



Neutral Citation Number: [2021] EWHC 770 (QB)

Case No: QB-2018-000010

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29 March 2021

Before :

THE HONOURABLE MR JUSTICE NICKLIN

Between :

BHX

Claimant

- and -

(1) GRX

(2) GRU

Defendants

The Claimant appeared in person
The Defendants appeared in person

Hearing date: 10 February 2021

**Covid-19 Protocol: This judgment was handed down by the judges remotely
by circulation to the parties' representatives and BAILII by email.
The date of hand-down is deemed to be as shown above.**

Approved Judgment

The Honourable Mr Justice Nicklin :

1. The Claimant has brought this claim alleging that the Defendants have defamed him, misused his private information, maliciously published falsehoods about him and harassed him. The Claim Form was issued on 19 November 2018. The First Defendant is the Claimant's sister. The Second Defendant is the husband of the First Defendant. I shall refer to this claim as the "Libel Proceedings".
2. Master McCloud made an order anonymising the parties on 3 July 2020 and restricting access to the Court file. She also imposed reporting restrictions, prohibiting identification of the parties of the action. Those reporting restrictions apply to this judgment. The reason why such an order was necessary will become more apparent when I set out the history of this matter below, but for present purposes I can summarise that anonymisation of the parties in the Libel Proceedings has been necessary because there are related proceedings in the Family Court which have taken (and will in future take place) in private concerning the Defendants' two children and their relationship with the Claimant, their uncle ("the Family Proceedings"). It would be impossible for this Court, in a public judgment that named the parties, to maintain the properly private nature of the Family Proceedings. In addition, an allegation of sexual assault has also been made by the First Defendant against the Claimant, thereby potentially engaging s.1 Sexual Offences (Amendment Act) 1992.
3. The hearing on 10 February 2021 took place, necessarily, in private. The principles of open justice nevertheless require that, where possible, the Court should derogate from those principles only so far as is necessary to protect those legitimate interests. With the anonymisation in place, and with certain redactions to maintain that anonymity, it has been possible to produce this public judgment, which, so far as possible, explains the nature of the claims that the Claimant has brought, and the decision of the Court in relation to the Libel Proceedings.
4. The Claimant is autistic. He quite properly brought this to the Court's attention in advance of the hearing, so that reasonable adjustments could be made to accommodate his disability. We took regular breaks during the remote hearing that was conducted by MS Teams. I am satisfied that the Claimant was able to participate fully in the hearing and to make his submissions effectively.

History

5. I will need to set out some of the history between the parties, as it provides the immediate context for this claim. I will not set out every event, just those that are key to understanding the dispute.
6. As I have already stated, these are not the only legal proceedings which concern the parties. Separate claims have been brought in the Family Court, the Claimant has brought two claims for judicial review, made several complaints to various bodies and he also brought a private prosecution against the Second Defendant. The descent into acrimony that these legal claims represent is very sad. Because this is, fundamentally, a dispute between brother and sister, the impact reaches beyond the immediate litigants, affecting other family members, most particularly their parents.

7. As it forms an important aspect of the history of the dispute, and because it features as a distinct element of the Claimant's claim, I note that the Claimant was arrested on or around 23 March 2016 and investigated by the police on suspicion of grooming a child under the age of 16. Following investigation, no charges were brought against the Claimant. The Claimant has consistently maintained his innocence. In the Claimant's evidence he states that this caused him to suffer post-traumatic stress disorder, and that the First Defendant assisted him to find professional support. The Claimant alleges that the First Defendant promised not to tell anyone about the arrest.
8. The litigation between the parties began in late February 2018. The Defendants had placed restrictions on the Claimant's access to their children. They asked him not to post pictures of the children on social media. The Defendants' case is that the Claimant did not respect the Defendants' wishes, and so ultimately his access to the children was effectively curtailed from about December 2016. This upset the Claimant, and, on 27 February 2018, he wrote to the Defendants advising them that it was his intention to make an application to the Family Court, pursuant to s.8 Children Act 1989, for a Child Arrangements Order to permit him to re-establish contact with the children. The letter, as all correspondence that the Claimant sent to the Defendants, was marked, "*private and confidential*". The Defendants maintained their refusal to allow the Claimant to see the children, so the Claimant commenced proceedings in the Family Court. One of the Claimant's key complaints in this civil action is that "*the Defendants instructed their solicitor [in the family proceedings] to make malicious falsehood allegations against the Claimant*". One of those allegations was that the Claimant had behaved in a sexually inappropriate manner towards her when the First Defendant when she was a teenager.
9. On 21 May 2018, the Claimant wrote to the Defendants to complain that they had shared details of his application to the Court with their parents, which, he claimed, had distressed them and caused a strain on his relationship with his parents.
10. On 1 June 2018, the Claimant was granted permission by Magistrates, sitting in the family jurisdiction, to pursue his application for a Child Arrangements Order ("the CAO Proceedings") and a hearing was fixed for 20 June 2018.
11. On 8 June 2018, the First Defendant sent a text message to her father. This communication is one of the principal complaints in the Libel Proceedings, so it is necessary for me to set it out in full:

"We have received 7 letter (sic) in 12 weeks all threatening and controlling. Trying to make us do what he says and make us feel he will win. Yes he is a vulnerable adult in the sense he would put him and others at risk, unintentionally (who would put themselves at risk intentionally) but also very dangerous as he does not learn from mistakes he has made and has no care for them. He does not care about the impact he had on anyone as long as he gets what he wants. He STILL adds girls who look under 18, god knows what he says or does with them and he write stupid things on [Facebook] all the time and we know he does stupid things. From my experience, how I've heard him talk to girls and medical professionals he is 'pervy'. These letters are obsessive and threatening. I have received another today. He is making me VERY ill. Can you not see he is totally out of control and is going to seriously hurt himself or others!!! You two bury your head and trying to justify his behaviours has been constant through out. I need to safeguard my family,

I would never make anything up but I will tell whoever I need to about his extreme behaviours and the past.

How long can he go on hurting people and excuses are made because of his disability. Yes he is not right in the head but this behaviour needs to stop or something terrible is going to happen.

Also if this was [the Second Defendant] doing all this to me as the father. You would be telling me how dangerous he was, that I should get the police involved and helping me to stop him. It's because he's your son and you love him, you see it differently. Which I understand as Bad people have parents and their parents love them. But I need to protect my family from this bad person."

12. The First Defendant's father responded by text message in the following terms:

"You have said your peace of mind and I have said mine. It isn't that [Claimant] isn't right in the head but that his brain is wired differently as you know it's a disability that is hidden but no less impairing, for social interaction, communication, imagination, lack of empathy his resistance to change also his repetitive activities (Law) has been the only thing he's been any good at (unfortunately). You might have this sort of thing to deal with later on at least you are aware of it early on. You have a chance to mitigate the issues. We didn't have the luxury of this.

We are completely on your side regarding the issue of access to the kids. He's had his chance and blown it.

But I ask you to remember no matter what you think of him he's still your brother like it or not. I'm the first to say he does my head in but he is my son, just like you also [name] and [name] are my family.

We all try to justify issues no matter what they are of the ones we love you do too both for the children and [the Second Defendant]. You keep saying you will do anything to protect your family. Are we not all part of the family. I thought we were. Who is always there for all of you at the drop of the hat any time of the day or night.

Love Dad xx"

13. The Claimant obtained copies of these messages, without permission, by copying them after gaining access to his father's mobile phone. I have seen a letter from the Claimant and First Defendant's father, on behalf of himself and his wife, dated 26 November 2018. It states the following:

"I believe [the Claimant] our son has accessed my phone and taken information from it with regards to texts between my daughter ... and myself. I must stress that this has been done without my permission and I'm extremely annoyed. I do not wish this information to be used in any civil or legal action as this is my private information. He borrowed my phone a few weeks ago so he could access the internet (tethering his laptop to my phone) concerning work he did not ask for permission to access information on my phone. I'm disgusted this has happened so he can pursue legal proceedings against our daughter and son in law again."

14. At the hearing before me, the Claimant denied that he had acted precisely as described by his father, but he accepted that his access to the text messages and his copying of them were unauthorised. A subsequent order in the family proceedings, dated 3 March 2020, also contains a recital in the following terms:

“AND UPON [the Claimant] accepting that he accessed material held on his parents’ mobile telephone during the course of assisting them with another matter, and copied that material without consent.”

15. Following a complaint by the Defendants to the police, on 11 June 2018 a police officer sent an email to the Claimant:

“I understand you are pursuing a legal claim for access to your niece and nephew which is your right.

To avoid any potential complaint regarding harassment I suggest you address all future correspondence regarding this matter via the [Defendants’] solicitor. The [Defendants] do not want any type of contact with you, if you contact them directly or indirectly you may be arrested and prosecuted for harassment. This is a reasonable request to prevent criminal offences, please accept this warning, there will be no further warnings.”

The Claimant responded by email the same day to say that he was involved in Court proceedings with his sister and that he did not have the details of any solicitor that had been instructed to act for the Defendants. The officer responded stating that the Defendants’ solicitor was in the process of writing to him and that “*the warning stands*”.

16. On 11 June 2018, by a separate application to the Family Court, the Claimant applied for a non-molestation order against the Defendants (“the NMO Proceedings”). The terms of the order the Claimant sought were as follows:

“(1) The Respondents shall not disclose to any other third party whether directly or indirectly information regarding the nature of the Applicants arrest ... medical health in the year 2016.

(2) The Respondents shall not disclose to any other third party whether directly or indirectly information regarding this Order...

(3) The Respondents shall not disrupt [the CAO Proceedings] whether directly or indirectly or by any other third party. By the using of any conduct or influence or any incident or pattern of incidents of controlling, coercive or threatening behaviour.

(4) The Order not to disclose should last until the Respondents entire lives.”

