Neutral Citation Number: [2015] EWCA Civ 1291

Case No: A3/2015/2136-2143

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
Mr Justice Mann
[2015] EWHC 1482 (Ch)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17/12/2015

Before:

LADY JUSTICE ARDEN
LADY JUSTICE RAFFERTY
and
LORD JUSTICE KITCHIN

- -

Between :

Representative Claimants	**Respondents**
- and -	
MGN Limited	**Appellant**

- -
- -

Lord Pannick QC and Matthew Nicklin QC (instructed by **RPC**) for the **Appellant**
David Sherborne and Jeremy Reed (instructed by **Atkins Thomson** as Lead Solicitors for **Atkins Thomson, Clintons, Hamlins, Steel & Shamash** and **Taylor Hampton**) for the **Respondents**

Hearing dates: 20 - 21 October

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Approved Judgment

LADY JUSTICE ARDEN:

Principal issue: level of compensation for phone hacking

1. These appeals are brought by MGN Limited ("MGN"), proprietor of the *Daily Mirror, The Sunday People* and *The Sunday Mirror* newspapers, against the orders dated 11 June 2015 of Mann J, awarding substantial sums ranging from £72,500 to £260,250 to the eight respondents to these appeals for misuse of private information derived from intercepting voicemail messages left on the respondents' telephones (referred to below as "hacking"). I have set out details of the awards in the schedule, together with particulars of the sums contended for at trial.

2. The judge had to compensate the respondents for numerous acts of hacking, and so the final awards are aggregate figures representing the largest awards of damages yet made by our courts for breach of a person's privacy. Moreover, the judge's careful and comprehensive judgment, to which I pay tribute, is one of the first to contain a detailed analysis of how such damages are to be calculated. These appeals are also test cases: there are some seventy other cases of the same kind which have been commenced, and in addition, MGN has received some fifty other letters of claim.

3. It might be thought that this would be an occasion when this Court would consider generally the appropriate level of awards for obtaining and publishing private information. MGN's case on appeal, however, has been put on four distinct grounds. We are not invited to travel beyond those issues and the facts of these cases. That said, in my judgment, this Court can give important guidance which will reduce some uncertainty as to the appropriate level of awards and thus save legal costs.

4. Hacking is the process whereby a person, who has no authority to do so, accesses voice messages left on another's phone if the owner of the phone has not protected his voicemail box by a personal identification number ("PIN") or has done so by a PIN which was easy to decode. Depending on their content, the messages could be used to piece together stories about the caller or the owner of the phone. Information might be sought from other sources, including the voicemail boxes of individuals who had left messages in the respondents' voicemail box, to do this (a process which was called "farming").

5. If the owner of any hacked phone made substantial use of voicemail, a great deal of information could be obtained. This was transcribed and given to journalists and in many cases, private investigators were instructed to follow up stories or photographers were sent out to places (often those mentioned in phone messages) to obtain a photograph to accompany the story. The fact of hacking could not be revealed by the newspaper in the published article but the ruse was adopted of quoting an unnamed source said to be "close" to the subject of the article or an unnamed friend.

6. Private investigators were also given the task of finding out the telephone numbers of people whom the newspaper had identified as targets for their hacking (including those who left messages in voicemail boxes already hacked) or their phone and credit card bills and medical information. This information

was sometimes obtained by "blagging": that is, by the investigator pretending to be a third party, such as a telephone services supplier, that he was the particular person or was, say, an aide to that person and authorised to obtain the desired information, or persuading them to part with the information by some other pretence. More details of hacking, blagging and farming are given in the judge's judgment (paras. 6 – 10, and 12).

7. The information obtained was often newsworthy. The respondents are all prominent people: actors or sportspersons or other well-known individuals, or persons associated with them. The newspapers listed in paragraph 1 of this judgment published the private information which it obtained through hacking when they saw fit to do so in newspaper articles, but this did not always happen. MGN did not, however, publish any article about Mr Yentob using private information obtained about him through hacking his phone.

8. The judge's awards contained three components: (1) damages for each published article; (2) damages for hacking or related activities which did not result in the publication of an article, and (3) damages for distress resulting from hacking. Lord Pannick QC, for MGN, has referred to the judge's approach as an "atomised" approach because he did not award simply a global sum to each respondent.

9. The four grounds of MGN's appeal may be summarised as:

    (1) the awards should have been limited to damages for distress;

    (2) the awards were disproportionate when compared with, in particular, personal injury awards;

    (3) the awards were disproportionate when compared with the less generous approach adopted by the European Court of Human Rights ("the Strasbourg Court"), and

    (4) the awards involved double-counting.

10. Before I consider the arguments on these four grounds and my conclusions on those arguments, I set out the judge's relevant findings and reasoning on these points taken from his careful and comprehensive judgment.

11. MGN does not challenge the judge's very detailed findings of fact. It has not asserted any justification for invading the respondents' privacy on any occasion in issue in these proceedings. Nor does MGN argue that any of the awards interferes with the freedom of the press. MGN belatedly apologised for its employees' wrongdoing, but the respondents considered that what was said was too little and too late. MGN did not rely on the content of those apologies at the oral hearing of these appeals.

MANN J'S FINDINGS AND REASONING RELEVANT TO THE FOUR GROUNDS OF APPEAL

Scale of the hacking

12. The judge accepted that it was not possible to state how extensive the hacking had been (Judgment, para.36). Tapes of voicemail messages hacked were not saved, nor were transcriptions of those tapes (Judgment, para. 53(iii)). Considerable steps were taken to conceal the source from the eventual story (Judgment, para.54). The evidence of a Mr Evans, one of the key witnesses, was that Mr Yentob's phone was a particularly rich source of stories (Judgment, para. 61). Emails were destroyed. Interception was often effected from Pay As You Go Mobile phones ("PAYGM") (to avoid easily traceable communications). These were periodically destroyed so that there was no accurate data as to the total number of interceptions. The purchase invoices for these phones were not complete. Landlines were used as well but this, the judge accepted, "was only the tip of the iceberg" (Judgment para.77). Moreover, the judge concluded that that material supported the conclusion that there was a widespread culture of hacking extending from journalists to more senior staff (Judgment, para. 72).

