and placed in lever arch files.

SECTION 2: Disciplinary charges, pleadings and rebuttal.

Para 2.1: Accurately list the disciplinary charge(s) e.g.

I have been accused that "on [date] whilst teaching the upper sixth students I touched a female pupil in an inappropriate way and made a suggestive remark to her".

Para 2.2: Follow each charge up with a comment regarding your plea e.g.

I wish to make it clear that I did no such thing. The facts will show I was not even teaching this pupil at the material time.

Note: At this stage do not over elaborate. What you are doing here is confirming (for the panel's benefit) the actual wording of the disciplinary charge(s) and indicating whether or not you admit the charge. You should do this for each offence

Para 2.3: Move on to next disciplinary charge

Note: It is sometimes helpful to finish this section by demonstrating that you fully appreciate that complaints of this kind have to be fully investigated, and by briefly describing the impact of these complaints on you (and your family).

SECTION 3 . Process issues

Use this section to highlight any process errors. Begin by saying something along these lines ...

Para 3.1: *Before I respond to the evidential matters it is necessary for me to raise some process issues. Firstly I draw attention to my letter of suspension which appears in my exhibit folder [Exhibit 1, page 5 , para 4] where it says that "during your period of suspension you must not contact any staff members or discuss and aspects of the case with them".*

Para 3.2: *Whilst I appreciate that it would be wrong in principle to contact the complainant and/or her family the restrictions placed on me have had the effect of preventing me from contacting some staff members who I believe have information which would be relevant to my defence and would assist this panel search for the truth.*

Para 3.3: *I draw attention to Article 6 of the Human Rights Convention which appears in my exhibit bundle [Exhibit 2 , page 6 , para 3] which provides a right to a fair trial. I cannot possibly have a fair trial if I am denied access to those who I know have information relevant to my defence. Furthermore the restriction also infringes my human and legal right to family life. I draw attention to the Article 8 of the Human Rights Convention which appears in my exhibit bundle [Exhibit 2 , page 7 , para 3] which provides a right to respect for one's "private and family life".*

Note:

1) Continue in similar vein highlighting any other process issues e.g. employer's failure to abide by their own disciplinary procedures, non disclosure of relevant information such as strategy meeting minutes, investigating officers failure to interview key individuals etc.

2) Process issues are important because, should the matter proceed to an employment tribunal, they are often crucial. It will also help if you can evidence the fact that you alerted the employer to these issues and gave them a prior opportunity to remedy them.

3) Bear in mind that not all employers are bound by the convention of Human Rights. Many in the private sector are not.

SECTION 4: Evidential Matters

Use this section to go through the evidence on which the **employer** relies. You will need to break this down in to manageable sections on a paragraph by paragraph basis e.g. evidence contained in:-

- the investigating officers report
- the complainant's statement
- other witness statements
- any reports provided by police, safeguarding agencies, professional bodies etc

You might find it helpful to begin by stating that 'you now wish to comment on some of the evidential matters on which the employer relies, beginning with the Investigating Officer's report'. Do this in a methodical way, working through his/her report in a sequential or thematic way e.g.

Para 4.1: I now wish to turn to the Investigating Officer's Report. *On page 2 of his report [Hearing Bundle Section 3, Page 56, para 6] it is stated that the complainant told him that "after I touched her I winked at her in a suggestive way". It is however clear from her statement that I did no such thing. What she actually said was that "after his arm brushed up against her side he smiled in an awkward manner and sort of screwed up his eyes and blinked. [Hearing Bundle Section 5a, Page 74, para 12] . She makes no mention of me winking or acting in a suggestive way.*

Work through all the reports in the employer's bundle of evidence in forensic way pointing out errors of fact, relevant omissions etc.

SECTION 5. Your Evidence

Set out in factual form why you believe the allegations are not true. Always keep in mind that you have two objectives in mind - firstly to help the disciplinary hearing discover the truth and secondly to undermine the evidence amassed against you. Rational argument is likely to be more effective than a points scoring approach.

Whilst it is always best to stick to the facts you might also draw attention to the complainant's motives in making the



complaint(s) and the motives of perhaps some of the people who have made statements, or have provided evidence against you. If you consider this is necessary try and illustrate this with supportive facts e.g. you could say something like ...

Para 5.1 Allegation 1:

First Para: *In Witness' A's account my colleague asserts [Hearing Bundle Section 5h, Page 56, para 5] that on the day in question he asked me how my lesson had gone and I told him that the*

complainant was "flirting as usual" and "was asking for it" . As you know I told the investigating officer this was not true. If you turn to the exhibits bundle you will see that I have produced a copy of a sick note which indicates that I was not even in school on this particular day, or indeed for that week as I was off work with a broken leg. [Hearing Bundle Section 3, Page 56, para 6]

Second Para: *I also wish to draw your attention to further exhibits which demonstrate that the complainant's word cannot be relied upon and that she has a history of making allegations of a fanciful nature [Hearing Bundle Section 5h, Page 68 -72]. By way of explanation these exhibits are copies of reports written by 4 members of staff which have appeared on the complainant's School Record.*

Allegations 2 (etc)

Consider each allegation in turn.

SECTION 6 - Other matters

Here you can refer to any other matters such as mitigation, employment history, training, awards, character references etc. These are best included as appendices to your statement of case rather than placed in your exhibit bundle.

SECTION 7 - Summary of the main points.

What you are trying to do here is to develop a credible and convincing argument by highlighting those points in your favour.

Para 7.1 Briefly refer to what you are accused of.

Para 7.2 Briefly outline the weakness of the Investigating Officer's case outlining key inconsistencies and flaws in his/her argument.

Para 7.3 Briefly emphasise your defence and draw attention to those exhibits which you have highlighted and which point to your innocence.

