

approximately 100 cases of misconduct relating to the Metropolitan Police have been heard per year, and this number is expected to increase to 150 to 200 cases a year, since both the British Transport Police and Ministry of Defence Police will also fall under the remit of the London Police Misconduct Panels. These will be dealt with by approximately 25 chairs. The numbers of cases in other police forces will obviously be less.

It is undoubtedly a brave new world for the police disciplinary process but having adopted a number of principles from the world of courts and tribunals it will hopefully turn out to be a fair and just one.

Leslie Cuthbert is a judge in the First-tier Tribunal (Health, Education and Social Care) [Back to contents](#)

¹ See [here](#).

² *R (on the application of the British Medical Association) v General Medical Council* [2016] EWHC 1015 (Admin).

Take care of your digital footprint

ONLINE SECURITY By **Barry Clarke**



The pace of judicial reform will accelerate during 2017. We will hear more about online dispute resolution, virtual hearings and the adoption of digital processes as part of a common platform. Similar technologies have been changing the world in which we live for several years. We have, by and large, become used to them. But have we properly understood their transformative nature? These technologies have an impact on us not just as judges, but as citizens, parents, voters, workers and consumers.

Cast your minds back a decade. Perhaps 2007 does not seem so very long ago. In technological terms, however, 2007 was a lifetime ago. As that year began, no one in the UK had a Facebook account (Facebook launched in the UK in July 2007) and no one in the UK owned an iPhone (Apple launched the first iPhone in the UK in November 2007). Giant auction site eBay had only just started. Online banking and shopping were in their infancy. If you wanted to watch television, well, you turned on your TV set.

Ten years later, we are living what social scientists Anabel Quan-Haase and Barry Wellman call 'hyperconnected' lives.¹ Technology suffuses every aspect of our existence and continues to transform it.² We hear phrases like 'Web 2.0'³ and the 'Internet of things'.⁴

The smartphones in our pockets operate as digital Swiss Army knives. These devices are simultaneously our window to the wider world and our main means of escaping it: cameras, e-mail devices, GPS navigation systems, messaging services and the main platforms for accessing social media sites, for gaming, for Internet browsing and, increasingly, for paying for goods and services. Once in a while we even use them to make phone calls.

These devices, and the way we use them, leave online a lasting digital footprint for each of us. Our footprint is analysed by advanced algorithms⁵ and repackaged and sold for profit.⁶ Yet, if we lose these devices, the resulting 'fear of missing out'⁷ can, for some, negatively influence psychological health.⁸

Privacy concerns

What do these developments mean to us as holders of judicial office? The short answer is that they place us at risk. By way of example, albeit involving an element of self-promotion, I can offer a personal insight. Despite being an early

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adopter and technology enthusiast since the early 1980s, I have become increasingly concerned about the impact technology has on our privacy and our security.

In 2012, I began training employment judges about this new world, focusing especially on the way in which social media triggered workplace disputes or generated evidence relevant to the determination of disputes. Throughout 2013 and 2014, I trained all the non-legal members of the Employment Tribunal too. In 2015, with the blessing of the ET President and the Judicial College, I began training immigration judges, who witness how social media has transformed migration patterns. In 2016, it was district judges in the magistrates' court who see the sharp end of online malicious communications. In 2017, it will be the turn of the salaried judiciary of the Social Security and Child Support Tribunal.

The part of the session with the most impact is where I demonstrate the ready availability online of sensitive personal data about particular judges. Using publicly available information from data aggregation websites,⁹ which facilitate 'jigsaw research', I can often locate a judge's home address and year (or precise date) of birth. In one case, I obtained the maiden name of a judge's mother, the names of his wife and daughter and pictures of his extended family; this was a judge who did not use social media at all. In another case, I located the school attended by a judge's children and, in yet another, the park in which a judge ran for 5km every Saturday morning. This was all done fairly quickly from the comfort of a desk; 20 years ago a private detective would have been required. Such are the risks we now face.

Given the sensitive, confidential and sometimes life-changing nature of the work we do as judges and members, we need to learn how to protect ourselves. We need to develop wisdom about the way we interact with new technology. We need to educate our friends and family members too, since their use of technology and social media also creates a digital footprint for us.

It will not be long, if we have not arrived there already, when most candidates for judicial office will bring with them a social media history.

When I started these training sessions in 2012, it was typically the case that about a quarter of those attending owned a smartphone and an even smaller number used social media. Moreover, those who did use social media could be described as 'light users'. For example, they had only set up a Facebook account to stay in touch with travelling adult children and had a limited network of 'friends'. In 2016, the situation has markedly shifted. Now, I find that a large majority owns a smartphone (and often a tablet as well) and somewhere around two-thirds actively use social media. It will not be long, if we have not arrived there already, when most candidates for judicial office will bring with them a social media history. In addition, the range of social media services being used by judges and members has increased. The use of Twitter, a popular platform for spreading legal news, is widespread. I am especially interested in the numbers now using Instagram and WhatsApp, since few judges realise that both of these services are owned by, and share data with, Facebook.

Below are some 'top tips' to assist judges and members in using technology and social media more wisely. They serve, I hope, three purposes. First, they will minimise the chances that, deliberately or inadvertently, you post something online that is inconsistent with the Judicial Code of Conduct (such as the expression of a viewpoint on a political issue of the day or reference to your judicial office). There have been a few examples in recent years of judges or members being reprimanded for inappropriate social media content; the disciplinary statements are publicly available.¹⁰

Secondly, they will enhance your security, by minimising the chances that a disaffected party can trace you to your home address.