Explaining the grounds for this order, the Claimant set out:

“The Respondents have sought help from my mother and father in which they have disclosed information to them about this case. They have either negligently or directly or indirectly caused them to change their current relationship with me. My parents have made representations to influence me to stop [the CAO Proceedings] such as the possibility of making me homeless. [The Defendants] have complained to the police about harassment which could

have resulted in my arrest and disrupted these proceedings. They have told the children I am a bad person or to that effect...”

17. On 20 June 2018, there was a hearing, in private, at the Family Court in both the CAO Proceedings and the NMO Proceedings. The Claimant represented himself. The Defendants were represented by a solicitor. A Cafcass representative was also present. It appears that, at this hearing, the allegation of inappropriate sexual behaviour and sexual assault of the First Defendant by the Claimant was made by the Defendants’ solicitor. Both sets of proceedings were adjourned to be heard by a District Judge on 1 August 2018.

18. I have not been provided with a transcript of the hearing on 20 June 2018 (and, as it was a hearing in the Magistrates’ Court, one may not be available), so I am unable to ascertain precisely what was said and in what context. However, after the hearing, on 27 June 2018, the Claimant sent a letter to the Defendants’ solicitors, in which he said:

“Further to ... the hearing held on 20th June 2018.

I write to request further information about these alleged allegations, my estranged sister alleges from the ages 11 years onwards.

Can your client kindly expand on what incidents; though they are disputed, occurred, given dates and detailed description?

A polite reminder will be drawn to your client’s attention that the correspondence submitted or evidence, will be used in cross-examination in any proceedings. It is also submitted I have evidence to disprove these allegations outright. It is a polite reminder in that regard, that these false allegations should be withdrawn at the earliest opportunity.

Failure to withdraw them could open up to further legal action. I must stress to prevent confusion that the only outcome I want out of these proceedings are to have contact with my niece and nephew. I do not want to take other legal action unless it is absolutely necessary because your client’s financial ability to support my niece and nephew would be affected if a financial remedy was sought instead.”

I conclude from this that it is likely that it was at the hearing on 20 June 2018 that the allegations of inappropriate sexual activity/behaviour were first made by the First Defendant against the Claimant (see further [20(3)] below).

19. On 1 August 2018, the District Judge heard both the CAO and NMO Proceedings. The Judge:

- (1) refused to grant any non-molestation order against the Defendants;
- (2) made no order in respect of the CAO Proceedings; and
- (3) made a prohibited steps order against the Claimant which prohibited him from (a) publishing or sharing information relating to or photographs of the children by any means; (b) taking any photographs of the children, save at a family gathering or photographs in which the children are incidental; (c) approaching

or initiating contact with the children by any means save at a family gathering or by sending Christmas or birthday cards each year.

20. On 10 August 2018, the Claimant wrote to the Defendants' solicitors. He indicated that he intended to appeal the order of the District Judge. Having not heard back from the solicitors as to whether they were authorised to accept service of further proceedings, the Claimant indicated that he intended to bring a further claim for a financial remedy "*regarding the defamatory statements made by [the Defendants] and other actionable Torts*". The Claimant stated that his letter was written in accordance with the Pre-Action Protocol for Defamation. The letter identified the following actions of the Defendants about which he complained:

- (1) the complaint to the police that led to the harassment warning being given to him on 11 June 2018;
- (2) the Defendants' conduct through the CAO Proceedings constituted harassment, misuse of private information/breach of privacy, defamation and malicious falsehood;
- (3) in particular, the Defendants' solicitor had made the following allegation, in writing, in the CAO Proceedings:

"It is the parent's (sic) case that any contact with the Applicant either directly or indirectly is not in the children's interest or the children (sic), rather indeed the applicant presents a significant safeguarding risk to the children by virtue of the following:

- From the age of 11 until late teens [the First Defendant] was subjected to inappropriate sexual behaviour and occasional sexual assault by the [Claimant].
- The [Claimant] enters into inappropriate relationships, largely online with teenage girls; he was arrested (but not charged) with the grooming of a 14-year-old girl."

- (4) a third party ("NHT") had assaulted the Claimant because he was pursuing the CAO Proceedings.

The Claimant indicated that he would accept damages of £5,000 and the letter concluded:

"I will warmly welcome that your clients accept this claim and apologise and agree to the damages to be paid to me. Otherwise further legal action will continue."

21. On 22 August 2018, a Circuit Judge in the Family Court ordered the Claimant to file a transcript of the decision of the District Judge on 1 August 2018 against which he was seeking to appeal. If he did not do so by 28 September 2018, the Judge directed that the Claimant's application for permission to appeal would be struck out. Although the time for filing the required transcript was subsequently extended to 5 October 2018, the Claimant failed to comply and his application for permission to appeal was struck out. Separately, by Order dated 18 September 2018, the Circuit Judge refused the Claimant's application that the transcript of the judgment be provided at public expense.

The Claimant later attempted, unsuccessfully, to challenge that refusal by way of proceedings for judicial review (see [24] below).

22. On 19 November 2018, the Claimant issued the Claim Form in these proceedings. It sought damages for (1) harassment; (2) defamation; (3) misuse or private information and breach of privacy; and (4) malicious falsehood. The damages were limited to £5,000. Particulars of Claim set out details of the claim. In their Defences, the Defendants contended that the Claimant's Libel Proceedings should be struck out or dismissed.
23. On 27 December 2018, the Family Court granted a non-molestation order against the Claimant following a without notice application by the Defendants. The order, until a return date of 10 January 2019, prohibited the Claimant from (1) doing anything to "*intimidate, harass, pester or approach*" the Defendants or the children; and (2) communicating with the Defendants or the children by any means. The order provided that any communications for the purposes of the Family Proceedings must be sent by the Claimant via the Court. Following a hearing on 10 January 2019, at which the Claimant and Defendants represented themselves, the non-molestation order was continued until 27 December 2020.
24. On 9 February 2019, the Claimant's application for judicial review of the order directing him to file a transcript of the judgment of 1 August 2018 was refused on the papers by Andrews J. The Claimant renewed his application and, following an oral hearing on 23 May 2019, Thornton J stayed the claim for judicial review. The Judge noted that the Claimant was seeking to appeal a decision in the Family Proceedings. No decision had been made on the appeal itself. Judicial review was a remedy of last resort and the Claimant had not sought to appeal the decision of the Family Court striking out his application for permission to appeal. In consequence, the Claimant then pursued an appeal in the Family Proceedings (see [26] and [32] below). Subsequently, an application by the Claimant to lift the stay in these judicial review proceedings was refused on 9 December 2020.
25. On 10 June 2019, Deputy Master Brown, without a hearing, gave directions for a Costs and Case Management hearing in the Libel Proceedings to be heard on 21 November 2019.
26. Further steps and hearings took place in the Family Proceedings between June and August 2019. The Claimant made an application to set aside or vary the orders of 1 August 2018 and 27 December 2018. On 18 June 2019, the Family Court transferred these applications to be heard by the High Court Family Division.
27. On 17 August 2019, an incident that took place between the Claimant and the Second Defendant at a premises where the Claimant was working ("the August Incident"). I am limited in what I can say about the August Incident in a public judgment without undermining the anonymity of the parties. There is available, and I have watched, a video recording of the August Incident (or the main parts of it). It was a chance encounter between the Claimant and the Second Defendant. The Claimant, who was working at the time, refused access to a service to the Second Defendant. The Second Defendant was accompanied by some other people. There was, the Claimant alleges, some jeering and abuse of him. The Claimant told the Second Defendant to go away on several occasions. The Claimant indicated that he would call the police if the Second

Defendant did not leave. The Second Defendant said that he would like the police to be called. The Second Defendant verbally abused the Claimant. In the general melee, the Claimant's evidence is that there was an exchange of words between two of the men who were accompanying the Second Defendant. One said to the other: "*This guy here has got a problem with [the Second Defendant], do you know him?*" The other man responded by asking: "*That the paedophile?*".

28. Following the August Incident, the Claimant commenced a private prosecution of the Second Defendant. Following an application by the Claimant, supported by a witness statement, a Magistrates' Court issued a summons against the Second Defendant alleging that the Second Defendant had committed an offence under s.5 Public Order Act 1986 by using threatening words and behaviour towards the Claimant in the August Incident. The summons required the Second Defendant to attend a hearing at the Magistrates' Court on 31 October 2019. At the hearing, the Magistrates adjourned the case until 2 January 2020 to allow the Crown Prosecution Service ("CPS") to consider whether to take over the prosecution. Subsequently, on 20 December 2019, the CPS wrote to the Claimant and the Second Defendant to inform them that the CPS had taken over the prosecution and had filed a notice of discontinuance with the Magistrates' Court, which brought the prosecution to an end. The CPS indicated that, although it was satisfied that the evidence provided a realistic prospect of conviction, it was not in the public interest to prosecute. On the assessment of whether it was in the public interest to prosecute, the CPS advised the Claimant that they had taken into account the fact that the Second Defendant had no previous convictions and that "*a person of previously good character would not ordinarily be prosecuted for an admitted s.5 Public Order Act offence*". The CPS rejected the Claimant's complaint that the Second Defendant's hostility had been motivated by the Claimant's disability.
29. In response to this, the Claimant:
 - (1) on 30 December 2019, lodged a complaint with the local police force alleging that the police had failed properly to investigate the August Incident; the complaint was rejected on 25 March 2020;
 - (2) lodged a request for a reconsideration of the decision to discontinue the prosecution against the Second Defendant under the CPS's Victims' Right to Review procedure, which was refused by the CPS on 7 January 2020;
 - (3) on 19 January 2020, threatened the CPS with judicial review of its decision to discontinue the criminal proceedings against the Second Defendant;
 - (4) on 20 March 2020, issued a claim for judicial review against the Magistrates' Court (with the CPS and the Second Defendant as interested parties). Permission was refused on the papers on 15 August 2020. The Claimant has told me that he has applied to renew his application for permission.
30. Meanwhile, in the Libel Proceedings, the CCMC took place on 21 November 2019. All three parties attended in person. The Order of the Master noted that the Defendants had sought the striking out of the Claim in their Defences and that the court, of its own motion, had considered whether the Claimant's statement of case disclosed reasonable causes of action. The Order recorded the following "*potential issues*" that the Master identified as needing further consideration:

