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(subject to editorial corrections)**

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**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION**

POST TRAUMATIC STRESS DISORDER GROUP ACTION

Between:

CHARLES WAYNE McCLURG & OTHERS

Plaintiffs;

and

CHIEF CONSTABLE OF THE ROYAL ULSTER CONSTABULARY

Defendant

LEAD CASE OF SARAH JENNIFER HAIRE

COGHLIN J

[1] This plaintiff was born on 1st December 1958 and she joined the RUC as a police cadet in August 1975, commencing employment as a police constable in January 1977. After a period of basic training at the depot in Enniskillen she was assigned to uniform Beat and Patrol duties in Ballycastle on 21st May 1977 where she remained until she was transferred to Newtownabbey on 2nd May 1978. In 1980 she was transferred to the Photography Branch at RUC Headquarters and became the first female to serve in such a post. For the first 5 years the plaintiff was engaged upon indoor work. From January 1985 her duties changed and she carried out the role of Scenes of Crime Photographer. On 11th November 1991 she joined the Neighbourhood Unit in Antrim and from August 1997 she worked as a Domestic Violence Officer. The plaintiff

continued in that role until she retired from the RUC on 3rd November 2005 after accepting an appropriate severance package.

[2] The plaintiff's case is that, as a consequence of attending scenes of crime, both terrorist and otherwise, for the purpose of taking photographs she developed increasingly severe post traumatic symptoms from 1985 onwards. She claims that her post traumatic symptoms were not detected and that when she attended the OHU in late 1990 she did not receive a post traumatic diagnosis or any specialist treatment. She alleges that her symptoms continued thereafter undetected and that this led to a failure to provide her with timely and effective specialist treatment.

[3] While the plaintiff attended some distressing crime scenes, both fatalities and otherwise, during her service in Ballycastle and Newtownabbey she stated that these had not caused her any long term difficulties, that she had coped well and liked both postings. She said that her transfer to the Photography Branch came "out of the blue" and that she was simply told by her sergeant that the reason was that there were too many females on operational duties in her particular division. The plaintiff had not sought the transfer and knew nothing about photography so she contacted her inspector, Inspector Mercer. He was sympathetic but said that there was nothing that he could do unless she could persuade an alternative female to take up the posting. The plaintiff was unable to arrange such an alternative and, accordingly, the transfer proceeded.

[4] The plaintiff described the Photography Branch at that time as being very male dominated and chauvinistic to the point that her male colleagues made it quite clear that they did not expect her to have lunch in the office. As a result she had no alternative but to go to the regular headquarters canteen. There were also remarks suggesting that she would be better off at home looking after the house and cooking the dinner. From 1985 onwards she worked as a Scenes of Crime Photographer travelling to various crime scenes on a call out basis working mostly on her own. Up to December 1990 the plaintiff estimated that she would have visited between 600-700 crime scenes. She thought that approximately one half of these would have involved some form of violent death. Scenes attended by the plaintiff would have ranged through terrorist shootings and bombings, suicides, fires, road traffic accidents, burglaries, etc. She was also required to attend at numerous post mortems.

[5] In the course of giving evidence the plaintiff identified a number of the scenes that she had found most difficult to attend. These included the suicide of a man in Carrickfergus in January 1985 which was the very first job that she carried out by herself. She found the person concerned still hanging from the eaves of an attic and, within a short time, she realised that she knew of this person through her father. In such circumstances she asked her sergeant if

somebody else could take the post mortem photographs but this request was refused in the interests of continuity. She also referred to attending the scene of the tragic death of two elderly people in the Ballymena area and to the murder of Constable Kennedy. The latter had been murdered by a gunman who had entered through the back door of his home and the plaintiff said that, after attending to take photographs of the scene and the constable's body, she began to be troubled by the image of being attacked by a person who had come in through the back door of her house. She described the rape and murder of a young girl in Belfast and the comparison between photographs of the victim that she had seen in her house and the injuries inflicted upon her head during the course of the offence. The plaintiff was involved in the reproduction of the video tape and photographs relating to the attack upon and murder of Corporals Wood and Howes and she attended the scene of the murderous attack upon the soldiers engaged in the Lisburn fun run taking photographs of the transit vehicle containing their charred bodies.

The plaintiff's history of symptoms

[5] In evidence the plaintiff said that her symptoms probably started in the middle of the 1980s when she began to experience tightness in her chest and feelings of anxiety as she was driving back to headquarters or to the next crime scene or on her way home. She said that what she had just done would go through her head like a film or a montage of faces with the scenes going round and round, that she would start to cry and, sometimes, she actually had to stop the car in order to stop crying and regain her control. She also described her hands sweating as well as grinding and clenching her teeth to such an extent that her jaw became tight and sore. She said that she developed feelings of nausea as if she was choking. Apart from travelling between scenes, the plaintiff said that these symptoms could be triggered by attending a court case or a news items on the television linked to the troubles. She described how images of attending at post mortems would be accompanied by a smell that would cause her to feel anxious again. She said that her sleep was interrupted and that she became very irritable and grumpy with her family. The plaintiff said that these symptoms deteriorated towards the end of the 1980s with flashbacks occurring more frequently and panic attacks about two or three times a week. She said that she had some "minor domestic issues" at this time but that her parents were able to help out with the children and her work was not really affected. The plaintiff said that she was required to attend a number of post mortems during the week before Christmas 1990 when she was on call for shift work, that she became very tired and that when her hands became shaky at her last post mortem she decided that she simply could not do this work any more. The plaintiff consumed an excessive amount of alcohol at the Christmas party and arranged to be collected by her sister because she was unfit to drive home. During the journey the plaintiff broke down in the car and asked her sister to

