

Deliver Us From Evil.

**The Vicarious Liability Of Religious Organisations For Intentional Torts
Of Ministers**

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Sexual abuse by ministers of religion has become an increasingly well-documented problem. Several recent decisions have seriously impacted on the potential vicarious liability of religious organisations. Following these changes, this paper seeks to identify whether a religious organisation could be found vicariously liable for the torts, in particular sexual assaults, of a minister.

The church has traditionally been outside the scope of vicarious liability for a number of reasons. Intentional assaults were acts considered to be outside the course of employment under the Salmond test. The nature of the harm caused by the sexual assaults of a minister often meant that when a claim was finally brought by a victim it would fall outside the six year limitation period for an action, the decision in *Stubbings v Webb* having provided a defence to those committing historic sexual assaults. Furthermore, the traditional position that a minister could not be an employee, and was governed by a spiritual, rather than contractual, obligation appeared to mean that vicarious liability could not apply.

In *Lister v Hesley Hall* the 'course of employment' was expanded to include intentional torts. The nature of the role of a minister, whether quasi-parental or one of trust, may often be regarded as closely connected to the tort. The decision in *A v Hoar* opens the potential for sexual assault claims to be brought much later than the expiry of the usual limitation period. In addition, while the courts appear to be moving away from the suggestion that a lack of intention to create legal relations' and 'control' mean that a 'contract of service' cannot exist with a minister of religion. In conclusion, these recent changes in the law justifiably and suitably offer the potential for a religious organisation to be vicariously liable.

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<http://research.shu.ac.uk/ds/law/shlr>

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