13. The judge considered the modern jurisprudence on the principle in *Armory Delamirie* (1722) 1 Strange 505, which enables adverse inferences of fact to be drawn against a wrongdoer who has parted with relevant evidence. So the gaps in MGN's records did not prevent him making findings against MGN, for example as to the period and frequency of hacking and the likelihood of hacking having produced the source of various articles (Judgment, para.96).

14. The judge concluded that the hacking was both extensive and serious:

> **(iii) Considerable areas of the private life, or the private affairs, of each of the claimants will have been revealed, going a long way beyond stories that were published. Each of the claimants gave evidence that the use of voicemail was a very significant part of their personal communications, and I accept that evidence. That means that their exposure was great. I also find that it is likely that a very substantial amount of this material will have passed to journalists other than those who listened to the voicemails. It is likely that there will have been discussions about it amongst the journalists either as a matter of salacious gossip, or as part of discussion as to whether to publish or develop a story. In all events, aspects of their private lives will not have been confined to single journalists actually listening to the voicemails. This would be a sensible inference anyway, but it is strengthened by the *Armory v Delamirie* principle. Again, however, it has to be kept within bounds. It was not the case that everything that was heard was shared with all journalists and more senior personnel. That would not be realistic.**
>
> **(iv) Each private investigator invoice which can be matched to a claimant represents an invasive activity. That much has been admitted by the defendant. Precisely what that invasion was is not known, and cannot be identified on the evidence. In one or two cases (as will appear) there are indications of what the information was that might have been obtained, and I shall draw appropriate inferences in that context. Otherwise**

> **the appropriate inference is that on each occasion the information obtained was serious, though not at the most serious level. If one assumes, by way of example, that medical details would be the most serious category of information disclosed, then it would not be appropriate to assume that level of seriousness in the case of every invoice. However, it would often be appropriate to infer information of a level of seriousness comparable to a list of numbers called (essentially an itemised phone bill) or a credit card bill, at least.** (Judgment, para.99)

How in general the hacking affected the respondents

15. The judge accepted the respondents' evidence regarding their distress and the effect of the hacking on their private lives:

> **(i) [The respondents] all spoke of their horror, distaste and distress at the discovery that Mirror group journalists had been listening, on a regular and frequent basis, to all sorts of aspects of their private lives. Their use of voicemail was such that many aspects of their personal, medical and professional lives were, to a very significant degree, laid bare in the voicemails they left and in the voicemails they received. Several of them re-visited their distress in the witness box. I am completely satisfied that these expressions of their emotions were accurate, and that the emotions they felt were genuine, not exaggerated and entirely justified.**
>
> **(ii) They all spoke of the effect on their lives caused by the distrust that the newspapers' activities engendered in them and those around them. When newspapers were publishing matters known only to a very few (sometimes only two) people, those privy to the information suspected others of leaking it. That led to distrust which had a very adverse effect on close relationships, including family relationships. It also got in the way of claimants seeking to forge new, or retrieve damaged, personal relationships. In other words, the published stories were very damaging to their personal lives. Again, they were forced to re-live this in the witness box, to the obvious distress of some of them. Again, I was completely satisfied that their evidence on these points was correct and without exaggeration.**
>
> **(iii) They all spoke of their personal distress and anxiety of seeing articles published about them. This was, in the main, great. Their evidence on this was convincing and I accept it.** (Judgment, para. 32)

Damages for the fact of intrusion and not just for distress

16. MGN argued that damages had to be limited to damages for distress. The judge's overall conclusion was that it was open to him to award damages not just for distress but also for invasion of the respondents' privacy: "misappropriating (misusing) private information without causing upset is still a wrong" (Judgment, para. 143). There was in his judgment no reason in principle why the law should not make an award to reflect the infringements of the right itself if the circumstances warranted it (Judgment, para. 111). He explained:

> **A right has been infringed, and loss of a kind recognised by the court as wrongful has been caused. It would seem to me to be contrary to principle not to recognise that as a potential route to damages.**

17. The judge found support for this conclusion in the jurisprudence of the European Court of Human Rights ("the Strasbourg Court") and in recent decisions of courts in this jurisdiction. As to the former, he held that the case law on the European Convention on Human Rights ("the Convention") indicated that protection for the right to respect for private life had to be practical and effective and that to confine damages to damages for distress would be inconsistent with this. If damages were limited to damages for distress, a person who suffered no distress or died before the discovery of the wrong would receive no compensation. He held this approach was supported by Tugendhat and Christie, *The Law and Practice of Privacy and the Media*, second edition, para. 13.107. As to recent decisions in this jurisdiction, the judge also noted that substantial damages had been awarded for photographing a child even though the child suffered no distress (*AAA v Associated Newspapers Ltd* [2012] EWHC 2103 (QB), *Weller v Associated Newspapers Ltd* [2014] EMLR 24 (appeal dismissed on other grounds: [2015] EWCA Civ 1176). In contrast, the judge noted that in the leading case of *Campbell v MGN Ltd* [2004] 2 AC 457, and other cases the appellant sought only damages for distress.

18. The judge distinguished libel damages. In *Mosley v News Group Newspapers Limited* [2008] EMLR 20, Eady J compared privacy with defamation cases. He held that the law of privacy was concerned "to protect such matters as personal dignity, autonomy and integrity." Damages for defamation involved two elements: compensation for distress and vindication of the claimant's reputation. Privacy was not concerned with the latter but with the vindication of a right (per Eady J at [216]).