take her to police Headquarters because she needed to speak to somebody. At Headquarters they saw a sergeant who arranged for the plaintiff to attend the OHU the following morning and took steps to ensure that her sister would look after her until that time.

[6] When giving evidence on behalf of the plaintiff Professor Davidson referred to her description of a symptom cluster including intrusive symptoms, particularly panic attacks that seemed thematically to be related to exposure to scenes of crime. Professor Davidson also referred to symptoms indicating the avoidance and hyper-arousal aspects of post traumatic stress. He agreed that the plaintiff had given him a history of a spontaneous panic attack, unrelated to trauma, in 1982 and when asked how it was possible to tell the difference between spontaneous attacks and those related to trauma his response was that the plaintiff should be asked if there was any connection. Professor Davidson was cross examined in some detail on the role played by the plaintiff's panic attacks and he accepted that it was possible that the plaintiff had a predisposition to panic attacks as well as to anxiety. He also conceded that he had not obtained a history of association with trauma in respect of the panic attacks from which the plaintiff said that she had suffered when in church or in a shop.

[7] When Professor Davidson saw the plaintiff on 6th Jun 2005 she told him that, prior to 1990, she had been experiencing quite frequent panic attacks in association with triggers or thoughts or memories of scenes of crime that she had attended together with frequently occurring flashbacks to post mortems or sometimes to bodies that she had witnessed. She said that she had experienced these for a number of years and she described one particular flashback featuring a corpse who came to life and whom she would then see running in through her back door covered with blood. She also described panic attacks at night in the context of nightmares which involved chest tightness, sweaty hands, shortness of breath and racing of her heart. She told Professor Davidson about seeing Dr Courtney after the Christmas party in 1990 and said that she had then been referred for "some counselling" at the OHU but this was unhelpful, basically conveying to her the message "get out, get some fresh air and pull yourself together." The plaintiff also told Professor Davidson that when she was referred to Dr Melanie Wolfenden at the OHU in May 2002 she had been continuing to have intrusive thoughts, flashbacks, repeated nightmares as often as every two weeks and was suffering from extensive phobic avoidance including church, the cinema, restaurants or any premises at which a rapid exit was not handy. At that time she said that she was suffering from panic attacks up to once or twice a day. She recalled at most two spontaneous panic attacks unrelated to trauma but many hundreds which were in some way connected with trauma exposures.

[8] The plaintiff's history of symptoms given to Professor Davidson in June 2005 and her evidence in court contrasted starkly with the account that

she gave to Dr Brown in July 2002 and Professor Fahy in August 2005. The plaintiff saw Dr Brown, Consultant Psychiatrist, on behalf of her solicitors in Glasgow and his report was served with the pleadings in her case. The plaintiff told Dr Brown that, initially, she had not suffered any sustained difficulties as a result of being exposed to traumatic scenes at her work although she occasionally felt upset. She said that she was not aware of any significant problems until the latter half of 1990 when things came to a head over a few months prior to the commencement of her sickness absence in December of that year. She told Dr Brown that at that time she had been suffering from panic attacks which had occurred intermittently for 2 or 3 years but which were happening at a rate of 2 or 3 times per week at the end of 1990/ beginning of 1991. At the time that she saw Dr Brown she said that she still "very occasionally" suffered from such an attack. She also described symptoms of anxiety, grinding of teeth and mood deterioration with irritability, loss of interest, poor sleep, tearfulness, over eating, social withdrawal and loss of libido becoming particularly bad between December 1990 and November 1991. She said that she had suffered flashbacks on a regular basis between 1985 and the end of 1991 which were at their worst between December 1990 and November 1991. Before that they were less frequent although they occurred regularly after difficult jobs. Dr Brown considered that her description was consistent with true flashbacks and he noted that the plaintiff felt that she could actually smell the body. These were at their worst in 1991 and she told Dr Brown that she no longer experienced them. In addition to flashbacks she said that she suffered regular intrusive thoughts which also peaked between 1990 and 1991. The plaintiff also referred to avoidance symptoms and becoming over vigilant. Generally speaking the plaintiff said that all her symptoms had reached a pinnacle during 1991 and had since improved. She said that there had been exacerbation of the symptoms during the intervening years in relation to attending the medical examinations carried out for the purpose of the litigation and Dr Brown noted that:

"She clearly and spontaneously described the effects of having to attend for examinations in relation to this case as one of the things which has most precipitated recurrences of her symptoms. However on the day I examined her, she told me that she couldn't remember when she had had her last panic attack and told me that the last time she had had intrusive thoughts and a nightmare was after seeing the psychologist for yourselves (the plaintiff's solicitors)."

