

John Pandal, Chairman of the Spanner Trust, interviewed by Demolition Red for the London Fetish Scene

Hi John, what is the Spanner Trust?

In the early 1990's sixteen gay men were prosecuted for their private, consensual SM play under the "Offences Against the Person Act 1861" (*R v. Brown*). None of the men had required medical attention as a result of their activities and all believed that they were innocent as they had consented throughout. However, the judge decided that "sexual pleasure" was not a good enough reason for people to be able to consent to an assault, and so he wouldn't allow consent as a defence. Faced with no alternative the men pleaded guilty and were given sentences of up to four and a half years in prison.

The police investigation was called "Operation Spanner" and the defence campaign was called "Countdown on Spanner". A sizeable amount of the money raised for the defence fund came from the USA. At the request of some of the American donors a trust was set up to look after the money. The trust included Trustees, who were made personally responsible for the money, and a Deed, which specified what the money could and could not be used for.

Some of the Spanner defendants appealed their case to the Court of Appeal, where their sentences were reduced but not overturned. They then took their case to the House of Lords and the European Court of Human Rights and in both courts the sentences and convictions were upheld. Afterwards the defence campaign was wound down, but the Trustees continued to look after the remaining money and took on the task of trying to change the law.

How long have you been involved?

I've been involved with the Spanner Trust since February 2003, when I won the "Mr Hoist" contest in South London. The winner of that title qualifies to compete at the "International Mr Leather" contest (IML) in Chicago the following May. IML contestants can be quizzed about any part of the leather community during their panel interview in front of nine judges, and the Spanner Trust was one of the organisations that helped me prepare. They filled in some community history and also described relevant legislation passing through parliament.

After winning IML I gave up my job to travel full-time to leather events around the world. I'd been so impressed by what I'd heard from the Spanner Trustees that I kept in touch with them. I was required to give a speech at almost every event and Spanner gave me something to talk about. I also raffled a special edition Harley Davidson motorbike (part of my IML Prize) raising \$22,000 which was split equally between the Spanner Trust and the Leather Archives and Museum in Chicago.

At my stepdown from IML I became a Trustee in May 2004 and Chairman of the Trust in September 2005.

Is the Trust still relevant?

I believe the Trust is more relevant today than ever. The original Spanner verdict still stands, making it illegal in England, Wales and Northern Ireland to engage in any activities for sexual pleasure which result in an injury longer than "transient or trifling". Even a lovebite is technically illegal.

This means that SM players are still at risk of arrest and prosecution. And you don't need a court case for this verdict to affect your life. It restricts SM education - increasing the danger that people will injure themselves during play - yet at the same time the law makes it difficult for SM players to get medical attention if a scene goes wrong. It adds to the stigma in the mind of the general public that we are bad people, driving the scene underground and making it harder for essential safety information (such as the difference between SM and abuse) to be disseminated widely. Your SM activities can also act against you during custody court cases, or lead to blackmail or the loss of your job,

Not only that, but bad laws spread from country to country. The Spanner verdict has been quoted in trials in at least three other countries as an example of where a government can over-rule your right to consent. In America it was quoted during the Texas sodomy trial as evidence that it was acceptable for a government to stop people having the kind of sex they wanted - even if the sex was private, consensual and caused no harm.

In 2005 the UK government held a public consultation on the criminalisation of extreme pornography. The Home Office argued that they were only intending to criminalise possession of images of activities that are illegal - but while most SM activities ARE illegal that increases the chance that you'll be breaking the law just by having SM images on your PC at home.

I'm not sure exactly where I stand in the UK law, how do I know whether what I did at a club last night could get me into hot water?

You are allowed to engage in SM activities that do not result in any injury. For example fantasy role-play, watersports and light bondage may fall into this category.

However, if you or your partner sustained any injuries: bruises, welts, burns, cuts, bloodshot eyes, rope marks etc. that are longer than "transient or trifling" and this was for sexual pleasure then you have broken the law.

You are only allowed to consent to an assault if it was sustained during sports (e.g. rugby, boxing), medical purposes (e.g. dental work, a hospital operation), body modification (cosmetic surgery, piercings and tattoos if they are for ornamental purposes and not sexual gratification) or entertainment (cabaret,

circus act etc.).

Is the Spanner Trust a gay man's organisation?

Definitely not. Since the original Spanner Trial there have been four court cases that we're aware of under the "Offences Against the Person Act" involving sexual or SM activity. In all four cases the defendants were men who engaged in sex or SM play with women.

The Spanner Trust provides referrals and legal advice for SM players in trouble because of their activities. The vast majority of the people who contact us play with members of the opposite sex.

We also give speeches and presentations at SM events, munches and other gatherings. We go wherever we are asked and make no distinction between gay, straight or pansexual events.

Over the years we have had trustees of every gender and sexuality. At the moment the trustees happen all to be gay men, but we welcome help from anyone who has skills to offer.

The Spanner Trust seems to have been a bit quiet recently, what do the trustees actually do?

I'm sorry that we've appeared to be quiet - it's actually because we've been busier than ever!

For example, in 2005 (amongst other things) we have:

- Given a presentation to the British Board of Film Classification examiners on the difference between consensual SM and abuse
- Given workshops, speeches or run stalls at Kinkfest, Kinklusive, the Oxford Munch, SM Dykes and the Rubber Ball Expo
- Provided legal advice and referrals to people who contacted us in trouble because of their activities
- Monitored relevant public consultations, white papers and acts passing through parliament and responded accordingly
- Ongoing work with a senior Queen's Counsel on our High Court application for changing the law
- Networked with other civil liberties organisations
- Responded to the public consultation on the possession of extreme pornography and also wrote to the consultation co-ordinator outlining our concerns about the way the consultation was handled

This was in addition to our regular monthly trustee meetings and holding down full time jobs!