- “(a) in respect of the claim for harassment under the Protection from Harassment Act 1997, the factors set out in *Dowson -v- Chief Constable of Northumbria* [2010] EWHC 2612 [142] including the degree of criminality required;
- (b) in respect of the claim for defamation, (i) whether and the extent to which absolute privilege applies in respect of the statements made in other legal proceedings, (ii) the need to show the publication of the relevant statement has caused or is likely to cause serious harm to the reputation of the Claimant pursuant to s.1 Defamation Act 2013;
- (c) in respect of the claim for misuse of [private] information/breach of privacy whether the Claimant had a reasonable expectation of privacy (see *Axon -v- The Ministry of Defence* [2016] EWHC 787 (QB)); and
- (d) in respect of the claim for malicious falsehood, the need to show malice.”
31. The Master directed that there should be a hearing (later fixed for 3 July 2020) at which the Court would consider whether some or all of the claims set out in the Claimant’s Particulars of Claim should be struck out under CPR 3.4 as disclosing no cause of action. The Claimant was required to file with the Court a note or witness statement setting out the arguments upon which he wished to rely when the Court came to consider whether his claim (or any part of it) ought to be struck out. I have been provided with, and have read, a document titled “*Amended Witness Statement of [the Claimant]*” dated 26 April 2020 which appears to have been filed pursuant to this direction (“the Claimant’s Witness Statement”).
32. On 13 February 2020, Williams J in the Family Division, refused the Claimant’s application for permission to appeal against (1) the order of 22 August 2018 that the Claimant’s application for permission to appeal would be struck out unless he filed a transcript of the judgment against which he sought to appeal; and (2) the order of 18 September 2018, refusing to order a transcript be provided at public expense. The Judge certified the Claimant’s application for permission to appeal as being totally without merit.
33. From three text messages provided by the Claimant, he had the following exchange of messages with a cousin of his (“PUJ”) on 7 March 2020:
- (1) Message from the Claimant to PUJ:
- “Hey how are you”
- (2) Message from PUJ to the Claimant:
- “... I’ve just spoken with [the First Claimant], I know just about everything. I think its appalling, what you have done in the past and currently. The past I would describe as sexual abuse. Your relationships with other young girls are at best inappropriate and you don’t seem to have any concept of how inappropriately you are also being on social media. The current campaign against [the Defendants] I would describe as stalking and harassment through the courts. The fact you are attempting to gain access to their children is bizarre and extremely disturbing. I always thought it was due to your condition, but I cannot ... reconcile all of this, most must be purposeful

and your personality. I want no more to do with you. The girls have also blocked you, please don't try and get in touch again. And no, a reference won't be forthcoming."

(3) Message from the Claimant to PUJ:

"I'm very upset with your message and I don't think it's fair for you to cut me off like that without talking to me. What [the First Defendant] has said to you is not true and all the more reason why I'm trying to vindicate myself. You have not even listen (sic) to my side of the story. I would not harm anyone and I NEVER have so I'm upset you don't believe me and I feel I've lost somebody dear to me. I've already lost a sister and now I'm loosing (sic) family members don't do this to me I've done nothing wrong."

The Claimant told me at the hearing that he has not spoken to PUJ since the exchange of those messages.

34. There were further hearings in the Family Proceedings in the spring/summer of 2020. The Claimant made a further application for a Child Arrangements Order on 12 May 2020. This further application was refused on 5 November 2020 and the Court directed that consideration would be given to whether an order should be made under s.91(14) Children Act 1989 against the Claimant.
35. On 3 July 2020, there was a hearing in the Libel Proceedings before Master McCloud. This was the hearing fixed by Master Brown at which he directed consideration should be given to whether the Claimant's claim should be struck out in whole or in part. The parties again represented themselves. At a remote hearing, the Master heard the parties' submissions and ordered:
 - (1) the Claimant to serve an Amended Particulars of Claim which gave particulars of the specific acts of the Defendants upon which he relied in respect of each of his causes of action;
 - (2) no Amended Defence should be filed at this stage;
 - (3) the Defendants to file a list of any previous proceedings brought by the Claimant against the Defendants (or vice versa) together with copies of orders made in the proceedings; and
 - (4) the Libel Proceedings would be referred to a Judge of the Media & Communications List for further hearing.
36. Master McCloud's order of 3 July 2020 set out in detail the particulars that the Claimant was required to provide in his Amended Particulars of Claim. I am quite satisfied that following the hearing on 3 July 2020, the Claimant was well aware that the Court was actively considering striking out his claim under CPR Part 3.4(2)(a) and what he was required to do, if he could, to demonstrate that he had proper and viable causes of action.
37. On 5 July 2020, the Claimant filed Amended Particulars of Claim pursuant to Master McCloud's Order. In the Appendix to this judgment, I have set out redacted sections of the Amended Particulars of Claim which are the most relevant to the issues that the Court has to decide. I have added, in square brackets, additional paragraph numbers for

ease of reference. In the following paragraphs of this judgment (“APoC§”). In his Amended Particulars of Claim, the Claimant removed the limit on his claim for damages and adopted a claim for “*unlimited*” damages (APoC§15).

38. For their part, on 13 July 2020, the Defendants filed a schedule of all applications or claims brought against them by the Claimant and provided copies of the relevant orders and documents. I have summarised the scope and nature of the various claims brought by the Claimant in this judgment.
39. Following receipt of the Amended Particulars of Claim and the schedule provided by the Defendants, by further Order of 29 August 2020, Master McCloud directed that the case would be referred to a Judge in the Media & Communications List to consider (1) whether the Libel Proceedings ought to be struck out pursuant to Master Brown’s earlier direction; and (2) whether to impose a civil restraint order on any party.
40. The Libel Proceedings were duly referred to me and, on 1 October 2020, I made an order, of the Court’s own motion and without hearing from the parties:
 - (1) requiring the parties to contact the Clerk of the Lists to fix a hearing before a Media & Communications List Judge in the period between 16 November 2020 and 26 February 2021 (“the Hearing”); and
 - (2) that, if the Defendants wished to make any application to strike out the Claimant’s claim or for summary judgment, they had to issue file and serve an Application Notice (together with evidence in support) by 23 October 2020, and it would be heard at the Hearing.
41. Pursuant to CPR 3.3(3), the Order contained the following notice to the Claimant:

“Whether or not any Application Notice is issued by the Defendants... and as previously determined by Master Brown, at the Hearing the Court will consider whether the Claimant’s claim should be struck out pursuant to CPR Part 3.4 for failing to disclose proper causes of action and/or whether the Claimant’s claim (or parts of it) should be dismissed under CPR Part 24 as not having a real prospect of success.”
42. In the event, the Defendants did not issue any application to strike out the Claimant’s claim or for summary judgment. Nevertheless, their position remained that the proceedings were abusive and ought to be stopped.
43. However, on 21 November 2020, the Claimant issued an Application Notice seeking, amongst other orders, to “*define the meaning of the words complained of, in accordance with the Defamation Act 2013 s.1*”. I deal with this further Application Notice below (see [77]).
44. In December 2020, further directions were made for a hearing in the Libel Proceedings which was fixed for 10 February 2021. There was some confusion about whether the Defendants had issued any Application Notice seeking to strike out/dismiss the Claimant’s claim. Included within the Defendant’s Application Notice issued on 21 November 2020, was an application to “*strike out the Defendants’ application for non-compliance*”. Clarification was sought as to whether any such application had been issued, as none was showing on the CE-File system. On 15 December 2020,

the First Defendant (also on behalf of the Second Defendant) sent an email to the Court which included the following:

“I have not made any application to strike out as every bit of court work I do has a massive impact on my physical and mental health. I’m suffering with panic attacks and palpitations. Master McCloud and Master Brown both shared their concern there was no merit in his case and this would need to be considered at the next hearing. I was asked by Master McCloud to show every application in every court made against us by [the Claimant] for the courts to consider a civil restraint order, which I did. I’m not only preparing work for London courts but also the family courts whilst working and caring for two small children. I don’t want to file applications against [the Claimant] as I worry he will then put Ten more against my family.

I simply want the courts to recognise what is being done to my family and put a stop to this through their own powers. We feel we are being abuse and bullied. [The Claimant] wants contact with our children, this and all other cases taken out against us is simply way of him pressurising us to give in to his demands.”

45. The Claimant has wrongly characterised this as the Defendants “*withdrawing their application(s) to strike out the Claimant’s Claim and Civil Restraint Order made to Master Brown orally dated 3rd December 2019*”. In his skeleton argument for the hearing, the Claimant suggested that, “*by her own statement the Defendant wants the Claimant’s claim to proceed because there is no opposition to resist the Claim.*” That is not a tenable interpretation of the Defendants’ position, and, at best, demonstrates a lack of insight on behalf of the Claimant. Although the Defendants have not issued any application to strike out the Claimant’s claim, the Court has previously determined, by the Orders of Master Brown, Master McCloud and then mine, that the Court will consider, of its own motion, whether the Claimant’s claim ought to be struck out or dismissed.