19. The judge therefore rejected an argument advanced by counsel for MGN, Matthew Nicklin QC, that the award of damages simply for misuse of private information amounted to vindicatory damages, which the Supreme Court had decided in *R (Lumba) v Secretary of State for the Home Department* [2012] 1 AC 245 could not be awarded to mark the invasion of a legal right. In that case, Lord Dyson explained that the purpose of vindicatory damages was to mark a sense of public outrage and to emphasise the importance of the constitutional right and gravity of the breach and deter future breaches (per Lord Dyson at [98]). Lord Dyson held that vindicatory damages were not available as a remedy for violation of a private right. Mr Nicklin argued that that meant that Eady J was not correct in *Mosley* to refer to vindicatory damages. The judge did not

agree. He interpreted the decision of Eady J as having awarded damages for invasion of the right, citing Eady J at [231]:

> **Accordingly, it seems to me that the only realistic course is to select a figure which marks the fact that an unlawful intrusion has taken place while affording some degree of solatium to the injured party.**

20. The judge considered that the damages awarded by Eady J were distinct from vindicatory damages of the kind ruled out by Lord Dyson. Lord Dyson had distinguished those damages from compensatory damages which served a vindicatory purpose. In the judge's judgment, there could be damages for "infringement of a right which is sustained and serious" (Judgment, para. 132). The judge held that this result was supported by *Halford v UK* (1997) 24 EHRR 523, where the Strasbourg Court in effect awarded damages without there being distress because the applicant could not show that the distress she suffered was directly attributable to the unlawful interception of her telephone calls.

21. There was an issue as to whether the decision of this Court in *Vidal-Hall v Google Inc* [2015] 3 WLR 409 had limited the damages for misuse of private information to damages for distress. This Court delivered judgment in that case after the argument before the judge was concluded, but the parties provided the judge with written submissions on it. The judge noted that the damages for anxiety and distress were claimed for the use of "cookies", involving the blanket tracking and collation of information from the internet. The judge did not consider the case helpful on the issue whether damages for misuse of private information were confined to damages for distress.

22. The judge therefore proceeded to quantify damages on the footing that there could be compensation other than for distress. The damages had to be compensatory. Indeed Mr Sherborne had not argued that damages should be awarded as a deterrent (Judgment, para. 145).

Global award or atomised approach?

23. MGN argued that there had to be a single award of damages even if distress was caused on separate occasions. Mr David Sherborne, for the claimants (now respondents) invited the judge to make separate awards for (1) hacking, (2) the blagging of personal information (which was assumed to be the activities of the private investigators based on their invoices) and (3) each article admitted or found to have been the fruits of hacking.

24. The judge, broadly accepting Mr Sherborne's submissions on separate awards, held that the starting point was that this was not a case for granting a global sum for each claimant. It was common ground that each invasion of privacy and each article gave rise to a separate cause of action, but it was still a matter for the judge's discretion in any case whether there should be a single award of damages (Judgment, para. 149). The judge made the following relevant points:

i) The wrongs had too great a degree of separation for a single award. The articles were spread out over a period of time, and the three areas of wrongful behaviour had to be looked at separately (Judgment, para. 155).

ii) While the starting point was that each article should be treated separately, in some cases it might be appropriate to take two or more articles together, for example, if they seemed to relate to the same thing (Judgment, para. 156).

iii) The judge directed himself that he must avoid double-counting if he allowed a global sum for hacking generally, including hacks that gave rise to articles, and then allowed a further per article sum which counted again the hack or hacks which gave rise to the article (Judgment, para.156).

iv) There was a danger of double-counting also in awarding damages for distress. The judge recognised that he had to bear in mind so far as distress was concerned the effect of the articles was likely to have been cumulative so that later distress built on the distress already caused (Judgment, para. 156).

v) Blagging by private investigators would have to be considered separately (Judgment, para. 158).

vi) General distress also had to be considered as a separate item but care had to be taken to avoid double-counting where distress had already been taken into account when making an award for a particular article (Judgment, para. 159).

Awards in earlier cases of little assistance because of MGN's repeated intrusion

25. The judge concluded that prior cases were of little assistance because of the scale of the intrusions in these cases. Most or all of the claimants had had their voicemails and the voicemails of their confidants listened to twice a day or more for several years.

Novelty of awards for misuse of private information

26. Moreover, he found that while it was "relatively early days" in claims for compensation for breach of privacy, the size of awards was increasing. He took a number of comparables, all of which involved sums of £5,000 or less. The exception was *Mosley v News Group Newspapers Ltd* [2008] EMLR 20, where £60,000 was awarded. In addition, in *Cooper v Tyrrell* [2011] EWHC 3269 (QB), Tugendhat J awarded £30,000 for damages for misuse of private information in addition to damages of £50,000 for libel. He held that, had the claim been for damages for misuse of private information alone, he would have awarded £40,000. The case concerned the disclosure of private health information. In *WXY v Gewanter* [2013] EWHC 589, Tugendhat J awarded general damages of £19,950 for breach of privacy consisting of the publication on a website of various private details. In *AAA*, the judge awarded £15,000.

Judge's reasons for rejecting the tariff used in discrimination and harassment

27. In discrimination and harassment cases, the court or tribunal may award damages for injury to feelings. In *Vento v Chief Constable of West Yorkshire Police* [2002] EWCA Civ 1871 [2003] ICR 318 this Court gave guidance as to how much should be awarded and set out three bands. Since then, there has been some inflation and courts and tribunals have to take account of that. The bands were last formally increased for inflation in 2009, when they were increased to the following amounts:

Top band for the most serious cases, such as where there has been a lengthy campaign of harassment	£18-£30,000
Middle band for serious cases which do not merit an award in the highest band.	£6-£18,000
Bottom band for less serious cases, such as a one-off incident or an isolated event.	£600-£6,000

28. At trial MGN contended for awards similar to those that fell within the *Vento* bands. The judge rejected this argument for three reasons. First, in *WXY v Gewanter*, Tugendhat J found that *Vento* was a helpful reminder only of the importance of awards being in line with general levels of compensation in other cases of non-pecuniary loss, such as general damages for personal injuries, malicious prosecution and defamation. Second, in *Cairns v Modi* [2013] 1 WLR 1015, this Court considered whether the Court should go further and adopt similar bands in a libel case, but concluded that the circumstances in libel were likely to vary enormously and libel cases did not lend themselves to straightforward categorisation. Third, none of the English privacy cases, save for a case which was substantially about harassment, had relied on *Vento.*

Personal injury damages tariff was a "reality check" and little more

29. The judge acknowledged that he should observe the same constraints imposed in defamation cases by keeping an eye on personal injury general damages and making sure that defamation damages did not get out of line with those damages, a point made by Eady J in *Mosley* at [218]. The judge held that he had done that but that its significance was limited. At paragraph 200, he concluded:

> **…where there are multiple occurrences (which there have been in the present cases) one has to make sure that sufficiently discrete wrongs are treated discretely and not treated as single wrong. If there is any useful reality check from personal injury cases in the present matter it is not against the total award for each claimant, which is made up from the aggregate of a number of wrongs, but with individual elements within it**.