In July 2002 the plaintiff told Dr Brown that she was functioning reasonably well and that her work within the Domestic Violence Unit had not exacerbated any symptoms. She was able to function satisfactorily at work, to maintain her hobbies and to study for her degree with the only residual functional

impairment being an inability to return to church and a restriction of shopping to relatively short periods of time.

[9] On 20th April 2005, approximately 6 weeks before she saw Professor Davidson, the plaintiff was interviewed by Professor Fahy on behalf of the defendant. Upon that occasion she told Professor Fahy that, for approximately one year prior to her “break down” in December 1990, she had developed minor symptoms, mainly of chest tightness and anxiety when attending the morgue. She said that, in most instances, she was able to “blank unpleasant images or experiences from her mind”. She described low mood during her period of sickness absence, feeling socially withdrawn, lacking in self interest, irritable and argumentative. She said that her sleep was disturbed and that her mind was preoccupied with a “collage” of images from work. The plaintiff described a fairly abrupt “switch” when she took control of herself and that she became much improved with her return to work. She said that, thereafter, for the next 10 years she continued to experience some symptoms including thoughts of her photographic work that periodically came into her mind. These images were vivid and associated with feelings of mild anxiety and chest tightness, they were liable to intrude when she was driving but, overall, she did not feel that there were any clear triggers. The plaintiff told Professor Fahy about experiencing problems with a male colleague at work in 2001 with whom she shared an office and whom she described as “a bully and a chauvinist”. She said that she became angry and anxious about his behaviour and, after developing flu-like symptoms, she signed on sick leave. While her superintendent tended to be dismissive, she said that she received support from a male colleague who offered to mediate and this proved helpful. The colleague in question altered his behaviour and, eventually, retired with the plaintiff moving into her own office. She said that there had been no difficulties at work since that time. The plaintiff also described to Professor Fahy the unsettling effects of the medical examinations carried out for the purpose of the litigation and she said that her interviews brought back distressing memories which until then she had put into the background. She said that she was fearful of those memories and concerned that if she dwelt on them they would drag her back and lead to a relapse of the illness she had suffered in 1991. Following the interview she said that she had continued to have an increase in intrusive imagery for a few months. She explained how she had referred herself to the OHU where she had received treatment from Dr Wolfenden for approximately 2 years. She said that this included CBT and EMDR which she found helpful although her symptoms increased initially and she found the process very draining.

[10] Initially, Professor Davidson maintained that, in general, the history of symptoms given to him and to Dr Brown were “quite similar”. He was closely cross examined as to the basis of this opinion and was compelled to admit that certain passages were very different and contained obvious contradictions

particularly with regard to the history of flashbacks, intrusive thoughts, nightmares and panic attacks in 2002.

[11] Apart from differences between the histories given of her symptoms, some other matters were raised in relation to the reliability of the plaintiff's evidence. In her original statement of evidence the plaintiff described the "happy hour" at Headquarters at 4.00 pm on Fridays when the members of the unit would have gone for a few drinks after work. She described how she began to drink more and more and that by the late 1980s her drinking had become "a bit of a problem". In evidence the plaintiff made the case that she believed her problem drinking was causally linked to the traumatic experiences that she had undergone. When she was referred to the fact that she had told Dr Brown in May 2002 that she had no history of drug or alcohol misuse the plaintiff's response was that while the amount she was drinking might have been a problem to her she would not necessarily have classed it as a "misuse of alcohol." She was also cross examined about the history she had given to Professor Fahy whom she had specifically told that she had not resorted to alcohol as a means of coping with problems at work. The plaintiff was unable to explain these apparent contradictions.

[12] The plaintiff also maintained that the sole reason for any emotional problems that she was suffering in 1990 was the nature of her work and that she did not feel that she was experiencing any emotional problems in her marriage at that time. I am quite satisfied that it is impossible to reconcile this evidence and the categorisation by the plaintiff of her domestic issues in 1989/1990 as "minor" with the detailed history of her domestic circumstances that she gave to Dr Brown in 2002. I am also satisfied that, at that time, she was having to deal with occupational stress caused by the attitude of some of her colleagues, perceived insecurity of employment resulting from the progressive policy of civilianisation, having to cope with the birth of her second child in 1989 as well as behavioural difficulties being displayed by her elder daughter and a resumption of shift work and travelling after completion of her maternity leave in September 1989. In addition commencing in June 1990 she was absent from work for a further period of 81 days while undergoing surgery for varicose veins.

[13] In their joint statement both Professor Davidson and Professor Fahy accepted that the plaintiff had given different accounts of the chronology and nature of her symptoms which were not easy to reconcile and, in the course of giving evidence, Professor Davidson accepted that the domestic and non trauma related problems at work to which the plaintiff was subject were of high importance and would have produced symptoms of either an adjustment disorder or perhaps a generalised anxiety disorder or possibly a depressive type of disorder.