The Hearing

46. The hearing was conducted, in private, remotely via MS Teams on 10 February 2021. It started at 11.30 and lasted until just before 5pm. The Claimant had sent the Court a guide as to the adjustments that should be made to support him as a litigant with a disability. This was helpful and provided assistance to me for the hearing. As noted already, regular breaks were taken. My assessment was that, although the proceedings caused some stress and upset, they were effectively conducted and gave a full and fair opportunity for all parties to present their submissions.
47. Bundles for the hearing were submitted by both the Claimant and the Defendants. They were well-prepared and allowed me to do substantial pre-reading before the hearing on 10 February 2021. The Claimant also provided a detailed skeleton argument, which was also of assistance.
48. During the hearing, the Claimant was able to assist me, with particular reference to his Amended Particulars of Claim, by explaining the nature of the claims that he wanted to pursue against the Defendants and why his statement of case disclosed a proper basis upon which to bring the claims.

Claimant's submissions

49. I will summarise the Claimant's case and submissions in relation to the four causes of action that he seeks to pursue against the Defendants.

Defamation

50. In his skeleton argument, the Claimant stated that it was his case that the Defendants have made statements about him, targeting "*people in social circles known to the Claimant*" to cause maximum impact on his reputation. At the hearing, the Claimant made it clear that he based his defamation claim upon the following four alleged publications (which were also identified in the Appendixes to his skeleton argument):
- (1) an alleged slander in or around 2013 by the First Defendant to the Second Defendant alleging that the Claimant sexually assaulted her as a child (APoC§14(b)(1));
 - (2) the text message sent by the First Defendant to her father on 8 June 2018 (see [11] above) (APoC§14(b)(1)(b));
 - (3) "*oral statements made by the Defendants before the 18th August 2019 made to the public at large*" alleging that the Claimant was a paedophile and had sexual relationships with children under the age of 16 and sexually abused the First Defendant between the ages of 11-17 (APoC§14(b)(1)); and
 - (4) an alleged slander published by the First Defendant to PUJ before 7 March 2020 alleging that the Claimant was a paedophile and had sexual relationships with children under the age of 16 and sexually abused the First Defendant between the ages of 11-17. This claim is not pleaded in the Amended Particulars of Claim. This claim is based on the text messages exchanged between the Claimant and PUJ on 7 March 2020 (see [33] above).

Malicious Falsehood

51. Largely, the Claimant's claim for malicious falsehood mirrors his claim for defamation, but the Amended Particulars of Claim suggest claims that go beyond the statements identified in the previous paragraph (see APoC§14(d)(2), which complains, additionally, of statements that were made to (a) the Defendants' solicitors; (b) the Family Court; (c) Cafcass, (d) NHT (whom I was told was a family friend); and (e) "*unknown third persons*" and the Claimant's family).

Misuse of private information/breach of privacy

52. The pleaded claim is the Defendants have used information relating to the Claimant's arrest and the allegation of sexual assault made by the First Defendant to suggest that the Claimant is a paedophile and that the complaint that led to the Claimant's arrest was true (APoC§14(c)(2)). Further, the Claimant contends that letters sent by the Claimant to the Defendants in the course of the Family Proceedings were marked "*private and confidential*" and that these (or their contents) have been "*unlawfully divulged*" to the Claimant's parents, the police, the Defendants' solicitors and unknown persons (APoC§14(c)(5)). The disclosure of this information has led, the Claimant claims, to

him being assaulted by a friend of the Defendant's, NHT, on 23 June 2018 (APoC§§14(a)(2) and 14(c)(8)).

53. In his Witness Statement, the Claimant summarised his case as:

“The Defendants acquired information about my arrest and had knowledge about our dispute over the children in the Family Courts. The 1st Defendant unlawfully breached her agreement with myself and told the 2nd Defendant about my arrest and together jointly with the 2nd Defendant told untold numbers of persons.”

Harassment

54. The pleaded case of harassment is centred upon the Defendants' decision to restrict and then curtail access to their children, leading ultimately to the Family Proceedings (APoC§14(a)(1)). Additional elements of harassment which are alleged against the Defendants are the disclosure of the Claimant's arrest by the First to the Second Defendant; the complaint of harassment made by Defendants to the police which led to the Claimant being given a harassment warning on 11 June 2018 (see [15] above); and the First Defendant's alleged requests to their parents to make the Claimant homeless (see APoC§14(a)(2)-(3) and the summary of the Claimant's harassment claim in APoC§14(a)(4)). The Claimant argues that these alleged acts of harassment was oppressive and unreasonable.

Legal Principles

55. For the purposes of the present decision, the following principles are relevant:

Striking out a statement of case

- (1) The Court can strike out a party's statement of case (or part of it) if it discloses no reasonable grounds for bringing the claim: CPR 3.4(2)(a).
- (2) If the Court finds that the party's statement of case is defective and must be struck out, the Court should nevertheless consider whether, if given an opportunity, there is a realistic prospect that the party will be able to remedy the defect. If so, the claim should not be dismissed and the claimant given an opportunity to provide a revised statement of case.

Summary Judgment

- (3) The Court can summarily dismiss a claimant's claim under CPR Part 24 if it considers that the claimant has no real prospect of succeeding on the claim or issue and there is no other compelling reason why the claim should be disposed of at a trial: CPR Part 24.2.
- (4) The principles to be applied when considering summary judgment are set out in *Easyaire Ltd -v- Opal Telecom Ltd* [2009] EWHC 339 (Ch) [15] *per* Lewison J (approved by the Court of Appeal in *AC Ward & Sons Ltd -v- Catlin (Five) Ltd* [2010] Lloyd's Rep 301 [24]). The Court will not summarily dismiss a claim where the claimant shows that it has some chance of success. That prospect must be real; the court will disregard prospects which are said to

be “*false, fanciful or imaginary*”. It is not appropriate to conduct a ‘mini-trial’ trial: ***Swain -v- Hillman* [2001] 1 All ER 91**.

- (5) Fundamentally, the criterion which the Court has to apply under Part 24 is not one of probability; it is absence of reality: ***Three Rivers DC -v- Bank of England (No.3)* [2003] 2 AC 1 [158]** per Lord Hobhouse.

Defamation

- (6) It is a fundamental requirement in any defamation claim for the claimant to set out, in his statement of case, the precise words that he says are defamatory of him and which the defendant has published to a third party: CPR Part 53 PD §2.2 (the Practice Direction in force when the claim was commenced); ***Capital and Counties Bank -v- Henty* (1882) 7 AC 741, 771-772** per Lord Blackburn; ***Wissa -v- Associated Newspapers Ltd* [2014] EWHC 1518 (QB) [28]** per Tugendhat J. In ***Collins -v- Jones* [1955] 1 QB 564, 571-572**, Denning LJ said:

“In a libel action it is essential to know the very words on which the plaintiff founds his claim. As Lord Coleridge CJ said in ***Harris -v- Warre* (1879) 4 CPD 125, 128**: ‘*In libel and slander everything may turn on the form of words, and in olden days plaintiffs constantly failed from small and even unimportant variance between the words of the libel or slander set out in the declaration and the proof of them... In libel and slander the very words complained of are the facts on which the action is grounded. It is not the fact of the defendant having used defamatory expressions, but the fact of his having used those defamatory expressions alleged, which is the fact on which the case depends.*’

Assuming that these letters did contain some statements defamatory of the plaintiff, that is not sufficient to ground a libel action. She must show what the actual words were. A plaintiff is not entitled to bring a libel action on a letter which he has never seen and of the contents of which he is unaware. He must in his pleading set out the words with reasonable certainty: and to do this he must have the letter before him, or at least have sufficient material from which to state the actual words in it. A suspicion that it is defamatory is not sufficient. He cannot overcome this objection by guessing at the words and putting them in his pleading. The court will require him to give particulars so as to ensure that he has a proper case to put before the court and is not merely fishing for one. If he cannot give the particulars, he will not be allowed to go on with the charge.”

- (7) These are not arcane pleading rules that serve no purpose. As made clear in the passage cited from Denning LJ, without the words being specified, it is impossible for the Court to determine whether the words conveyed any imputation defamatory of the claimant. In summary, a failure to specify the words complained of will mean that the statement of case will fail to disclose a cause of action and will be liable to be struck out pursuant to CPR 3.4(2)(a).
- (8) Application of the same principle also prevents a claimant from pleading a specific publication and then alleging that there were further occasions when the defendant published defamatory words about him, without also specifying the precise words alleged to have been published on these other occasions. If a

claimant wishes to bring a claim over alleged publication of defamatory allegations, and to recover damages and other remedies in respect of them, then each publication relied upon must be set out clearly in the Particulars of Claim: *Bunt -v- Tilley* [2007] 1 WLR 1243 [4] per Eady J.

- (9) The publication complained of by a claimant must be defamatory, both in the sense of being defamatory at common law and satisfying the requirements of s.1 Defamation Act 2013. In *Gubarev -v- Orbis* [2020] EWHC 2912 (QB), Warby J explained:

[38] The common law requires that the offending statement should have a tendency to cause a substantial adverse effect on the attitude of other (right-thinking) people towards the claimant: *Thornton -v- Telegraph Media Group* [2011] 1 WLR 1985 [94] (Tugendhat J). This is an objective test, depending on the extent to which the meaning of the words has an inherently harmful character. The requirement of more than minimal actual damage was recognised by the Court of Appeal in *Jameel (Yousef) -v- Dow Jones & Co Inc* [2005] QB 946, where the Court held that the Human Rights Act 1998 imposed on it a duty to dismiss a libel claim which was so trivial that its continuation would involve a disproportionate interference with freedom of expression.

[39] The higher statutory threshold was laid down by s.1 of the Defamation Act 2013, which contains what I have called the serious harm requirement:

“1 Serious harm

- (1) A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant...”

[40] The correct interpretation of s 1 has been litigated as far as the Supreme Court, which has now confirmed that section 1:

“not only raises the threshold of seriousness above that envisaged in *Jameel (Yousef)* and *Thornton*, but requires its application to be determined by reference to the actual facts about its impact and not just to the meaning of the words”: *Lachaux -v- Independent Print Ltd* [2020] AC 612 [12] (Lord Sumption, with whom the other Justices agreed).