30. The judge obtained no assistance from the awards made in surveillance cases as the extent of the surveillance was not clear. He concluded that there were no torts other than misuse of private information, or decisions in relation to other

torts, which provided decisions, amounts or criteria which could be directly transposed into privacy cases. Nevertheless, decisions in relation to other torts could not be ignored. They could provide "a sort of sanity check" on any amounts imposed. If an award looked out of line with personal injury cases, then it might have to be tempered. Likewise if an award arising out of a single privacy breach vastly exceeded the current ceiling on defamation awards (£280,000) then it might have to be questioned or adjusted. Beyond that, other areas did not, in the judge's judgment, clearly assist (Judgment, para. 202).

Extent of publication of articles

31. The extent of the publication of private information is clearly relevant to the level of any damages. Some information was not disclosed to the public but it may then have been circulated to journalists or investigators. Other information was disclosed in newspaper articles. The judge made findings as to the circulation and readership figures of the newspapers, which were substantial. In the case of the *Daily Mirror*, the daily circulation figure was just over two million in 2003, falling to 1.5 million in 2008 (Judgment, para. 221). However, readership would be higher than that. Moreover, all the articles had been made available online.

Judge's general approach

32. Leaving on one side any trivial disclosure of private information (which the judge considered he could disregard), the judge held that the disclosure of some information is clearly more serious that the disclosure of other information. The judge set out his general approach on this (Judgment, para. 229):-

> **229. In making my assessments in respect of the individual claims I do not apply any general bands or tariffs, with one exception. The variable nature of privacy claims makes that a difficult, if not impossible, exercise. I have, however, sought to apply the following principles (inter alia):**
>
> > **i) The subject matter of the disclosure is not a rigid guide to the amount of compensation. However certain types of information are likely to be more significant than others. Thus medical information is more likely to be high in the ranks of information which is expected to be private, so its interception and disclosure is likely to attract a higher, rather than a lower, figure. That information can relate to matters of mental health as well as physical health (if that is an appropriate description of non-mental health issues). However, even that kind of information has a range – not all medical-related disclosures will be treated equally seriously. It depends on the nature of the information.**

ii) Information about significant private financial matters is also likely to attract a higher degree of privacy, and therefore compensation, than others.

iii) By contrast, information about a social meeting which is used to get a photograph is, of itself, likely to attract a lower degree of privacy (in terms of compensation), though it is capable being magnified by other factors, such as contributing to a sense of persecution.

iv) Information about matters internal to a relationship will be treated as private. The amount of compensation payable will depend on the nature of the information listened to and disclosed, in part on the amount of distress and upset caused and in part on the effect on the relationship. Information which is disruptive of the relationship, or which is likely to affect adversely the attempts of the couple to repair it if that is what they are trying to do, is likely to be treated as a serious infringement deserving substantial compensation.

v) Further categorisation is not realistically possible.

vi) The appropriate compensation will depend on the nature of the information, its significance as private information, and the effect on the victim of its disclosure. A short-lived effect based on embarrassment will attract less compensation than a life-changing intrusion such as that inflicted on Mr Mosley.

vii) The effect of repeated intrusions by publication can be cumulative. What starts out as irritation or embarrassment on the first disclosure can become a justified persistent feeling of distress or upset on repeated disclosures.

viii) The extent of the damage may be claimant-specific. A thinner-skinned individual may be caused more upset, and therefore receive more compensation, than a thicker-skinned individual who is the subject of the same intrusion. Mr Nicklin accepted that, in relation to distress, the "egg-shell skull" principle applied, though I should add that I do not think

> **that any of the claimants in the 8 cases before me were particularly sensitive.**

33. The judge made an exception to this case-by-case approach for general hacking, that is, to compensation for the hacking into voicemails generally of any respondents. The judge held that the starting point for general hacking was £10,000 for each year of serious levels of hacking. By "serious", the judge stated that he meant hacking every few days, if not daily, as a matter of routine. He held that this also included a degree of "farming" (see para. 4 above) to widen the information pool in relation to individuals. He stated that this would require adjustment in various ways, with which we are not concerned. An important point was that the figure of £10,000 was not to be applied slavishly (Judgment, para. 231). The judge made a further adjustment for the fact that there might be a further award following disclosure (Judgment, para. 232).

Individual awards

34. The judge examined each individual case, and each individual article, with meticulous care (see Judgment, paras. 233-701). Every award had the three components described in paragraph 8 above. He made findings about the period of hacking and scale of hacking in each case. He gave full particulars of each article and dissected the private information in each article, applying the general approach set out above. He articulated clear reasons for each award. He made allowances for the possibility that an award might be covered by some other award. His awards for distress were based on evidence which the respondents gave as to the distress which they suffered.