[14] Experience indicates that there may be many varied reasons for inconsistent evidence. For example, in this case, the subject matter of the evidence, namely, a history of psychological symptoms is likely to have been given in difficult and stressful circumstances and I am satisfied that this plaintiff was deeply affected by becoming involved in the litigation process. In addition, in common with most of the lead cases, this plaintiff was being asked to cast her mind back over many eventful years. However, after making appropriate allowances, it seems to me that it would be sensible to seek for some independent records or documentation when considering the reliability of the plaintiff's evidence.

Culture

[15] In company with other witnesses the plaintiff gave evidence that she was inhibited from discussing her feelings with her colleagues in case they thought that she was not up to the job. In her case, understandably, she also referred to the difficulty of being a female in what was very much a male dominated force. On the other hand, in cross examination, the plaintiff agreed that, before her transfer to the Photography Branch, she had found her colleagues to be both supportive and helpful. She also agreed that, after the transfer from Ballycastle to Newtownabbey, she was able to seek assistance and receive guidance from her sergeants and comrades and that in the Photography Branch she had received help from her colleagues with regard to the performance of her duties.

[16] The plaintiff was the first female to join the Photography Branch but she agreed that, very soon afterwards, two other females joined who were, in turn, replaced by two other female officers. The plaintiff also volunteered that she and one of the other female officers went to complain to Superintendent Hunt about the problem of chauvinistic attitudes. She said that the superintendent was receptive to their complaint and that she believed he had spoken to the relevant male members of the Branch and that, as a result, the atmosphere became slightly easier. The plaintiff agreed that she had told Professor Fahy that she had received in-house training in the Photography Branch and that, once she had settled down in her new role and her colleagues had modified their behaviour, she didn't mind the work and got on with it although she got on with some of her colleagues better than others. She agreed that, when she was affected by a problem, she was prepared to deal with it by going to her commander. The plaintiff accepted that, after attending the scene to photograph the suicide by hanging of Mr Bradshaw, she would have told her female colleagues that she realised she had some knowledge of the victim. She accepted that she would probably have said something like "I knew that man, it was shocking or it was a terrible scene." However, she maintained that she would not have gone on about it and that the exchange would have been limited to a short conversation. She would not have told them that she had a problem in that she could not get the image of Mr Bradshaw out of her mind.

[17] However, it is clear that, subsequent to the Christmas party in 1990, the plaintiff had no difficulty in seeking a referral to the OHU and submitting sickness certificates to her employer specifying the cause as "anxiety". In evidence she agreed that she had no concerns about self certifying on the grounds of anxiety and that she did so again in July 1992. In May 2001 she self certified her absence on the grounds of "work related stress". In addition, subsequent to her absence as a result of anxiety in 1991 the plaintiff was transferred to Antrim, a move which she described in her original statement of evidence as having been sensitively handled. This would have been quite inconsistent with any perception that she might have previously entertained that certification of absence as a consequence of anxiety would adversely affect her career path.

[18] In their closing submissions, the plaintiff's representatives cited the evidence of Inspector Fergus in support of the generic issue of culture, referring to his concession that, when he served in the Special Patrol Group, the macho culture would have dissuaded anyone from wanting to "appear to be the weak link in the chain." While in itself, this reference was accurate, I was somewhat surprised to find it relied upon in this case since it immediately followed a passage in the inspector's cross examination in which he had firmly denied the existence of a macho culture within the Photography Department. Indeed, immediately after the reference to his service in the Special Patrol Group, when it was put to him that officers in the photography unit would not disclose how they felt emotionally he responded by saying:

"I would have to disagree, there were a number of occasions when I had discussions with photographers who were having problems."

He went on to explain that such problems would include officers who had just had a narrow escape or had been compelled to deal with a particularly horrifying scene of crime involving the recovery of bodies or attacks upon children. Mr Fergus explained that his office was immediately opposite the door of the photographers' shared accommodation and that it was easy for people to come to speak to him if they needed to do so. Finally, it was put to Mr Fergus that the plaintiff was not aware of anyone else who had disclosed emotional problems to senior officers or who had been encouraged to disclose their symptoms to which he responded in the following terms:

"I find that hard to accept, My Lord, because I made a point, in particular at staff appraisals or when people came to see me for the first time when they were joining the unit, that it was quite vital really that if they had any issues or any problems at all that they should appraise me of them, even if it was only in

general terms because of the difficulty and the nature of the work. I didn't want to be adding to their problems, if they had some issues that were causing their performance to dip and I would approach anyone who wasn't performing at what I considered to be an effective level. What I tried to make clear to everyone was that I didn't want to, as it were, be jumping in with both feet on top of a problem I wasn't aware of."

Mr Fergus was an impressive and articulate witness who was fully aware that his staff might be exposed on a daily basis to the aftermath of traumatic incidents or processing thereafter the relevant pictorial evidence and, in such circumstances, he appreciated the need to remain closely in touch with his officers. Whatever may have been the situation in other branches of the force, I am not persuaded that the macho culture played any significant role in inhibiting this plaintiff from seeking assistance with emotional problems from her GP or the OHU during the period from 1985 to 1990.