The burden of proof lies, of course, on the claimant.

Malicious Falsehood

- (10) The same strict rules about setting out the precise words that were published by the defendant and which the claimant alleges were false and published maliciously apply equally to malicious falsehood actions: see §26.42 *Gatley on Libel and Slander* (12th Edition, 2013, Sweet & Maxwell). Without the words, the Court cannot begin to assess whether or not they (or the allegation(s) they conveyed) were false.

(11) The elements of the cause of action are set out in *Peck -v- Williams Trade Supplies Ltd* [2020] EWHC 966 (QB):

[12] At common law, a claimant in a malicious falsehood claim must prove publication to a third party of words referring to him, his property or his business which (1) are false; (1) were published maliciously; and (3) have caused special damage: *Ratcliffe -v- Evans* [1892] 2 QB 524, 527. As Bowen LJ observed in *Ratcliffe -v- Evans*, proof of damage was the “*very gist of the action*” (p.532). Malicious falsehood has been long recognised as one of the economic torts.

[13] In most malicious falsehood cases, the issue of falsity requires a determination of the meaning of the published statement...

[14] A claimant can be relieved of the obligation to prove that special damage was caused by the publication of the falsehood if s/he can rely upon s.3(1) Defamation Act 1952, which provides:

“In an action for ... malicious falsehood, it shall not be necessary to allege or prove special damage -

(a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form, or

(b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.”

[15] The phrase “*calculated to cause pecuniary damage*” requires a claimant to show that it is more likely than not that s/he has been caused pecuniary damage by publication of the falsehood: *Tesla Motors Ltd -v- BBC* [2013] EWCA Civ 152 [27]. Nevertheless, the issue of causation remains important, whether a claimant relies upon a plea of special damage or upon s.3 Defamation Act 1952. Put simply, in s.3 cases, unless the Court is satisfied that the publication of the falsehood is more likely than not to cause pecuniary damage, the claimant will have failed to demonstrate this necessary part of his/her malicious falsehood claim.

(12) Also, from *Tinkler -v- Ferguson* [2020] 4 WLR 89:

[44] As to damages in malicious falsehood:

(i) A claimant can recover general damages under s.3(1) Defamation Act 1952 if s/he can show that the alleged false statements were more likely than not to cause him pecuniary damage: *Cruddas -v- Calvert* [2013] EWHC 2298 (QB) [195] *per* Tugendhat J; *Niche Products Ltd -v- MacDermid Offshore Solutions LLC* [2014] EMLR 9 [14(1)] *per* Birss J.

- (ii) Pecuniary damage is financial loss or damage capable of being estimated in money (as opposed to compensated in money, e.g. general damages in defamation): *Niche Products* [39].
 - (iii) If the claimant's claim falls within s.3(1) Defamation Act 1952, the fact that s/he cannot demonstrate actual financial loss does not mean that the court must award only nominal damages: *Joyce -v- Sengupta* [1993] 1 WLR 337, 346H–347C per Sir Donald Nicholls VC; *Niche Products* [14(2)]; but the size of the award will necessarily be dependent upon the established impact of the publication of the falsehood and may, in some cases, be only modest: *Fielding -v- Variety Inc* [1967] 2 QB 841.
 - (iv) The Court of Appeal in *Joyce -v- Sengupta* (p.349A–B) left open the question of whether damages for hurt feelings could be awarded in a malicious falsehood action, but subsequently in *Khodaparast -v- Shad* [2000] 1 WLR 618 held that, if the claimant establishes an entitlement to damages for malicious falsehood, either on proof of special damage or by reason of s.3(1), then the award of general damages may reflect injury to the claimant's feelings: [42] per Stuart-Smith LJ.
 - (v) Harm to the claimant's reputation cannot form part of the basis of an award of damages for malicious falsehood: *Khodaparast* at p.631H per Otton LJ; *Joyce -v- Sengupta* at p.348F–G per Sir Donald Nicholls VC; and *Niche Products* [39].
- [45] ... [E]ven where s.3(1) is relied upon, a claimant must be able to show that the damage suffered by him flowed directly from the untruth of the statements of which he complains, i.e. that the damage complained of is attributable to and caused by the falsehood: [*Peck -v- Williams Trade Supplies Ltd* [2020] EWHC 966 (QB)] [13]. Difficult questions of causation of damage can arise in many cases: see discussion in *Niche Products* [48]. At the pleading stage, the claimant must identify (a) the nature of the loss which it is alleged the falsehoods caused; and (b) the mechanism by which s/he contends that loss is likely to have been sustained: *Tesla Motors Ltd -v- BBC* [2013] EWCA Civ 152 [37]; *Niche Products* [35], [45].

Misuse of Private Information/breach of privacy

- (13) The legal principles for claims of misuse of private information and now well-established and have recently been restated by the Court of Appeal in *ZXC -v- Bloomberg LP* [2021] QB 28 [38]-[49] per Simon LJ. The Court applies a two-stage test. First, judged objectively, does the claimant have a reasonable expectation of privacy in the particular information? If 'no', that is the end of the case. If 'yes', the second question arises: in all the circumstances, is the reasonable expectation of privacy displaced or outweighed by countervailing factors? Those who have simply come under suspicion of commission of an offence by the police have, in general, a reasonable

expectation of privacy in relation to that fact and an expressed basis for that suspicion: *ZXC* [82].

- (14) At the second stage, conflicts between the parties' rights under Article 8 and Article 10, are to be resolved by applying the balancing exercise identified in *Re S* [2005] 1 AC 593 [17] per Lord Steyn. At that stage, the Court will assess the rights of the claimant and any countervailing rights of the defendant under Article 8 and Article 10. The choice whether to disclose information, as part of personal autonomy, is an important dimension not only of Article 10 but also Article 8: *Re Angela Roddy* [2004] EMLR 8 [36] per Munby J; *Duchess of Sussex -v- Associated Newspapers Ltd* [2021] 4 WLR 35 [86] per Warby J. Depending on the facts, the Article 8 rights of both parties may be engaged, particularly in the context of family life.
- (15) To sustain an action for misuse of private information, the interference with the right to private life protected by Article 8 must reach a certain level of seriousness: *M -v- Secretary of State for Work and Pensions* [2006] 2 AC 91 [83] per Lord Walker; *R (Wood) -v- Commissioner of Police of the Metropolis* [2010] 1 WLR 123 [22]-[28] per Laws LJ.

Harassment

- (16) I take the law that applies to a claim for harassment under the Protection from Harassment Act 1997 from *Hayden -v- Dickenson* [2020] EWHC 3291 (QB) [44], particularly [44(ii)]:

“The behaviour said to amount to harassment must reach a level of seriousness passing beyond irritations, annoyances, even a measure of upset, that arise occasionally in everybody's day-to-day dealings with other people. The conduct must cross the boundary between that which is unattractive, even unreasonable, and conduct which is oppressive and unacceptable. To cross the border from the regrettable to the objectionable, the gravity of the misconduct must be of an order which would sustain criminal liability under s.2...”

Immunity from suit

- (17) No person taking part in legal proceedings, including the judge, the advocates, the witnesses and the parties - can be sued for anything written or spoken in the course of the proceedings. The immunity is absolute and cannot be defeated even by proof of malice: *Munster -v- Lamb* (1883) 11 QBD 588, 607 per Fry LJ; *Taylor -v- Serious Fraud Office* [1999] 2 AC 177, 207F per Lord Hoffmann. The immunity from suit extends to statements made by the witness to a party and his legal advisers with a view to giving evidence: *Watson -v- M'Ewan* [1905] AC 480; it also applies to out of court statements which can fairly be said to be part of the process of investigating a crime or a possible crime with a view to prosecution: *Taylor -v- SFO* (Lord Hoffmann at 215 approving Drake J in *Evans -v- London Hospital Medical College (University of London)* [1981] 1 WLR 184, 192); and applies to the initial complaint to the police as regards a matter which might lead to a prosecution, and therefore to cover the initial complaint: *Westcott -v- Westcott* [2009] QB 407. The only

exception to immunity from suit is the tort of malicious prosecution: **Roy -v- Prior [1971] AC 470**.

(18) In **Singh -v- Reading Borough Council [2013] 1 WLR 3052**, Lewison LJ summarised the boundaries of immunity from suit [66]:

- “(i) the core immunity relates to the giving of evidence and its rationale is to ensure that persons who may be witnesses in other cases in the future will not be deterred from giving evidence by fear of being sued for what they say in court;
- (ii) the core immunity also comprises statements of case and other documents placed before the court;
- (iii) that immunity is extended only to that which is necessary in order to prevent the core immunity from being outflanked;
- (iv) whether something is necessary is to be decided by reference to what is practically necessary;
- (v) where the gist of the cause of action is not the allegedly false statement itself, but is based on things that would not form part of the evidence in a judicial inquiry, there is no necessity to extend the immunity; [and]
- (vi) in such cases the principle that a wrong should not be without a remedy prevails.”

Decision

Defamation and malicious falsehood claims

56. On his current pleaded case, the only publications to any third parties in respect of which the Claimant has set out the words of the alleged libel/malicious falsehood, are:

- (1) the text message sent by the First Defendant to her father on 8 June 2018 (see [11] above): APoC§14(b)(1)(b); and
- (2) the written statement made by the Defendant’s solicitors in the Family Proceedings: APoC§14(b)(1)(d).

57. I can deal with the second publication shortly. Because it was made during the Court proceedings (it appears at the hearing on 20 June 2018), it is protected by immunity from suit. No claim, whether for defamation, malicious falsehood, misuse of private information or harassment can be brought by the Claimant on this publication. The claim in respect of that publication will be struck out pursuant to CPR 3.4(2)(a).

