

Kenneth JS Gibson

Personal information

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Clerking information

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Areas of Practice and Interest

Kenny has a broad based civil practice. He has a particular interest in, and recent experience of, cases involving the following areas of law: -

Employment Law including cases brought in the ET, EAT, Court of Session and Supreme Court Personal Injury Professional Negligence, including medical negligence Land and Property Law Contract Wills and executries

Kenny is a member of the Bar Employment Law Group.

Experience and Training

Kenny appears in the Court of Session, the Sheriff Court, the Employment Tribunal and the Employment Appeal Tribunal. He has a wide civil practice with particular emphasis on the areas listed above.

Before becoming an advocate he was a solicitor for nine years. He appeared regularly in Sheriff Courts and Tribunals during this period. For three years he specialised in personal injury work and employment law. Prior to that he gained wide experience in civil litigation including cases involving: reparation, commercial and contract law, interdict, family law, debt recovery, recovery of heritable property for High St lenders and land law. For about a

year he practised as a commercial conveyancer acting mainly for a major Scottish house building company.

Between 2007 and 2008 Kenny participated in the training course provided by the Faculty to prospective advocates. His devil masters during that period were Alastair Duncan QC (principal devil master), Douglas Fairley QC (employment law) and Thomas Ross QC (criminal law).

From 2006 to 2013 Kenny tutored law students at Strathclyde University in civil procedure and advocacy skills.

Education

1995 -1996 University of Dundee; Diploma in Legal Practice

1993-1995 University of Dundee; LLB (accelerated)

1990-1993 Milltown Institute, Dublin; BA Philosophy; 1st Class Honours

In 2017/2018 Kenny undertook a course of study with Aberdeen University and was awarded a Certificate in Regulatory Law and Practice. The course was aimed at the law of professional regulation generally and the knowledge and skills gained are applicable to any case involving an element of regulatory law.

Professional Appointments

2006 - 2013; Strathclyde University, Tutor, Diploma in Legal Practice, Civil Procedure and Advocacy course.

Seminars

Kenny regularly gives talks on Employment Law, Land Law and Personal Injury law to solicitors. He coordinates the Hastie Stable Employment Law Group which was launched in 2012.

Recent talks include:

2019: “When Private Life Meets Working Life: A Human Rights Based Perspective” A talk exploring Human Rights in the context of Employment Law.

2018: “Recovery of documents and information in the Employment Tribunal”

Recent Cases

McBride v Scottish Police Services Authority [2016] UKSC 27: Appeal from the Inner House of the Court of Session to the Supreme Court. The appellant was a fingerprint officer involved in the identification of the Y7 fingerprint in

the Shirley McKie case. The appellant, whom Kenny acted for in the appeal before the Inner House and Supreme Court, was dismissed in the aftermath of the case. The ET had found the appellant's dismissal to be unfair and ordered reinstatement. The issues at appeal were whether they were correct to do so and whether the Inner House was correct to characterise the ET's order for reinstatement as one purporting to reinstate to a different contractual role from the one the appellant was dismissed from. The Supreme Court unanimously upheld the appellant's appeal the EAT and the Inner House below having found against her.

Watt v Lothian Health Board [2015] CSOH 17: Judicial review of a decision of a health board to withdraw a medical service. The challenge was based on arguments that the respondent breached the public sector equality duty to have "due regard" to the potential effects of the decision on those with protected characteristics under the Equality Act 2010.

Equal Pay cases: Kenny has recent experience in the ongoing equal pay mass litigation against local authorities in the Employment Tribunals following the introduction of new pay and grading models under Single Status designed to eliminate unlawful differences in pay based on gender.

Publications

Potential challenges to decisions regarding the funding of the care of the disabled under the direct payment regime S.L.T. 2012, 28, 163-167. This article explores local authorities' use of resource allocation systems as tools to make decisions as to the level of direct payments made to fund the care of the disabled. It comments on the significance of the Supreme Court decision in **R. (on the application of KM) v Cambridgeshire CC [2012] UKSC 23**, relating to the equivalent English statutory framework, in which the court identified a four stage test in making a decision as to what sum to award a person by way of direct payment. The issue of the applicability of the test in Scotland is explored.

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