Para 7.4. Finish this section by indicating why you are are innocent and/or why disciplinary action should not be taken against you.

SECTION 8 Conclusion

It is sometimes helpful to finish with a brief conclusion as it enables you to finish on a 'positive note' with the employer - something like ...

"This has been a difficult and complex case. I have no criticism of the fact that these complaints have been thoroughly investigated. Given the circumstances it is the right thing to do. However there are always two sides to a story. The evidence shows that in this case the complainant not only has a longstanding history of making fanciful complaints which have been proved to have no merit but also shows that on the day in question I was not even in the school and had been absent the week before and the two weeks following the alleged event. It is a matter of concern to me that the investigating officer did not follow this up even though I asked that this be done. I therefore ask you review your decision to place the matter before a disciplinary panel and that you immediately lift my suspension so that I can return to work and continue to support my colleagues in ensuring that the reputation of our school is maintained.

Finish your statement with the words "I hereby certify that the facts contained in this statement are true". Then sign and date it.

SECTION 9 - Appendices e.g.

- employment history
- training, qualifications and awards
- medical reports (if relevant)
- character references etc

Writing a statement of case is not an easy task. It is both intellectually and emotionally draining but the effort is always well worth while.

You will find that the discipline of doing so will not only help you order your thoughts and internalise key facts but, if done properly, will enhance your professional reputation and impress a disciplinary panel.

A good statement of case will also help neutralise the impact of your employer's statement of case. More importantly it will also help you (or your representative) to prepare for the hearing by suggesting key questions to ask.

Presentation is always important. Try if you can to match or better the efforts put in by your employer. Make sure you set out your information in sections, each separated by a section divider, and that you number each page (top right corners). Preface your statement and your exhibits page with a mark of confidentiality and a contents page, and get someone else to proof read it!

Finally keep in mind that your target audience is the disciplinary panel (not your employer) and that your evidence in full could be passed on to an Appeal Panel and, potentially, an Employment Tribunal and/or a listing body who may not have day to day expertise in the job you do.

Spring Conference

The recent F.A.C.T. Spring conference took place in Birmingham on Saturday 12th May. It was pleasing to see good numbers present and to hear two excellent key note speeches.

Our first speaker was Nicky Padfield, an academic barrister, who began by suggesting that historic cases pose fundamental issues of human rights and in many ways exaggerate all that is wrong with the criminal justice system. Ms Padfield illustrated this by reference to the Sheikh cases (in which Mark Barlow appeared) referring to the need on the one hand to ensure that the accused's human rights were not abused following the disappearance of records and on the other hand the Court's approach in adopting an understanding attitude of the difficulties faced by complainants in alleged sexual abuse cases who may be unable to speak about their experiences for 'some time and for good reason.'

She then went on to identify a number of critical issues which impact on human rights and fairness for the accused.

- Pressures on CPS not helping problems of disclosure
- Practical problems of managing vast amounts of information in electronic age
- Should juries have to give reasons for their decisions
- Should judges retire with juries
- A difference in the attitude of the Appeal Court towards prosecution appeals than defence appeals
- Judges seeming to limit the number of citations in stated cases
- Tensions between fact (jury) and law (judges)
- Blurring of the line between criminal and civil justice
- Role of politicians - should they lead public opinion or follow it?
- CCRC - is it unduly cautious?
- Compensation for the wrongly convicted
- Should *all* defendants be granted anonymity?
- Would 'summing up' at the beginning of a trial be more helpful to jury.
- Prison psychologists and issues of credibility
- Should judges not police manage the work of the Criminal Records Bureau?

Our second Speaker was Mark Barlow, a barrister from Garden Court North Chambers in Manchester. Mark is well known to F.A.C.T. and is highly regarded as a leading junior in complex cases involving historic allegations of sexual abuse where he has had considerable success.

Mark began his address by reminding those present that his first contact with F.A.C.T. was at its inception more than 12 years ago. Little did he realise then the extent to which false allegations of abuse and injustice caused by historical allegations would blight the careers of so many teachers and carers.

Mark said that although some progress had been made over the years and care home cases were much less frequent than they had been, carers and teachers often faced insurmountable problems in securing justice and were still extremely vulnerable to false allegation.

In part, he said, this was due to the positioning of politicians and the press over these matters, and partly because changes in police and judicial practice, including cuts in legal aid had made it even more difficult to obtain justice. Never the less, he said, there were signs that the general public were becoming more aware of the problems faced by wrongly accused carers and teachers but this had yet to transform itself into consistently positive action by the Courts. In particular the hoped-for change in attitude by the Appeal Court had not materialised. It seemed to him that over the years the Appeal Court appeared to have less rather than more understanding and, for example, will only in exceptional circumstances support 'abuse of process' arguments in abuse cases.

The Criminal Justice Act 2003 had also not helped with its presumption that complainants must be telling the truth. As a result the police now tend to process and manage allegations not on the basis of a search for the truth but according to a perceived need to find evidence to convict.

Problems of similar fact evidence, good character and hearsay evidence compound the issue - a complaint made now is regarded as *evidence* and not seen for what it is - an allegation.

The tendency for judges to limit the use of expert witnesses and close the door to expert opinion has also resulted in a corresponding tendency for cases to be decided on the basis of assumptions rather than on facts. Far too many cases are being settled not on real evidence but simply on a misguided propensity.

Concluding, Mr Barlow said what is needed more than ever is a re-educated public - and politicians - about the prejudice faced by those accused of historical abuse. The challenge for F.A.C.T. is the need to relight the flame of justice and to help ensure that neither the politicians, the press or the public take liberties with the justice system as it affects those accused of historical abuse.

Both speakers, to whom we are very grateful, answered many questions from the floor.