58. In respect of the first publication, I will ignore for the purposes the discreditable methods used by the Claimant to obtain the text message from his father’s mobile telephone. The Claimant’s Amended Particulars of Claim does adequately set out the particular words which he alleges were published about him by the First Defendant to his father. For the purposes of this judgment, I will also assume in the Claimant’s favour

that he would be successful in demonstrating that it bore a natural and ordinary meaning that was defamatory of him at common law.

59. Nevertheless, in my judgment, the Claimant's pleaded case in defamation discloses no reasonable case that the publication of the text message by the First Defendant to her father has caused or is likely to cause serious harm to the Claimant's reputation as required by s.1 Defamation Act 2013. The Amended Particulars of Claim do not advance any facts which – even if assumed true – demonstrate that the publication of the text message caused or is likely to caused serious harm to his reputation. There is, for example, no pleaded that the Claimant's father repeated or republished the defamatory sting of the text message. That is sufficient to strike out the Claimant's defamation claim based on this text message under CPR 3.4(2)(a). However, I would also have dismissed the defamation claim in respect of this text message under CPR Part 24 on the further ground that it is clear that the Claimant has no real prospect of satisfying s.1 Defamation Act 2013 having regard to the clear evidence of the absence of any real reputational harm demonstrated by the reply that the father sent to the First Defendant's text message (see [12] above). It is clear from the terms of that message that the First Defendant's father was, whilst not defending the Claimant, at least asking the First Defendant to take into account the Claimant's disability. The father's reply is clear and contemporaneous evidence demonstrating that any claim that the publication of the text message caused serious harm to the reputation of the Claimant in his eyes is fanciful and unreal.
60. In respect of the malicious falsehood claim in respect of the text message, the Claimant's Amended Particulars of Claim do not clearly set out what, in the text message, was false. I will assume for the purposes of this judgment that, were he given a further opportunity, the Claimant would be able to identify and set out in his statement of case what he says was false in this text message and that he could plead and advance a case of malice against the First Defendant. The Claimant does not allege in his Amended Particulars of Claim that publication of the text message to his father caused him special damage. As such, to succeed with a claim in respect of malicious falsehood, he would have to rely successfully on s.3 Defamation Act 1952. The Claimant has not pleaded reliance on s.3 in his Amended Particulars of Claim, but that could be cured by an amendment if he would have a real prospect of successfully relying on the section.
61. Nevertheless, I am satisfied that any attempt to rely on s.3 by the Claimant, in support of a malicious falsehood claim in respect of the First Defendant's text message to her father, is bound to fail. The Claimant has neither pleaded nor advanced any basis on which he could succeed in demonstrating that the publication of the text message to his father was more likely than not to cause him pecuniary damage. Applying the principles in [55(11)] and [55(12)] above, his claim does not disclose a cause of action. Further, on the evidence, any such a claim would be fanciful. The Claimant cannot put forward a credible mechanism whereby any alleged falsity in the text message could have caused him pecuniary damage, particularly in light of his father's message in response. The financial losses alleged in APoC§14(b)(1)(a) and/or APoC§15(2) are not said to have been caused by the publication of the text message. In consequence, the malicious falsehood claim in respect of the text message will be struck out pursuant to CPR 3.4(2). I would also have been satisfied that it should be dismissed pursuant to CPR Part 24 as having no real prospect of success for the same reasons.

62. That leaves the various further unidentified publications alleged to “*the Defendants’ solicitors, Family Court, Cafcass, [NHT], unknown third persons and the Claimant’s family*”. Some of these claims are advanced on the basis that the Claimant infers that there was some publication made by one or both of the Defendant. Examples of these are alleged publications:
- (1) by the First Defendant to the Second Defendant at some point in 2013 alleging that the Claimant had sexually assaulted her as a child (APoC§14(b)(1));
 - (2) by the Defendants to the police, which led to the harassment warning to the Claimant on 11 June 2018 (see [15] above);
 - (3) by the Defendants to NHT, which the Claimant alleges led to him being assaulted by her on 23 June 2018 (see [52] above);
 - (4) by the Defendants to the man who referred to the Claimant as a “*paedophile*” in the August Incident (see [27] above); and
 - (5) by the First Defendant to PUJ on 7 March 2020 (see [33] above, but which is not actually pleaded in the Amended Particulars of Claim).
63. I do not doubt that the Claimant might be able to demonstrate an inferential case that there *might* have been a publication from one or both of the Defendants that led to these separate incidents, but a claimant in a defamation/malicious falsehood claim must go further than that: he must set out the words that were used. The Claimant has not set out the words and it is a fair conclusion that he cannot do so because he does not know them; he would be guessing as to what words were used, by whom, in what circumstances and when. Applying the principle identified in [55(6)] to [55(8)] above, this is impermissible. These claims, and those to “*unknown third persons*”, do not disclose reasonable grounds upon which to bring a claim for defamation or malicious falsehood. They are speculative and will be struck out pursuant to CPR 3.4(2)(a). Further, and in any event, any claim based on publication(s) to the Defendants’ solicitors, the Family Court and Cafcass, as well as being struck out for failure to identify the precise words that the Claimant contends were published, would also be protected by immunity from suit.
64. For these reasons, the Claimant’s claims for defamation and malicious falsehood will be struck out.

Misuse of Private Information/Breach of Privacy

65. The principal parts of the Claimant’s claim for misuse of private information are based on alleged occasions on which the Defendants or either of them disclosed information in respect of which the Claimant had a reasonable expectation of privacy. These claims are inadequately particularised in the Amended Particulars of Claim as to what information was disclosed, to whom and when, and appear to be as speculative as the claims for defamation and malicious falsehood. The Claimant complains that information relating to his arrest was disclosed by the First Defendant to the Second Defendant at some point after his arrest (see APoC§14(a)(2)) and that information from the Family Proceedings has been “*unlawfully divulged*” by the Defendants to the

Claimant's parents, the police, the Defendant's solicitors and "*unknown persons*", but in neither case does he clearly identify what was disclosed and when.

66. Further, insofar as the Claimant complains of disclosure of information by the Defendants in the Family Proceedings or to the Defendants' solicitors, to disclose a claim with a reasonable prospect of success, the Claimant would have to identify very clearly the particular information the disclosure of which was not protected by immunity from suit. The Claimant's pleaded case does not begin to do so.
67. The pleaded case is equally bereft of details of what private information the Claimant contends that the Defendants disclosed to the Claimant's parents. But even assuming that he could overcome that hurdle – if for example being given a further opportunity to replead his case – I consider the claim for misuse of private information based on disclosure to the Claimant's parents has no real prospect of success in any event. Even if the Claimant could prove that the Defendants had disclosed details from the Family Proceedings, and that these were of a level of seriousness to engage Article 8, then absent some particular features, such disclosures would be likely to fall comfortably within the Defendants' Article 8/10 rights. The disclosures were made to the First Defendant's parents, in relation to litigation brought by her brother, their son, in relation to their grandchildren. I reject as fanciful the prospect that the Court would find, on the basis of the Claimant's pleaded case, that there had been an unlawful interference with his Article 8 rights by the alleged disclosures made by the Defendants to the Claimant's parents. Likewise, the claim based on disclosure of the Claimant's arrest to members of the Claimant's family. Any disclosure that the Claimant could establish would have been extremely limited.
68. The claim for misuse of private information arising from an alleged disclosure of information to NHT similarly fails because the Claimant has not identified what information was disclosed to her and which is alleged to have led her to assault the Claimant.
69. In respect of each of the claims for misuse of private information advanced by the Claimant, the failure to state clearly in his statement of case details of precisely what was disclosed, to whom and when means that the Court cannot begin to assess whether the Claimant has a reasonable expectation of privacy in the information, including whether the disclosure was such that it reached the required level of seriousness to engage the Claimant's Article 8 rights.
70. For these reasons, the Claimant's claims for misuse of private information/breach of privacy will be struck out.

Harassment

71. It is difficult precisely to identify the acts upon which the Claimant relies as acts of alleged harassment from the Amended Particulars of Claim. This is so even though Master McCloud ordered him, on 3 July 2020, to set out specific particulars of the alleged course of conduct relied upon as harassment, including dates or periods of time for specific alleged conduct. APoC14(a)(1) and (3) consist of an unfocused allegations that the Defendants "*used their own children for the purposes of controlling, coercive and threatening behaviour*". On analysis, the Claimant's statement of case in respect of alleged harassment contains little more than the Claimant's complaints about the

Defendants' decision to restrict, and then to curtail, the Claimant's access to their children and then their response to the Family Proceedings initiated by the Claimant. These acts are incapable of amounting to acts of harassment. Further, insofar as the claim for harassment is based upon allegations made by the Defendants in the Family Proceedings then those are protected by immunity from suit in any event.

72. In my judgment, the Amended Particulars of Claim do not disclose a proper basis on which to bring a claim for harassment. Further, I do not consider that, having considered the history between the Claimant and the Defendants, that the Claimant has any real prospect of demonstrating that any of the conduct of the Defendants will clear the threshold of seriousness that would be required to demonstrate harassment.
73. For these reasons, the Claimant's claims for harassment will be struck out.