Size of awards due to number of intrusions

35. In the final section of his judgment, the judge provided what he saw as the reason justifying in this case awards which were very substantial when contrasted with those awarded in libel cases:

> **702 It will be apparent that my awards of damages in this case are very substantial — far more substantial than in any hitherto reported privacy case. They are more substantial than in many libel cases. I have, however, reviewed each of the awards at the end, with an eye to the total awarded, so ensure that, as a total, it is not excessive (or indeed an under-award). I consider that none of them is. The fact that they are greater than any other publicly available award results from the fact that the invasions of privacy involved were so serious and so prolonged. None of the articles in respect of which I have awarded compensation would (on the admitted case) have been published had it not been for the underlying prolonged phone hacking that went on, which was known to be wrongful. That hacking existed in all cases whether or not an article resulted. The length, degree and frequency of all this conduct explains why the sums I have awarded are so much greater than historical awards. People whose private voicemail messages were hacked so often and for so long, and**

> **had very significant parts of their private lives exposed, and then reported on, are entitled to significant compensation.**

36. The judge left open the possibility that there might have to be an increase in the damages awarded if there was no inquiry into the activities of the private investigators which showed that more extensive invasions of privacy had taken place.

37. There was no claim for exemplary or special damages and the respondents elected not to pursue any claim for restitutionary damages. Accordingly, we are not concerned with damages of those kinds.

MGN'S FOUR GROUNDS FOR CHALLENGING THE JUDGE'S AWARDS

38. I summarised the four grounds on which MGN challenges the judge's awards of damages in paragraph 9 above. I take each of those grounds in turn.

GROUND 1: The judge should have awarded damages for distress only

39. Lord Pannick QC, for MGN, submits that the judge was wrong to hold that damages could be awarded for the mere intrusion into a person's privacy independently of any distress caused. He submits that, in a case of breach of privacy rights, the court should award damages only for distress and injury to feelings, and not for the fact of intrusion into a person's privacy, autonomy or dignity, whether it is by way of hacking or the activities of private investigators. Lord Pannick relies on *Vidal-Hall v Google Inc*, which also concerned a claim under the Data Protection Act 1998, as supporting his submission. He submits that the mere invasion of a person's privacy would only give rise to nominal damages (as to that head of damages, he relies generally on *McGregor on Damages* 19 ed (2014) at para 12-001). He accepts that, if the information was false or put a claimant in a false light, libel damages would be available.

40. Lord Pannick also relies on *Murray v Ministry of Defence* [1988] 1 WLR 692. In that case, Lord Griffiths, with whom the remainder of the House of Lords agreed, expressed the view that a person who was falsely imprisoned, but suffered no harm and was released before he found out that he had been falsely imprisoned, would recover only nominal damages. Lord Pannick further submits that if a person under mental disability were to be detained wrongly and against his will but without appreciating it, he could only claim nominal damages.

41. Lord Pannick repeats the submission made at trial that the grant of damages for the fact of intrusion is wrong in the light of the holding of Lord Dyson (with which Lords Phillips, Rodger, Brown, Collins and Kerr agreed) in *R (Lumba) v Secretary of State for the Home Department*, at [97] to [100], in particular the following passage from the judgment of Lord Dyson:

> **It is one thing to say that the award of compensatory damages whether substantial or nominal serves a vindicatory purpose: in addition to compensating a claimant's loss, it vindicates the right that has been infringed. It is another to award a**

claimant an additional award, not in order to punish the wrongdoer, but to reflect the special nature of the wrong.

42. Lord Dyson held that an award of vindicatory damages was not required because the need for vindication of a person's rights could be achieved by an award of compensatory damages, a declaration and (in appropriate cases) an award of exemplary damages. Lord Pannick submits that the claimant does not suffer loss merely because his right has been infringed. For that reason, the law makes no award for damages for infringement of the right.

43. Mr David Sherborne, for the respondents, submits that the courts have awarded general damages to children even though the child was not aware of the invasion of privacy and therefore suffered no distress: see *AAA v Associated Newspapers Ltd* [2012] EWHC 2103 [2013] EMLR 2 (award of £15,000 for the publication on three occasions of an unpixellated photograph of a child thought to be the illegitimate daughter of a politician, affirmed [2013] EWCA Civ 554 but the damages were not in issue on appeal), and *Weller v Associated Newspapers Ltd* [2014] EMLR 24 (awards of between £2,500 and £5,000 to the children of a celebrity for publication of unpixellated photographs showing their faces). Mr Sherborne relies also on *Halford v United Kingdom* (1997) 24 EHRR 523. In this case, the Strasbourg Court awarded the applicant £10,000 as just satisfaction for the interception of her telephone calls in violation of Article 8 even though it was not satisfied that she had shown that the stress she had suffered was due to this interception. Neither this nor the previous two cases bind this court. In *Halford* the award by the Strasbourg Court was not an award of damages under English law.

44. Mr Sherborne also submits that *Vidal-Hall* is not authority for the proposition that damages for misuse of private information may be awarded only for distress and hurt feelings: that was the only form of damages claimed in that case. Furthermore, in his submission, the damages in this case are not vindicatory damages of the kind which the majority of the Supreme Court held in *Lumba* could not be awarded.

45. This is a very important point in the context of the awards made in the present case because, if Lord Pannick is right, damages will be much reduced. In my judgment, the judge was correct to conclude that the power of the court to grant general damages was not limited to distress and could be exercised to compensate the respondents also for the misuse of their private information. The essential principle is that, by misusing their private information, MGN deprived the respondents of their right to control the use of private information. An obvious example of this is where hacking pre-empted disclosure of the decision of one respondent, Shane Roche, to leave Eastenders, the TV programme through which he was then best known to the public, or where a newspaper published confidential information that the respondent had taken legal advice on a possible divorce. Likewise Robert Ashworth wanted to keep secret his wedding venue (which was the subject of an article as a result of hacking). The respondents are entitled to be compensated for that loss of control of information as well as for any distress, though the amount of compensation may be affected if the information would on the facts have become public knowledge anyway, as the judge recognised in the case of Sadie Frost's affair with Mr Scott at

paragraph 676 of his judgment. The scale of the disclosure is a matter which goes to the assessment of the remedy, not to its availability.