Our New Year's Resolution is to keep the community better informed of our

activities. To that end we've set up an email mailing list. The list is confidential and only used for updates about our work. If you'd like to sign up please send an email to subscribe@spannertrust.org

Are you more or less optimistic than when you joined the campaign?

I'm less optimistic that we will achieve our ends through political lobbying. There is just not the political will to pass a law on behalf of the SM community. It won't win politicians any votes!

However, I am more optimistic that we can use the 1998 Human Rights Act to pursue a claim in the High Court that the Spanner decision (R v Brown) is contrary to the Human Rights Act thereby forcing a change in the law. To do that we need claimants (people willing to come forward and say they are at risk of prosecution) and money.

Is it true that singles are more at risk of prosecution than married people are?

In the court cases we've seen so far there have been three different types of verdicts:

For SM play within a heterosexual married couple, only the male (active) partner was prosecuted and he was acquitted. The judge said that a man branding a woman with a knife was "acceptable behaviour within marriage".

For SM play between an unmarried heterosexual couple, only the male (active) partner was prosecuted and he was found guilty.

For SM play between gay men both the active and passive participants were prosecuted and ALL were found guilty. The passive players were prosecuted for "aiding and abetting an assault against themselves"!

If so, why are you looking for couples to act as Claimants?

The European Convention of Human Rights, which was incorporated into UK law in the 1998 Human Rights Act, states that the court cannot differentiate between defendants based on their gender or sexuality. Ideally we would like a range of SM players: gay and straight, married and unmarried to put their name to the High Court application, and then ask the judge to make one ruling that applies to all of them.

We would also prefer couples (whether married or unmarried) because then we can show the court SM within the context of a long-term relationship.

I heard you need to raise a quarter of a million pounds... that's a huge sum of money. Why so much?

The UK Government is likely to appeal our High Court challenge, and we need to

be prepared to pay not just our own costs but possibly those of the UK Government as well.

A quarter of a million pounds IS a lot of money, but if we win the case and don't have to pay costs that money can then be used for other things.

Another option is to only choose one claimant who qualifies for legal aid, which would substantially reduce the costs of the case but would limit the High Court challenge solely to that one legally aided applicant.

If we want to overturn R v. Brown, are there alternatives to a High Court application?

There are alternatives, such as waiting for someone to be prosecuted for their SM activities and hope that the Human Rights Act aspects of the case are raised during the defence, or trying to add an amendment to a suitable bill passing through parliament. However, we have been actively pursuing those options for over a decade and we have good reason to believe we will not achieve our goal via those routes in the foreseeable future.

What happens if you don't raise the money?

We would only be able to look for claimants who would qualify for legal aid in bringing an application before the High Court. And I'd need to win some more Harley Davidsons to raffle online!

If a court case fails, what next?

That's a number of years away and the political and legal landscape might be very different by then. We will always keep looking for opportunities to press for a change in the law, by whatever routes are open.

Isn't there a risk that a court case will just shine a spotlight on what we do?

There is already a spotlight on what we do. Every person who loses their job or access to their children, or club promoter that loses their licence, or social club secretary that has their computer confiscated, or private SM players that are blackmailed or arrested - every one of those lives has a spotlight shone on it.

How many more lives have to be ruined before we stand up as a community and say "no more"?

I'm only really into D/s, so why should I stick my neck out?

Do you really think judges, employers, tabloid newspapers and politicians understand the difference between "perverts" into D/s and "perverts" into SM? While this law is on the books the same stigma applies to all members of the kink community, whether or not your activities are technically legal or illegal.

Do you think there are some play scenes that are so sick that they should be made illegal?

I think that unconsensual scenes are abusive and wrong, but unconsensual acts of violence such as rape or assault are illegal anyway and would remain so even if consensual SM was legalised.

We need to be very clear that there is a difference between SM and abuse, and also between injury and harm. For example, having a body piercing causes an injury to your body but doesn't necessarily cause any harm.

OK. So how can people help if they want to?

Please consider holding a fundraiser for the Trust or making a private donation. If you want, you can transfer the money online in pounds, euros or dollars at <http://www.spannertrust.org/donations.asp>

Other than raising money, what can I do?

- Send an email to subscribe@spannertrust.org to sign up to our regular email updates
- Print out copies of our latest campaign leaflet at http://www.spannertrust.org/documents/spanner_trust_handout.pdf and distribute them at kink-friendly events and venues
- Please add a Spanner banner to any suitable websites, with a link to our site. You can find the banner and some example HTML at <http://www.spannertrust.org/banners/spannerbannerlink.asp>
- If you have any skills you can offer: fundraising, web designing, publicity, lobbying etc. please send an email to info@spannertrust.org
- Invite the trustees to give a talk at your local event or munch - you can reach us via email: info@spannertrust.org

Can anyone become a trustee?

In theory, yes. In practice you would need to be within commuting distance of London to be able to attend our monthly meetings. I have to warn you, it's a lot of work! What we desperately need, rather than a few people who have to make a big commitment, is lots of people willing to help in small ways.

If I need help, whom do I contact?

If you need legal advice please email info@spannertrust.org and we will do our best to help or put you in touch with a legal professional in your area.

Links:

<http://www.spannertrust.org> - the official Spanner Trust website
<http://www.iml2003.com> - John Pandal's personal website