

# Work experience placements – commendable: have them, and be alive to the risk

31 August 2023  Sarah Erwin-Jones

As a new academic year starts a number of our [social care](#) and [education](#) clients are offering a huge amount of benefit both to young people contemplating their careers, and to service users by offering work placements. Both sectors need as much new enthusiastic talent as they can get.

While reaping all the benefits, it is important that employers also have their eyes open to the risk, as a court decision [MXX v A Secondary School \[2023\] EWCA Civ 996 \(25 August 2023\)](#) last week illustrates.

In MXX a Claimant's appeal was being considered. She had originally sought damages from the school on the basis it was vicariously liable for a serious sexual assault perpetrated by an 18-year-old referred to as PXM who had undertaken one week's work experience.

Six months after the work experience has concluded the Claimant was sexually assaulted by PXM who subsequently pleaded guilty in the criminal court. At the original trial the Judge concluded that in all the circumstances of the case the school was not vicariously liable for the actions of the work experience student, not least because the assault had been committed well after the work placement had ended. The Claimant appealed on various grounds. The Court of Appeal found that:

- The trial Judge had overlooked various aspects of the evidence and should have considered in more detail that what happened during that one week's worth of work experience.
- Contrary to the original Judge's findings, the conduct and mental element of the tort of intentional infliction of injury were made out during the work experience placement.
- Although this was a work experience placement, the relationship between the 18-year-old and the school was "akin to employment". The Court took into account the briefing the young man received upon commencing his work placement and the level of supervision he was subject to, amongst other factors.

However, ultimately the Court of Appeal did not allow the Claimant to proceed because, given the limited nature of the work experience role the Claimant had failed to satisfy that the grooming which led to the [sexual assault](#) was inextricably woven with the carrying out of the work experience responsibilities. In those circumstances it was not just and fair to hold the [school vicariously liable](#) for the acts in question. If the facts had been just a little different, the case could have gone in the Claimant's favour.

Most people seeking work experience or entering any kind of profession with a pastoral element are doing so for precisely the right reasons. However it is important to vet train and supervise work experience students just as thoroughly as you would for conventional employees. It is also important that your organisations brokers and insurers are made aware of any intention to provide placements to work experience students.

## Key contact

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