Should the Claimant be given a further opportunity to replead his claim

74. Having struck out each of the causes of action relied upon by the Claimant, for the reasons I have explained, I will make an order striking out the Amended Particulars of Claim.
75. The question then arises whether, notwithstanding my decision to strike out his Amended Particulars of Claim, I should give the Claimant a further opportunity to replead his claim or whether I should dismiss his claim. I have come to the very clear conclusion that his claim should be dismissed.
76. I do not consider that there is any real prospect that the Claimant can remedy the myriad defects with his proposed claims. This is because he will be unable to surmount the various obstacles that have led to his current statement of case being struck out, e.g. of his lack of knowledge of the words (if any) that were published by the Defendants on the various occasions upon which he wishes to rely and immunity from suit. I am satisfied that the Claimant has been given every opportunity to put forward his best claim. On 21 November 2019, Master Brown had given the Claimant the first warning that his statement of case was liable to be struck out for failing to disclose a proper basis on which to bring the claims he wished to pursue. Subsequently, on 3 July 2020, Master McCloud ordered the Claimant to provide Amended Particulars of Claim. Her order specified, in detail, what the Claimant was required to set out in his statement of case in respect of each of his causes of action. In my judgment, the reason the Amended Particulars of Claim still fails to disclose proper causes of action is not a result of a failure of understanding on the part of the Claimant. It is because the acts of the Defendants about which he complains do not amount to civil wrongs. He will never be able plead a statement of case that discloses reasonable grounds for bringing his claim, no matter how many attempts he is given. I am satisfied that the action brought by the Claimant is and was totally without merit. It ought never to have been commenced. The claim will be dismissed.

The Claimant's Application

77. In light of my decision to strike out and dismiss the Claimant's claim, it is not necessary to deal with the Claimant's Application Notice dated 21 November 2020 (see [43] above). Formally, it will be refused.

Civil Restraint Order

78. Following the refusal of permission to appeal by Williams J on 13 February 2020 (see [32] above), this is the second occasion on which the Court has declared that the Claimant has brought a claim or application that is totally without merit. Pursuant to CPR 3.4(6)(b), I am required to consider whether it is appropriate to make a civil restraint order against the Claimant. In this regard, I also note that this was one of the issues that Master McCloud also specifically referred to me for consideration by her order of 3 July 2020.
79. I consider that there is a prima facie case justifying the making of a Civil Restraint Order against the Claimant. Not only has the Claimant brought an action/application on two occasions which the court has declared to be totally without merit, but the Court now has a much clearer overall picture of the way in which the Claimant has been conducting various proceedings against the Defendants (including the bringing of a private prosecution against the Second Defendant) and claims related to these proceedings (e.g. claims for judicial review). At this stage, I am satisfied there are grounds upon which the Court could conclude that a Civil Restraint Order is required to protect the Defendants, at least, from further civil claims brought against them by the Claimant.
80. Fairness to the Claimant requires that he be given an opportunity to file, if he wishes, any evidence upon which he wishes to rely and to prepare submissions as to whether a Civil Restraint Order should be made against him. I will give directions for such evidence and submissions and fix a further hearing. As the Court will be considering whether to make a Civil Restraint Order of its own motion, the Defendants will not be required to participate in this further hearing. Nevertheless, as interested parties, they can attend the hearing and/or make submissions if they wish to do so.

Appendix – Redacted extracts from the Amended Particulars of Claim

14. (a) Harassment pursuant to section 3 of the Protection from Harassment Act 1997

- [(1)] On or about 14th April 2010 thereafter and ongoing to present date. The Defendant's used their own children for the purposes of controlling, coercive or threatening behavior, which would provoke violence or abuse towards the Claimant whom did not comply with their instructions. In particular, refused the Claimant to have any sort of photography memoir with his niece or nephew and at regular intervals the Defendants would prevent the Claimant to see his niece and nephew if the Claimant did not do as they said. The Claimant would be prevented sometimes days, months, or years at a time where he would not be allowed to his niece or nephew. The 1st Defendant adjacent to this, would refused (sic) to speak or associate with the Claimant with to inflict emotional pain, distress and anxiety. On a date known only to the Defendants in the year 2013, *allegedly by the 2nd Defendant*. The 1st Defendant manipulated the 2nd Defendant and brainwashed him by lying and told the 2nd Defendant, clandestinely, that '*... [the Claimant] was between age 11-17 sexually inappropriate to her...*' On the 14th February 2014, clandestinely again, told the Claimant's Doctor's falsely that the Claimant had '*... Whilst she was growing up, her brother used to behave very inappropriate towards her. She went on in the consultation to record that she "... is repulsed by sex as associates with this experience with a family member and that a sexual relationship is wrong and unhealthy..."*'
- [(2)] After the 23rd March 2016, the 1st Defendant against the Claimant agreement. Told the 2nd Defendant what the Claimant had been arrested and reasons for. On or about the 23rd December 2016 the 1st Defendant whilst attending a pantomime with the Claimant and his niece [...] after reconciling with the Claimant over a dispute of family photos. Told the Claimant he would 'never see the children again'. This amplified his PTSD prolonging recovery (eggshell rule or talem qualem rule). The 1st Defendant instructed the 2nd Defendant prohibit the Claimant. On the 12th August 2017 the 1st Defendant texted the Claimant advising she will tell his niece (god child) and nephew that he is "unsafe". On the 7th March 2018 the 1st Defendant text the Claimant saying she had "spoken to the police. Yours and our details have been logged with their safeguarding team" and had done so and threatened to make a false complaint for "harassment". Before the 21st May 2018 the Defendants told the Claimant parents about private correspondence between them and the Claimant about Family Court proceedings. On or about 1st June 2018 told about the Claimant's arrest to the Family Magistrates Court and unknown persons for the purpose of inflicting distress and anxiety to the Claimant. Thereafter prolonging and protract legal proceedings to present date and provoking hostility towards the Claimant via their Solicitor and eventually assaulted on about 23rd June 2018 and causing public disorder on the 17th August 2019. After the 2nd June 2018 the Defendants falsely alleged via CAFCASS, the Courts and the Claimant's Parents. (sic) That the Claimant had sexually assaulted her as a child between 11-17 year of age. About the 6th June 2018 the Defendants would stalk the Claimant's social media page. On or about the 8th June 2018 the 1st Defendant told Claimant parents he (Claimant) sexually assaulted her as child. This caused the Claimant father to threatened (sic) to leave him in a ditch.
- [(3)] On the 11th June 2018 procured an email form (sic) [the] Police [...] to threaten the Claimant with a complaint for harassment. On the 27th December 2018 the 1st Defendant without notice lied to obtained a non-molestation order and to

prevent the Claimant further endeavouring legal proceedings and/or avoid service. The Defendants used intentionally a Police Office (sic) to intimidate the Claimant for service of the order. The Claimant was then prohibited from sending Birthday and Christmas cards to his niece and nephew. On and after the 3rd January 2019 1st Defendant made requests to the Claimant's parents to make the Claimant homeless "... I have made up my mind you can't give me what I need our relationship is over I needed emotional support I've begged for it you can't even acknowledge what he has done to me you say you couldn't throw anyone else he is sexually emotionally abused me (sic) ...". By June 2019 the Claimant became homeless and found alternative accommodation. In March 2020 the Claimant was notified he was under investigation by [the regulatory body for his employment] for a complaint relating to the 17 August 2019 incident. It's alleged this was made by the Defendants alleging abuse of position and/or poor professionalism.

- [(4)] The Claimant claims damages for Harassment against the Defendants for pursuing a course of conduct that was oppressive and unreasonable and abuse of process to achieve, wrongfully, an outcome in their favor. In the case of *Worthington & Anor v Metropolitan Housing Trust Ltd* [2018] EWCA Civ 1125. It is stated that Courts are well able to recognize the boundary between conduct which is unattractive, even unreasonable, and conduct which is oppressive and unacceptable. To cross the boundary from the regrettable to the unacceptable. The gravity of the misconduct must be of an order which would sustain criminal liability under section 2 [of the PHA]. The Court's also established in this particular case a Defendant can still even attract liability through litigation where on the face of it would be lawful but under sheep's clothing acted as a wolf, so as to abuse the legal system or procedures or exacerbate a claim or defense and/or cause an unnecessary legal action at the expense of the injured party to intentionally cause distress or anxiety. The Claimants case is that the Defendants, mainly the 1st Defendant, via actions of her own conduct and through their solicitors. Intentionally set about to cause alarm and distress to the Claimant in order to damage the credibility of the Claimants reputation shown in paragraph 14 (b), to cause and strain on the relationship between the Claimant and the Claimant's Father and Mother. To cause an aftermath event that would force the Claimant to be homeless by persuading the Claimant's Mother and Father to sell the family home in order not to live under the same roof as the Claimant. To also cement the distance between his niece and nephew. To also provoke fear and violence upon the Claimant. To an extent that the Claimant was struck and assaulted by a friend of the Defendants because of the legal proceedings. This caused substantial distress and anxiety and personal injury to the Claimant.

(b) Defamation of Character

- [(1)] The Claimant claims damages from the 1st Defendant for slander for a statement made to the 2nd Defendant clandestinely in the year (allegedly) 2013, alleging the Claimant sexually assaulted her as a child. The Claimant claims damages against the 1st Defendant for 'targeted' libel defamatory statements made to the Claimant's father and mother and unknown persons. The Claimant claims damages in respect of defamatory libel statements made against the Claimant to the Claimant Father and potentially others unknown. The Claimant also claims against both Defendants for statements which were slanderous statements, alleging the Claimant is 'unsafe' to the Claimant niece and nephew, for statements stating he is a pedophile, a dangerous man, that he is harassing them and he sexually abused the 1st Defendant when she was a child and falsely alleging the Claimant's arrest 23rd March 2016 was because he was a pedophile. These statements libel or slander were made to

persons known and unknown not involved in the legal proceedings and not in the connection of legal proceedings that would cause the reasonable right-minded person to hold the Claimant in contempt.

[(a)] The serious harm, caused the Claimant to loose (sic) work, cause him pay legal costs and expenses for the purposes of legal proceedings in excess of hundreds of pounds, caused damage to family reputations, caused the Claimant to be assaulted and damage to injury to feelings and his personal reputation between the 2nd Defendant, his family and in the community. The extent of the damage done was targeted to alienate the Claimant from those held dear to him or to impact him on his every day to day life. More than 9 members of his family no longer want to speak to him as result of the false statements.