Alcohol

[19] The initial reference in the plaintiff's evidence to alcohol related to her service in Ballycastle. The plaintiff alleged that no one would have approached the sergeant in charge about feeling upset because his answer to everything was "just go and have a drink and you'll be OK." She said that his nickname was Willie Bush because of his fondness for Bushmills whiskey. When she was asked about this in cross examination she said that she had no personal experience of such a reaction but that was "the impression he gave that is what he would have replied." She then went on to accept that she had never asked this officer personally for help and that she did not know of any other officers who had made such a request. When asked how, in such circumstances, she had reached the conclusion that the sergeant would always have recommended alcohol as a solution she replied:

"I don't know, that was just the impression I had from him."

[20] The plaintiff described the "happy hour" on Friday afternoons at the Photography Branch as "just a drink and a bit of a chat" although she admitted that, on occasions, she had to ask for a lift home because she had consumed too much alcohol. As noted above her evidence that her drinking became a problem as a consequence of her exposure to traumatic experiences was quite contrary to the history that she gave to Dr Brown and Professor Fahy, a contradiction that she was unable to explain.

Attitude of colleagues/senior officers

[21] The plaintiff accepted that she enjoyed good relations with her fellow officers in Ballycastle and described how she found some of their comments supportive after the experience of her first traumatic incident. During her service in Photography Branch she felt that the attitude of some of her colleagues was chauvinistic and she was subject to hurtful sexist comments. Such behaviour was regrettable and not to be tolerated in any employment, particularly within a discipline force. However, as noted above, the plaintiff, together with another female colleague, felt able to approach Superintendent Hunt about this problem and, ultimately, a satisfactory mediation was reached. When the plaintiff applied for a transfer from Ballycastle because her parents resided some 55 miles away at Carrick, her father was unwell and she did not own a car her Chief Inspector recommended that the application should receive sympathetic consideration and the transfer was effected to give the plaintiff some peace of mind even though further investigations suggested that another reason might have been the fact that the plaintiff was engaged to a member of the Belfast Special Patrol Group. As noted above, subsequent to her sickness absence in 1990/91 arrangements were made for the plaintiff to be accommodated by a transfer from the Photography Branch to Antrim.

[22] On the other hand, the plaintiff recorded that Inspector Mercer, while he had been sympathetic, was unable to reverse her transfer to Photography and she said that Sergeant Johnston had rejected her request not to attend the Bradshaw post mortem in the interests of continuity. She also described being required to drive to Derry when heavily pregnant. However, she accepted that she took part in the weekly "happy hours" with the rest of the section and pointed out that there were only some of the members of the team with whom she had difficulty. She agreed that she had regular contact with Inspector Fergus and that he would sometimes socialise with the rest of the team. She said that she did not consider Inspector Fergus to be particularly approachable nor would she have confided in him although she agreed that she would not have confided in anyone at work or at home. As I have noted above, my impression of Mr Fergus was that of a sensitive and conscientious officer who would have been alert to the possibility of the officers whom he supervised being affected by the nature of their work. Very few employees can be in a position to claim that they enjoy good relations with every one of their colleagues and superiors and, on balance and subject to the above observations about the chauvinism of some colleagues, I was not persuaded that this plaintiff was any different during the course of her service.

[23] Throughout her service this plaintiff generated positive appraisals on the part of her superior officers and she herself agreed that any psychological symptoms from which she suffered did not affect her ability to perform her job. By way of example when the plaintiff applied to be considered for the Child Abuse and Sexual Offences Investigation Unit in August 1990, some 4 or 5 months prior to her "breakdown", Detective Chief Superintendent Ruddell

referred to her as a capable officer, liked and respected by her colleagues with the ability to adjust to new challenges and who worked well without supervision under pressure. Another superior officer confirmed this opinion and added that, in her current photography work, the plaintiff had been closely associated with cases of sexual assault and he believed she would be well motivated and keenly interested in the appointment. My impression from reading the various appraisals of the plaintiff's career is that they were reasonable attempts to deal with the issues specified therein and the plaintiff herself appeared to accept that they were not simply superficial rubber stamping procedures.

The OHU

[24] In her statement of evidence the plaintiff said that, in December 1990, she knew of the existence of the OHU but not much about what it did or the services it provided. She said that there was a perception amongst officers that if you attended people would think you were a bit mad and incapable of performing your job. She said that, by that stage, she had reached a state in which concerns about how she was perceived or her promotion prospects did not prevent her from attending the Unit. In evidence she agreed that she must have known that the OHU provided a service for those suffering from emotional symptoms and, in particular, emotional upset relating to trauma. She agreed that she was required by her supervisor, Inspector Fergus, to read Force Orders and to prove that she had done so by her signature. She could not recollect whether she had read the Force Order creating the OHU or Force Order 14/88 but accepted that, had she done so, she would have appreciated the nature and extent of the services provided by OHU together with the fact that such services were provided upon a confidential basis. She recalled receiving a talk or talks from the OHU representatives and appreciating that she could have self referred to the OHU from 1985 onwards. She agreed that, quite apart from the OHU itself and its representatives, she would probably have seen the series of articles on stress and trauma related stress in Police Beat, copies of which were available in the office. She did not specifically recall reading such articles.