46. Privacy is a fundamental right. The reasons for having the right are no doubt manifold. Lord Nicholls put it very succinctly in *Campbell v MGN* [2004] 2 AC 457 at [12]:

> **Privacy lies at the heart of liberty in a modern state. A proper degree of liberty is essential for the well-being and development of an individual.**

47. The key to understanding Lord Griffiths' example in *Murray v Ministry of Defence* is in my judgment that the person who was falsely imprisoned without knowing it, and released before he found out, suffered no harm. The factual difference between that situation and these appeals is that in this case the judge accepted that the respondents had suffered damage in that their private information had been misappropriated and had genuinely suffered considerable distress when they found out about the hacking of their phones and other activities of MGN. More importantly, while damages are not awarded in a case of unlawful detention where, had the correct procedure been adopted, the claimant would have been imprisoned or detained anyway (see *Lumba)* (a point made by my Lord, Lord Justice Kitchin in argument), the courts have awarded damages for the wrongful deprivation of liberty even though no-one appreciated at the time that it was wrongful: see *R v Governor of Brockhill ex parte Evans (No. 2)*[1998] QB 1043, affirmed [2001] 2 AC 19.

48. I agree with Mr Sherborne's submission on *Vidal-Hall*. There was no claim in that case beyond damages for distress. I also accept his submission about vindicatory damages. Damages in consequence of a breach of a person's private rights are not the same as vindicatory damages to vindicate some constitutional right. In the present context, the damages are an award to compensate for the loss or diminution of a right to control formerly private information and for the distress that the respondents could justifiably have felt because their private information had been exploited, and are assessed by reference to that loss.

49. For these reasons, I would reject this challenge to the judge's awards.

GROUND 2: The awards were disproportionate when compared with the tariff in particular for personal injury awards

50. MGN's primary argument here is, in effect, that the aggregate award made to each respondent must be comparable to personal injuries compensation, which would be much lower. It also relies on the tariff fixed by the courts for discrimination and harassment and separately for false imprisonment. There is authority to support the primary argument but, put shortly, I consider, for the reasons given below, that on analysis that authority provides guidance at a general (though important) level, and does not lead to the conclusion that the aggregate awards need be comparable in the way Lord Pannick submits.

51. Lord Pannick submits that the amounts awarded were far in excess of those that would be awarded for personal injuries, for example those that would be awarded for severe psychiatric harm. He referred to the current edition of the

Judicial College's *Guidelines for the Assessment of General Damages in Personal Injury Cases*, which are distilled from awards made in reported cases. To take just two examples from those given by Lord Pannick, for moderate brain damage, in "**Cases in which there is moderate to severe intellectual deficit, a personality change, an effect on sight, speech and senses with a significant risk of epilepsy and no prospect of employment**", the current guideline (before the 10% uplift [not relevant in this case]) is £114,100 to £166,500. For severe psychiatric damage, in cases where "**the injured person will have marked problems with respect to factors (i) to (iv) above [ability to cope, effect on relationships, prospects for further treatment and future vulnerability] and the prognosis will be very poor**", the guideline is (before the 10% uplift) £14,500 to £41,675. Lord Pannick submits that the awards in these cases should be comparable with awards at the lower end of that scale.

52. Lord Pannick submits that the present awards are analogous to a libel award and that this Court held in *John v MGN* [1997] QB 586 that juries making libel awards should be informed on the scale of damages for personal injuries, not as a precise correction but as a check on the reasonableness of any proposed sum. Sir Thomas Bingham MR, at 614, held:

> **"It has often and rightly been said that there can be no precise correlation between a personal injury and a sum of money. The same is true, perhaps even more true, of injury to reputation. There is force in the argument that to permit reference in libel cases to conventional levels of award in personal injury cases is simply to admit yet another incommensurable into the field of consideration. There is also weight in the argument, often heard, that conventional levels of award in personal injury cases are too low, and therefore provide an uncertain guide. But these awards would not be relied on as any exact guide, and of course there can be no precise correlation between loss of a limb, or of sight, or quadriplegia, and damage to reputation. But if these personal injuries respectively command conventional awards of, at most, about £52,000, £90,000 and £125,000 for pain and suffering and loss of amenity (of course excluding claims based on loss of earnings, the cost of care and other specific financial claims), juries may properly be asked to consider whether the injury to his reputation of which the plaintiff complains should fairly justify any greater compensation. The conventional compensatory scales in personal injury cases must be taken to represent fair compensation in such cases unless and until those scales are amended by the courts or by Parliament. It is in our view offensive to public opinion, and rightly so, that a defamation plaintiff should recover damages for injury to reputation greater, perhaps by a significant factor, than if that same plaintiff had been rendered a helpless cripple or an insensate vegetable. The time has in our view come when judges, and counsel, should be free to draw the attention of juries to these comparisons.**

53. This Court went on to reduce the award from £75,000 to £25,000.

54. Lord Pannick submits that, just like juries in libel cases, the court should have regard to awards that would be made in personal injury cases. The reason for this is that it is necessary in libel cases, and cases such as the present, for the award to bear a reasonable relationship to what is regarded as fair for personal injuries. Lord Pannick stresses that he is not asking the Court to adopt personal injury awards as the be all and end all but simply as a very important factor. The Court has to have a good reason for distinguishing the levels in personal injury. There is no evidence that the respondents suffered any medical injury or condition as a result of the phone hacking.

55. As at trial, MGN relies also on the scale of awards in discrimination cases and cases of harassment. These are particularly relevant because awards are made for a wrongful course of conduct, rather than a single wrong as in many cases involving personal injury. Modest bands were laid down in *Vento v Chief Constable of West Yorkshire Police* for cases of discrimination and harassment, to which I referred when summarising the judge's judgment. This Court held:

> **46 This is the first time for many years that the Court of Appeal has had the opportunity to consider the appropriate level of compensation for injury to feelings in discrimination cases. Some decisions in the employment tribunal and in the appeal tribunal have resulted in awards of substantial sums for injury to feelings, sometimes supplemented by compensation for psychiatric damage and aggravated damages. Cases were cited to the court in which employment tribunals had, as in this case, awarded compensation for injury to feelings (plus aggravated damages) larger than the damages separately awarded for psychiatric injury, and totalling well in excess of £20,000. The court was shown the decision of an employment tribunal in a race discrimination case awarding the sum of £100,000 for injury to feelings, plus aggravated damages of £25,000: *Virdi v Comr of Police of the Metropolis (8 December 2000, London (Central) Employment Tribunal, Case No: 2202774/98)*. (This pales into insignificance in comparison with the reported award in 1994 by a Californian jury of $7.1m to a legal secretary for sexual harassment, and even with the subsequent halving of that sum on appeal.)**
>
> **47 Compensation of the magnitude of £125,000 for non-pecuniary damage creates concern as to whether some recent tribunal awards in discrimination cases are in line with general levels of compensation recovered in other cases of non-pecuniary loss, such as general damages for personal injuries, malicious prosecution and defamation. In the interests of justice (social and individual), and of predictability of outcome and consistency of treatment of like cases (an important ingredient of justice), this court should indicate to employment tribunals and practitioners general guidance on the proper level of award for injury to feelings**

> **and other forms of non-pecuniary damage. (See paragraphs 65–68 below.)**
>
> **…**
>
> **65 Employment tribunals and those who practise in them might find it helpful if this court were to identify three broad bands of compensation for injury to feelings, as distinct from compensation for psychiatric or similar personal injury. (i) The top band should normally be between £15,000 and £25,000. Sums in this range should be awarded in the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment on the ground of sex or race. This case falls within that band. Only in the most exceptional case should an award of compensation for injury to feelings exceed £25,000. (ii) The middle band of between £5,000 and £15,000 should be used for serious cases, which do not merit an award in the highest band. (iii) Awards of between £500 and £5,000 are appropriate for less serious cases, such as where the act of discrimination is an isolated or one off occurrence. In general, awards of less than £500 are to be avoided altogether, as they risk being regarded as so low as not to be a proper recognition of injury to feelings.**
>
> **66 There is, of course, within each band considerable flexibility, allowing tribunals to fix what is considered to be fair, reasonable and just compensation in the particular circumstances of the case.**

56. Lord Pannick submits that there are obvious differences between privacy and harassment, but when the court has to identify in monetary terms what sum should be paid for subjective losses, it is helpful and right for the court to look at the personal injury guidelines. Moreover, *Vento* was a case of repeated acts of harassment: a course of conduct as in this case. Lord Pannick further submits that personal injury can also be the result of a course of conduct, as where an employer has negligently exposed an employee to the risk of disease.

57. Lord Pannick submits that the personal injury tariff has encouraged this Court to formulate guidance for damages awards for false imprisonment and malicious prosecution. In *Thompson v Commissioner of Police for the Metropolis* [1998] QB 498 at 512 Lord Woolf MR proceeded to lay down detailed guidance, having first held:

> **Apart from the freedom of speech aspect of defamation, it can be said that there is in fact more reason to assist juries in actions for false imprisonment. Part of the claim can have, as in both of these appeals, a personal injury element which makes the experience in ordinary personal injury cases directly relevant. A difference in the awards for compensation for the same injury, ignoring any question of aggravation, cannot be justified because the award is by a jury in a small minority of cases (the false imprisonment**

> **cases) while in the majority of cases (the other personal injury cases) the award is by a judge. If this court would intervene in one situation it should do so in the other. There is no justification for two tariffs. Furthermore even where what is being calculated is the proper compensation for loss of liberty or the damaging effect of a malicious prosecution the analogy with personal injuries is closer than it is in the case of defamation. The compensation is for something which is akin to pain and suffering. There is also recognition today that the uncertainty produced by the lack of consistency as to the damages which will be awarded in cases of this sort results in increased costs.**

58. Mr Sherborne submits that none of these tariffs provides the right comparison. He adopts the criticism of drawing an analogy with personal injury compensation made by the Privy Council in *The Gleaner Co Ltd v Abrahams* [2004] 1 AC 628, at [49] to [63] per Lord Hoffmann giving the judgment of the Privy Council. Disclaiming any opinion on the practice in England, Lord Hoffmann pointed out the differences between an award for libel and an award for personal injury. He included the difference in economic effect: personal injury damages, unlike libel damages, are generally met by insurers who pass on the cost to their clients who pass on the cost to society in general. Lord Hoffmann pointed out that a purpose of libel damages was also to control irresponsible behaviour by the press. Furthermore, submits Mr Sherborne, as the judge explained, this court in *Cairns v Modi* held that the use of the *Vento* bands was not helpful in libel claims where the circumstances were often very different.

59. Mr Sherborne submits that it is wrong to say that, following *John v MGN*, the judge must ensure a close comparison between his award and awards in personal injury cases. The authorities do not impose such an obligation and the authorities on personal injury awards are of limited assistance. The comparison would not be of like with like. In fact, the individual awards in the present cases are not out of line with the *Vento* guidelines anyway.

60. I turn to my conclusions. There is a threshold question, which I can take shortly, as to the conditions for interference by this Court in any award for general damages. If the judge makes a material error of law, this Court must intervene. If, however, the challenge is to the size of the award, and the judge has as here heard the evidence of witnesses in assessing the effect on the respondents of the misuse of their private information, this Court should not intervene unless the award is so high as to be perverse. The judge will have performed, and been better placed to perform, an assessment of all the relevant factors and it is not enough for this Court to conclude that it would have made some different award.

61. I now turn to the comparison sought to be drawn with personal injury awards. *John v MGN* reminds the Court that the process for assessing damages for non-pecuniary loss in defamation cases must not be carried out in disregard or ignorance of damages awarded in personal injury cases and that there should be some reasonable relationship between awards in both cases. This is so even though the factors to be taken into account are materially different, and no exact correlation can be achieved. This Court gives a fundamental principled reason

for this: if there is no such consideration or relationship, the reasonable observer may doubt the logic of the law or form the view that the law places a higher value on a person's right to privacy than it does on (say) a person's lifelong disability as a result of another's negligence, and this would bring the law into disrepute and diminish public confidence in the impartiality of the legal system. There might also be pressure from personal injury claimants for an increase in awards for personal injury, which would require careful consideration because, as *Gleaner* shows, such increases could have wide-ranging effects on a large number of members of society.