[(b)] Privilege (Absolute/Qualified) does not apply as these statements were made outside Court and in the public domain and were not a fair contemporaneous and accurate statement or in the public interest and made with malice. The particulars of the slanderous falsehoods are, alleging the Claimant is 'unsafe' to the Claimant niece and nephew, for statements stating he is a pedophile, a dangerous man, that he is harassing them and he sexually abused the 1st Defendant when she was a child and falsely alleging the Claimant's arrest 23rd March 2016 was because he was a pedophile. These statements libel or slander were made to persons known and unknown. On or about the 8th June 2018 the 1st Defendant wrote by electronical communication to the Claimants father Which is stated as follows:- ...

[the text of the message sent by the Claimant to her father is set out – see [11] in main judgment]

[(c)] It is this statement highlighted in bold and/or underlined that are defamatory. The Claimant affirms that they were untrue statements and that the ordinary meaning of these words were meant to be construed that the Claimant was a 'very dangerous person' that he would put 'himself and others at risk', and has 'no care for others' so is therefore selfish and loathsome and immoral. That it was intermated (sic) that the Claimant adds people on his Facebook page for the purposes of criminally sexual grooming people under the age of 18 years of age but also inferring an innuendo meaning including people under ages of 16 years of age in addition to those above 16 years of age. That the meaning of 'god knows what he does with them' was to infer or give an innuendo meaning that the Claimant could be having sexual relationships, even girls under the age of 16 years of age. That the meaning 'I've heard him talk to girls and medical professionals he is 'pervy' is to be construed or an innuendo as the Claimant is a pervert. That the meaning for 'he is not right in the head' was a meaning for the Claimant was insane or deranged psychopath person and the meaning of a 'bad person' was to mean in totality of what was already said in context that the Claimant was a pedophile, a deranged psychopath or was insane, and/or a pervert with no regards to himself or care for others.

[(d)] The Claimant also demonstrates by drawing inferences from extraneous facts, from false statements made in the cause of legal proceedings. Where the Defendants Solicitors stated:

[the written submissions of the Defendants' solicitors are set out – see [20(3)] in the main judgment]

[(e)] From these extraneous facts it can be easily agreed the Defendants are liable, jointly and severable as they went onto a campaign of discrediting the Claimant because of family photos and exploiting the Claimants unfortunate events that lead to no prosecution because as the Claimant puts it. There was no case to answer. The Claimant is entitled under Article 6 of the Human Rights Act 1998 to be treated as innocent until proven guilty. That the Claimant's case, is that of much similar to the case of Sir Cliff Richard v the BBC and The Chief Constable Police of South Yorkshire Police [2018] EWHC 1837 (Ch).

[(f)] However that the enemy in the mix is the Defendants, who have maliciously set about to alienate the Claimant from the rest of the family.

[(g)] This caused damage to the Claimants reputation and damage to his privacy and cause anxiety and distress.

(c) Misuse of private information and breach of privacy

[(1)] It is admitted that the Claimant was arrested on about the 23rd March 2016 for suspicion, under the Sexual Offences Act 2003 relating to a compliant by a third person, not the 1st Defendant.

[(2)] Particulars of the alleged falsehood are; 1st Defendant between ages 11-17 years of age was sexually assaulted by the Claimant. The Claimant's case is that such did not happen at all and his case is the allegation is invented. It is also the Claimants case that the Defendants used the Claimant arrest information and fictitious allegation made by the 1st Defendant and portray them falsely as 1) the Claimant is a paedophile, 2) and/or either or both allegation is substantially true, when he/it is not.

[(3)] Further particulars of malicious falsehoods statements are that the Claimant has entered into inappropriate relationships with minors largely online. The Claimant's case is that did not happen at all and is invented to support the falsehood allegations above.

[(4)] Particulars of malice relied upon are, similarly outlined under Practice Direction 12J of the Family Procedure Rules 2010, paragraph 3 as "domestic abuse" which Includes any incident or pattern of incidents of controlling, coercive or threatening behaviors, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse...". It is also further pleaded that the Defendants targeted selective persons associated with the Claimant and knew the allegations where not true, that the Defendants admitted openly they knew the allegation were not true, said in Court that the allegations were not true, signed a C7 Family Court form acknowledging they did not believe that the child(ren) named on the form have suffered or are at risk of suffering any harm. Persistently held claim that their feud with the Claimant was for family photos. Knew or ought to reasonably knew the information (Claimants arrest) they acquired was extremely sensitive and confidential. The Claimant expressly writing to the Defendants not publish the

Claimants arrest to third parties and not to exaggerate those claims and did not comply with a Family Court Order stating not to disclose said information about the Claimant.

[(5)] The Claimant between on the 27th February 2018, 19th March 2018, 25th March 2018, 21st May 2018, 29th May 2018, 4th June 2018, and 7th June 2018. Sent letters to the Defendant's each marked "Private & Confidential". Those communications and the contents, amounted to private information. The letters were of sensitivity nature of anticipated legal proceedings or information about the Claimant's arrest that may harm relationships with the Claimant's Mother and Father or other third persons i.e. other family. The Claimant relies on Paul Burrell v Max Clifford [2016] EWHC 294 (Ch); HRH Prince of Wales v Associated Newspaper Ltd [2006] EWCA Civ 1776; Sir Cliff-Richard OBE v SYP & the BBC [2018] EWHC 1837 (Ch) for the same reasons. The Defendant unlawfully divulged that information to third person (Claimant's Parents, Police, Defendant's solicitors, and unknown persons not privy to the letters addressed to thwart legal proceedings and to caused distress, emotional harm and expenses to the Claimant.

[(6)] The Claimant claims damages for misuse of private information. The Defendants in their capacity as a family member misused their position in the family and abused the Claimants trust by using information in confidence which was concocted into a lie for the Defendants own gain, wrongfully and maliciously. This caused substantial distress and anxiety. The private information disclosed was the Claimant been arrested under a warrant under section 10 of the Sexual Offences Act 2003 and the Claimant denied the allegations. The Defendants then hijacked that information and turned it into falsely that the Claimant had:

From the age of 11 until late teens the mother was subjected to inappropriate sexual behavior and occasional sexual assault by the Applicant; The Applicant enters Into Inappropriate sexual relationships, largely online with teenage girls; he was arrested (but not charged) with the grooming of a 14 year old girl;

[(7)] In order to sway motion in their favor. The Claimant claims damages for breach of privacy. The Claimant is entitled to a degree of privacy. The Claimant is entitled to confidential and sensitive information not to be shared amongst others. The Defendants shared information and false information to other persons. That degraded the Claimant in such a way he feared from repercussions from the Defendant actions, causing stress and anxiety and personal injury. The 1st Defendant text message the Claimant on the 7th March 2018 stating: "Your details have been logged with safeguarding (police) team"

[(8)] The Defendants communicated with the Claimants Father and Mother detailing about private letters that were headed as 'Private and Confidential' from the Claimant to the Defendants. The 1st Defendant had communicated or intermated that on the 8th June 2018 that "I will tell whoever I need to about his extreme behavior's and the past." In July 2018 the Claimant was eventually assaulted by the Defendants friend as a result of Defendants informing others.

(d) Malicious Falsehood

[(1)] The Claimant has suffered actual damage/ loss which was calculated to cause financial damage to the Claimant and the statements were published in writing or

permanent form or oral speech. It was also calculated to cause financial damage to the Claimant in respect to his office, professional calling, trade or business.

[(2)] The statements were not true and published maliciously and were made to the Claimants Father, Defendants Solicitors, Family Court, CAFCASS, [NHT], unknown thirds (sic) persons and Claimant's family. Particulars of malice relied upon are, similarly outlined under Practice Direction 12J of the Family Procedure Rules 2010, paragraph 3 as "*domestic abuse*" which includes any incident or pattern of incidents of controlling, coercive or threatening behaviors, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse...". It is also further pleaded that the Defendants targeted selective persons associated with the Claimant and knew the allegations were not true, that the Defendants admitted openly they knew the allegation were not true, said in Court that the allegations were not true, signed a C7 Family Court form acknowledging they did not believe that the child(ren) named on the form have suffered or are at risk of suffering any harm. Persistently held claim that their feud with the Claimant was for family photos. Knew or ought to reasonably knew the information (Claimants arrest) they acquired was extremely sensitive and confidential. The Claimant expressly writing to the Defendants not publish the Claimants arrest to third parties and not to exaggerate those claims and did not comply with a Family Court Order stating not to disclose said information about the Claimant.

[(3)] The statements are listed in 14(a) and (b) of the Particulars of Claim, save to repeat them again.

[(4)] The Claimant claims damages for malicious statements made to the Claimant's Father outlined in paragraph 14 (a) and (b) and contorting them into something malicious for their own wrongful gain. This caused anxiety and distress and financial loss and personal injury.

15. The Claimant believes that the value of his claim is between £0.00 to ~~£5,000.00~~ £Unlimited which is to be assessed by a Court.

Schedule of loss/Remedy

[(1)] General Damages, which must be sufficient to compensate the claimant for the damage to their reputation: vindicate their good name; and take account of the distress, hurt and humiliation which the publication has caused. Case law indicates £15,000.00 to £175,000.00.

[(2)] Special Damages: Economic loss (2x shifts: at £60.00 each; £120.00), Personal Injury £500.00, Legal Expenses, Costs: Undetermined due this being ongoing but is more than £2,000.00.

[(3)] Aggravated Damages: Case law indicates £15,000.00 to £175,000.00.

[(4)] Statutory Interest pursuant to Superior Courts Act 1981 section 35A from the date of the first event.

[(5)] Injunctive Relief to restrain further publication, course of conduct. misuse of information.