[25] When the plaintiff attended police Headquarters after the Christmas party on 19th December 1990 seeking assistance she was offered an immediate call out from the OHU which she declined, no doubt sensibly, because of the quantity of alcohol that she had consumed. Arrangements were made for her to see Dr Courtney at the OHU on the following day. When she saw Dr Courtney the plaintiff told him that she had been under increasing pressure for the past 3 or 4 years, that there had been problems since the accidental shooting of her husband on 15th December, that she felt very pressured by her authorities and was unsettled in her job as a result of the civilianisation policy. She referred to shaking significantly when attending the post mortem on a burned girl on Sunday and stated that she had consumed an unusual amount

of alcohol on the previous day. After some discussion it was decided that she should remain on sickness absence, that she would probably not return to photography and that she was to be referred to a psychologist. The plaintiff was subsequently seen on 11th February 1991 by Mrs Patricia Donnelly, one of the Consultant Psychologists engaged by the OHU upon a sessional basis who, by that time, had seen many patients suffering from post trauma symptoms both in the course of her work with the police and her primary employment with the NHS.

[26] Mrs Donnelly confirmed that, prior to interviewing the plaintiff upon the first occasion, she had read Dr Courtney's notes and, consequently, expected to be dealing with an individual suffering from some form of post-traumatic reaction. In such circumstances she went through and discussed with the plaintiff a number of the potentially traumatic incidents the scenes of which had been attended by the plaintiff or images of which she had processed. After doing so, Mrs Donnelly concluded that such incidents were clearly not the big issues for the plaintiff at that time but that it was the pressure of work and her perception of unsympathetic treatment at work that was causing her distress. Mrs Donnelly felt that, while she may have become upset from time to time, the plaintiff had generally coped reasonably well with the traumatic incidents with which she had been concerned. She considered that this had become more difficult with the pressures of shift work, her relationship with her colleagues at work and the domestic difficulties with which she had to contend at home. Altogether, Mrs Donnelly saw the plaintiff upon seven occasions between 11th February 1991 and 30th March 1992. The plaintiff also continued to be monitored by Dr Courtney and her GP. According to Mrs Donnelly, despite what she had expected, the plaintiff did not report any specifically trauma related symptoms such as flashbacks, nightmares or intrusive thoughts. In view of the evidence that she gave before me it seemed to me that it was particularly significant that the plaintiff did not tell either Dr Courtney or Dr Donnelly about the montage of images, anxiety and feelings of nausea, regularly breaking down in tears when travelling from scene to scene or flashbacks involving post mortems accompanied by the smell of the morgue. When asked in cross examination why she had not informed Dr Donnelly about suffering from such symptoms the plaintiff said she could not explain why she didn't tell the doctor about these feelings. She said that she still wasn't "confident enough". In re-examination she said that she wasn't quite sure of how she was feeling or why she was feeling the way that she was and that she thought that if she told anybody nobody would believe her or may be nobody else was feeling the way that she was. She said that the only time that she felt she could really open up was when she was seeing Dr Wolfenden with whom she felt more comfortable. Dr Donnelly was cross examined in considerable detail about the difficulties in eliciting symptoms from individuals suffering from trauma induced symptoms in general and PTSD in particular. In my opinion, Dr Donnelly demonstrated that she was fully aware of these difficulties and the sensitivity that was required when attempting to tease out

such symptoms. After hearing Dr Donnelly give evidence Professor Davidson conceded that she had asked the appropriate questions and pursued the possibility of trauma induced symptoms with some thoroughness as a result of which she had ruled out the existence of PTSD. He also accepted that it was correct to place greater weight upon notes made at the time of examination. Despite these concessions, the Professor said that it remained a “possibility” that the plaintiff had been suffering from clinically significant depression and post-traumatic stress at the time of Dr Donnelly’s examinations.

[27] After carefully considering all the evidence I reached the conclusion that the plaintiff had not persuaded me of any negligence on the part of either Dr Courtney or Dr Donnelly in respect of her treatment at the OHU from 1990 to 1992. Not only did Dr Donnelly give careful and thorough consideration to the possibility of some post traumatic condition but she also took into account the possibility that the plaintiff might be suffering from depression. Whilst she found that some potential precursors to depression were present including low self esteem and a feeling of losing control of affairs, Dr Donnelly felt that anxiety was the predominant condition rather than depression. She thought that a similar view was likely to have been taken by the plaintiff’s GP who had prescribed a beta blocker, a medication appropriate for the treatment of anxiety. I am prepared to accept that this was an appropriate contemporary assessment reached by Dr Donnelly. I am also satisfied that, given the diagnosis that she had reached, that the cognitive behavioural model of therapy employed by Dr Donnelly was appropriate in the circumstances. In my view, any element of depression from which the plaintiff may have been suffering at this time was almost certainly related to staff and organisational difficulties at work combined with her domestic problems and, in any event, had cleared either as a result of Dr Donnelly’s therapy or the simple passage of time by the date of the Wellscreen examination in December 1992. The printout produced by that examination included a Stress Score A of 5 indicating a 50% probability of anxiety requiring intervention. While the plaintiff had no specific recollection, it seems likely from the practice described in other lead cases that this score was drawn to her attention and she was asked whether she had any relevant concerns. In any event the relevant print out and accompanying materials would have been sent to her GP who was aware of her history of anxiety. She had been under treatment by Dr Donnelly as recently as April 1992 when she had been discharged with encouragement to return if a further appointment was required. Ultimately I am satisfied that the probable basis for this score was apprehension on the part of an individual prone to anxiety about making a satisfactory adjustment to her new posting after many years out of uniform. In the event the plaintiff herself accepted that this was the likely explanation for increased anxiety. The history that she gave to Dr Brown coupled with her own evidence suggested that domestic factors may also have played a role at this time.