Thirdly, they will reduce the extent to which data about your lives as citizens, parents, voters, workers and consumers becomes a tradeable commodity. For when it comes to social media, Facebook and their kin are not the product. *You* are the product.

Be secure – some top tips

- Find out what information about you is public and remove/amend it where you can. Make every effort to ensure that your home address and telephone number are not online (for example, as a result of holding a directorship or on www.192.com).
- When signing up for online services, enter the minimum amount of authentic information possible. Consider providing a bizarre rather than truthful answer to a security question (for example, that your first pet was called 'The Statue of Liberty').
- If you don't use social media, protect yourself by speaking to and educating those who do. If you do use social media, use common sense.
- Take care of your privacy. Check who can see what you post: friends, friends of friends, everyone? Don't announce online your holiday plans or your house move, except perhaps to a limited circle of trusted contacts. Be careful of the photographs you share. Ask friends not to 'tag' you in photographs.
- Do not post anything that would damage public confidence in the impartiality of the judiciary, e.g. political views, matters of public debate.
- Do not identify yourself on social media as a judge or member. Do not discuss your cases on social media. Be very wary about accepting 'friend requests' from lawyers or representatives who may appear before you.
- Consider using a pseudonym as your social media handle.
- Check the default settings of websites and browsers you use. Can you increase the privacy settings? Be wary of signing up to websites using your social media profiles. Turn on two-step verification where you can (eJudiciary is a good example of how this is done).
- Change your passwords regularly. Don't use the same password for everything. Make sure they are good passwords (a password manager app, like mSecure, will help you remember your passwords and even suggest secure and random new ones).
- Maximise privacy settings on your smartphones. Turn off location services. Don't allow apps to access all your contacts. Back up your data. Use encryption services. Use anti-virus and anti-spyware software. Keep software up to date, since that is how weaknesses are identified and repaired.
- Be wary of using free public Wifi, which is usually not encrypted, for work use.
- Buy (and use) a shredder.
- Consider using more than one e-mail address. For personal use, consider an e-mail address that does not contain your name.
- Treat unsolicited texts and e-mails warily. Do not reply. Do not open attachments if you are not confident that the source is safe.

Barry Clarke is the Regional Employment Judge for Wales

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Useful links:

[Tracking my digital footprint](#) from CPNI (Centre for the Protection of National Infrastructure).

[Me and my shadow](#)

[Get safe online](#)

[BBC Webwise](#)

[The Guide to Judicial Conduct](#) (July 2016 amended version), especially Section 8.11 and Appendix 4.

[The Responsibilities of the Judiciary](#) (September 2015), especially Section 8.

- ¹ See [here](#).
- ² The Government Office for Science produced an excellent and very readable [report](#) on the topic in January 2013.
- ³ See [here](#).
- ⁴ See [here](#).
- ⁵ The algorithm behind the Facebook news feed is accessibly described in this *Time* magazine [article](#) from July 2015.
- ⁶ [This](#) news article from 2012 explains what data mining is, how it works and why it is important.
- ⁷ See [here](#).
- ⁸ See [here](#), 'The relationship between fear of missing out, alcohol use, and alcohol-related consequences in college students', *Annals of Neuroscience and Psychology* (2015) 2: 1-7.
- ⁹ Some examples: [Open Charities](#), [192.com](#), [Company Check](#), [Genes Reunited](#), [Rightmove](#).
- ¹⁰ See [here](#).

Recent publications

EXTERNAL LINKS

By **Adrian Stokes**



This section lists recent publications of interest to readers of the *Tribunals* journal with a very short description of each (where this is not obvious from the title) and a link to the actual document.

It is not intended to be a comprehensive list but is intended to bring to the attention of readers some publications of interest but which they might have missed. It also gives a number of useful links.

[The Historian as Judge](#)

Lord Sumption's address to Administrative Appeals Chamber/Immigration and Asylum Chamber judges at the Rolls Building, London (6 October 2016).

[Lord Chief Justice's Annual Press Conference 2016](#)

Transcript of the LCJ's Press Conference (30 November 2016). The video is available [here](#) on YouTube. (Both published 7 February 2017.)

[Raising the Bar: Innovation and global opportunity for a forward thinking profession](#)

Keynote speech by Sir Ernest Ryder, Senior President of Tribunals, at the Annual Bar and Young Bar Conference 2016 (17 October 2016).

[Delegation of functions to tribunal caseworkers](#)

Practice statement in respect of the First-tier (Immigration and Asylum Chamber) extending the

scheme for an additional six months (published 17 November 2016).

[Access to Justice](#)

This is a report prepared as background for a debate in Westminster Hall on the initiative of Rob Marris MP. Although the report is largely concerned with courts rather than tribunals, it may be of some interest to readers. It also has a comprehensive bibliography (all hyperlinked) (published 9 January 2017).

Useful links:

[International Organization for Judicial Training](#)

This is an organisation consisting (August 2015) of 123 members, all concerned with judicial training from 75 countries. The Judicial College is a member.

[The Advocate's Gateway](#)

Provides 'free access to practical, evidence-based guidance on vulnerable witnesses and defendants'.

[Unconscious bias](#)

Website on unconscious bias including various tests.

[Tribunal decisions](#)

[Rightsnet](#)

[Child Poverty Action Group](#)

Adrian Stokes is a Disability Qualified Member in the First-tier Tribunal (Social Entitlement)

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