The plaintiff’s condition post 1991

[28] There was no evidence that the plaintiff was exposed to any further traumatic incidents subsequent to her resumption of employment in November 1991 when Dr Donnelly expressed the view that she had made an excellent adjustment to her return to work despite her anxiety and lack of confidence. Reviews on 30th March and 28th April 1992 confirmed that she had settled quite well although her situation remained vulnerable because of her limited home support and the challenging nature of her work. She was advised to contact the OHU if a further appointment was required. In 1996 the plaintiff underwent stress awareness training and in 1997 and 1998 she was reviewed on four occasions by Dr Courtney at the OHU in relation to physical problems. Despite the knowledge and awareness that she had gained from her treatment by Dr Donnelly and her subsequent training the plaintiff accepted that she had not disclosed any psychological symptoms to her GP or the OHU prior to her self referral on 12th April 2001.

[29] In her direct evidence the plaintiff described a build up of symptoms during the 2 year period prior to 2001 with panic attacks increasing from a couple of times a week to nearly every day and subsequently twice a day, intrusive thoughts becoming an every day occurrence and her sleep being frequently disturbed by images racing through her mind. As noted above this evidence was difficult if not impossible, to reconcile with the history that the plaintiff gave to Dr Brown in July 2002, a contradiction which she herself was unable to explain. When seen by Mr McCloskey, nursing adviser, at the OHU on 12th April 2001 the plaintiff referred to problems with a colleague who had insulted her, a lack of support at work, becoming stressed at home with the children and problems with completing the questionnaire for the Police Federation. The plaintiff agreed with Mr McCloskey that she did not require a psychological referral at that stage. Again, it is difficult to reconcile this evidence with the plaintiff's allegations of continuing significant post traumatic symptoms. When she self referred to the OHU on 17th April 2002 and was seen by Mrs Thompson, nursing adviser, she referred to being examined by a psychiatrist which had brought back flashbacks from her Photography Unit days. She indicated that she would prefer to be seen by Mr McCloskey who had previous knowledge of her case and when she saw him on 25th April 2002 he recorded no significant problems at home but that she had suffered problems since attempting to deal with the questionnaire which she couldn't complete. She then accepted a psychological referral to Dr Wolfenden. Dr Wolfenden, who saw the plaintiff for the first time on 9th May 2002, recorded that during the last 4 years things had really settled with occasional intrusions. It is clear that the plaintiff told her that filling in the questionnaire had sparked of a lot of memories and that she had begun to feel that she shouldn't have completed the form. In her direct evidence Dr Wolfenden confirmed that at her initial meeting with the plaintiff she has received a history of symptoms worsening as a result of completing the questionnaire and meetings connected with the litigation. In cross examination Dr Wolfenden agreed that she had no

doubt that the plaintiff had been overwhelmed by the litigation and caused a resurgence of symptoms. Dr Wolfenden accepted that, apart from her involvement in the litigation, she had not been able to detect any other factor that could have accounted for the resurgence of symptoms being experienced by the plaintiff. According to her evidence the plaintiff appeared to have been successfully coping with any symptoms during the 1990s and such a view would have been consistent with the opinion expressed by Professor Davidson that any residual symptoms during that period would have been “way below threshold” in making a diagnosis of either major depression or PTSD. It seems clear that the therapy performed by Dr Wolfenden, including EMDR for the plaintiff’s trauma related symptoms, achieved a relatively satisfactory outcome. By 28th April 2004, at the time of her discharge, the plaintiff was noted to be happy and feeling 100% better. Dr Wolfenden recorded an excellent outcome with regard to the trauma intrusion/arousal and avoidance symptoms. It is a testimony to the plaintiff’s character and resilience that during this period not only did she continue at work but she also completed a four year part time university degree for which she was awarded first class honours.

Force Order 14/88

[30] As Mr Fergus explained, the practice when he was in charge of the Photography Branch was that Force Orders were collected by the administrative staff, passed to the head of the unit and at some stage during the month there would have been a school at which the Orders were read and possibly discussed if they contain matters of particular interest. Since it could not be guaranteed that every member of the unit would be able to attend such schools, there was a requirement that officers should sign in order to confirm that they had seen the relevant Force Orders. Mr Fergus was cross-examined on the basis that there was no particular priority system for Force Orders and that Orders dealing with operational matters, such as PACE or drink driving, would receive greater attention than those relating to the OHU. He rejected this suggestion and indicated that, in practice, the Orders would be carefully read by himself or line managers for the purpose of identifying those relevant to the unit. He went on to state that the referral procedure, specified in Force Order 14/88, was simply not practical in relation to officers in the Photography Branch who were exposed on an almost daily basis to the aftermath of traumatic incidents or processing the pictorial evidence thereof. In order to highlight this problem, for a short time, an attempt was made to conform with the formal referral requirement of 14/88 but this was soon terminated by mutual agreement with the OHU. Thereafter Mr Fergus relied upon his own sensitivity and knowledge of the officers for whom he was responsible. In some cases he would have referred officers himself and in others he would have sought advice from OHU or welfare before doing so. Mr Fergus explained how an arrangement had been reached with the OHU that a representative would come and make a formal presentation to each of the three photographic units for which he was responsible and that, thereafter, an

individual would come back once or twice a year and associate with the staff in the workplace offering individuals an opportunity to discuss any relevant issues. He was fairly sure that the plaintiff would have left the unit prior to his arrangement coming into force. He confirmed that it was an arrangement that was known to and approved by his superior officers.

[31] As I have already noted Mr Fergus was clearly a sensitive and caring officer who recognised the risk of emotional problems arising from the work carried out by those for whom he was responsible and, in the circumstances, it seems to me that he adopted a practical and proportional solution.

Training/education.

[32] For the reasons set out above I am satisfied that this plaintiff was probably aware of the existence of the OHU and the services available from its inception. I do not believe that it is likely that she developed significant symptoms long before her attendance at the OHU in December 1990 and it seems to me that she was quite prepared to attend once her symptoms became significant enough to impair function. In such circumstances I am not persuaded that it has been established that the failures identified in the generic judgement have caused her to sustain any material loss.

Generally

[33] In many ways this plaintiff's case constituted a useful example of the difficulties likely to be encountered in the course of this type of litigation. Individuals respond to and deal with exposure to trauma in many different ways and it is essential to resist any temptation to interpret and apply psychiatric/psychological terms and diagnoses in an over rigid or mechanistic manner that does not adequately reflect the subtle complexities of human emotions and behaviour. For example, individuals may, and the great majority do, cope with distressing memories or images in many ways that do not result in mental pathology or abnormality. Most people will be familiar with feelings of grief subsequent to bereavement which may become particularly intense at anniversaries. After her initial interview, Dr Wolfenden recorded that the plaintiff had dealt "successfully" with her problems in the past. Avoidance is included among the symptoms of PTSD described in DSM-III and DSM-IV but, as Professor Davidson observed in this case, it depends on the amount of energy and effort a person puts into avoidance and some avoidance is simply a way of coping. He thought that the appropriate question was whether avoidance reached a point where it was causing distress or was in some way adversely affecting the individual's life. Impairment of function is another symptom of the diagnosis. Professor Davidson and Professor Fahy agreed that the plaintiff's use of a camera as a physical barrier between herself and the scene that she was photographing was a useful coping mechanism that served

to distance her emotionally from the scene. Professor Fahy also pointed out that the avoidance of emotionally traumatic or distressing material by “blinking” from the individual’s mind was a healthy coping mechanism provided that it did not interfere with the ability to carry on life as normal or lead to a person becoming immersed or overwhelmed by unpleasant emotions. A further complication is introduced by the substantial time span concerned and intervening events. Professor Davidson agreed that going through questionnaires, medical examinations and the associated introspection did bring about changes in people and the plaintiff today would not necessarily be the same person that she was when she attended the OHU in 1990.

[34] In my view the evidence in this case indicates that this plaintiff was able to cope effectively with the difficult and distressing job that she had to perform between 1985 and 1990 and that it was probably a combination of domestic and non trauma related work problems that led to her referral to the OHU in December 1990. She appears to have been dealt with by Dr Courtney and Dr Donnelly in a considerate and professional manner and the therapy that she received, together with a sensitive transfer, enabled her to continue with a successful police career until her participation in the process of litigation. During this latter period once again she seems to have been able to cope with any residual memories of her work in the Photography Branch without any adverse affects and the objective evidence quite clearly establishes the completion of the witness questionnaire as the point at which she suffered a significant resurgence of post traumatic symptoms to such an extent that her coping mechanisms no longer provided adequate protection. The manuscript notes appended to the questionnaire by the plaintiff provided poignant confirmation of how difficult the exercise must have been. Professor Fahy expressed the opinion that the only way to understand the increased prominence of the plaintiff’s post traumatic symptoms in 2001 was that completing the questionnaire and being subjected to the various medical assessments associated with the litigation process had “reopened a book that she had probably closed in her mind “ and “dragged her backwards in time.” As a result of therapy received at the OHU from Dr Wolfenden it now appears that the plaintiff has achieved an excellent result.

[35] Accordingly, this claim will be dismissed and there will be judgement for the defendant.