62. Lord Hoffmann explains in *Gleaner* that libel damages are awarded on a different basis from personal injury damages, but the logic of the fundamental point in *John v MGN*, with respect, remains. The courts are not expected to produce an exact relationship. Nor would society necessarily expect some precise correlation to be given, for reasons that include the economic reasons advanced by Lord Hoffmann. Taking account of personal injury compensation does not mean that the outcome in this field has to be exactly the same.

63. There is no doubt that the judge did have regard to the personal injury scale (see paragraph 29 above). The real question is whether the judge achieved the reasonable relationship between that scale and his awards. This question resolves itself by reference to whether the judge was right to adopt what Lord Pannick has called an atomised approach in making his awards and break down the awards into the three components (explained in paragraph 8 above). MGN does not challenge the individual awards within those components.

64. It was common ground that each invasion of privacy gave rise to a separate cause of action and it follows a separate event giving rise to injury. Lord Pannick submits that it is an error of law to assess damages on this basis because the invasions were similar in nature and were the result of a continuing practice. He seeks to compare the totality of the award made to each individual respondent with the personal injuries tariff. Lord Pannick submits that if there had been multiple invasions of privacy, the judge should assess each invasion separately but then round down the total award so that it still bears a relationship to personal injury damages. In other words, as in the *Vento* case, the Court must look at the totality of the situation. This also occurs in sex abuse cases: see *C v D* and *SBA* [2006] EWHC 166. Field J produced a single figure representing the damages for sex abuse over an extended period (see para. 105). Lord Pannick develops that submission by contending that, where a series of wrongs result from a course of conduct which involves similar incidents which cause similar harm, the court ought not to single out each incident and award damages for each incident but look at the totality of the events.

65. Mr Sherborne relies on the point that, in general, each published article was a separate injury and it was the damages awarded for the separate injury that needed to be considered in comparison with those for non-pecuniary loss for personal injury, as the judge said (Judgment, para. 200).

66. On the question whether the judge was right to make separate awards for each article, Lord Pannick, after some prompting from my Lady, Lady Justice Rafferty, refers to a passage dealing with multiple injuries in the *Guidelines for the Assessment of General Damages in Personal Injuries Cases*, published by

the Judicial College. This makes the point that there is no universal rule that awards of general damages for multiple injuries should be the sum of the amounts for each of the injuries involved. The right sum may be a greater or lesser amount. It all depends on the facts. The passage reads as follows:

> **Note on Multiple Injuries**
>
> **The assessment of general damages in multiple injury cases can give rise to special difficulty, in particular in determining the extent to which there is any overlap between injuries and how this should be reflected in the award. An illustration of such difficulties, and guidance as to the approach to be taken, can be found in the Court of Appeal decision in *Sadler v Filipiak [2011] EWCA Civ 1728*. We can do no better than quote in full paragraph 34 of the judgment of Pitchford LJ in that case:**
>
> **It is in my judgment always necessary to stand back from the compilation of individual figures, whether assistance has been derived from comparable cases or from the [Judicial College] guideline advice, to consider whether the award for pain, suffering and loss of amenity should be greater than the sum of the parts in order properly to reflect the combined effect of all the injuries upon the injured person's recovering quality of life or, on the contrary, should be smaller than the sum of the parts in order to remove an element of double-counting. In some cases, no doubt a minority, no adjustment will be necessary because the total will properly reflect the overall pain, suffering and loss of amenity endured. In others, and probably the majority, an adjustment and occasionally a significant adjustment may be necessary.**

67. Nothing in this states that the damages must be awarded as a global sum rather than be awarded as separate sums for each injury. Mr Sherborne accepts the analogy with multiple injuries and contends that, in these cases, when comparing the awards with the personal injury tariff, it is necessary to consider a claimant with multiple injuries.

68. I turn to my conclusions on this point. The choice between whether to make a global award or separate awards for invasions of privacy must be a matter for the exercise of judicial discretion. There may be some kinds of cases in which it has been implicitly established that it would be wrong to assess damages save on the basis of a global sum. That is not, however, applicable to the present appeals. This Court can only interfere in the exercise of the judicial discretion to make separate awards if it is satisfied that the judge was plainly wrong or misdirected himself in law, which is not demonstrated in this case. There is furthermore no ground of appeal directed at challenging the choice the judge made.

69. Moreover, whatever choice the judge makes on whether to make a single global award or break the award down in some way, the tariff set out in the Guidelines consists of a sum within certain brackets and thus this is a recognition of the fact that the actual award has to be tailored to the circumstances of the particular

case. That means, in the case of general damages for personal injuries, that factors such as the severity of the pain, or even sometimes gender if that is relevant to the effect of the injury (e.g. facial scarring) can be taken into account. Similarly in the *Vento* guidelines, the court can take into account factors which are likely to vary in every case, such as the period during which discrimination has taken place and whether it was deliberate.

70. That would be sufficient to dispose of this ground of appeal but I would go further. The judge's approach can be tested by looking at the reasons for his three highest awards. The highest was £85,000 for Alan Yentob. Mr Yentob was a senior BBC executive. He made extensive use of his voicemail. Messages left for him would contain an enormous amount of entertainment-related material of interest to journalists, as well as personal information. The information could be used to develop stories about people other than Mr Yentob, about whom no stories were written based on material obtained from hacking. The judge found that his phone had been hacked at least twice a day for a period of about 7 years (Judgment, para. 241). The judge found that he experienced "deep hurt and anger" when he discovered the extent to which his phone had been hacked. The judge awarded a small amount of aggravated damages because of the way in which he had been cross-examined. The judge made a total award of £85,000. The judge did not break this figure down. It would appear to represent 7 years at £10,000 per annum, plus an amount for distress, and small amounts for the aggravated damages and the activities of the private investigators. Given the scale of the hacking, there is clearly no basis for saying that this award was perverse or one he was not properly entitled to make.

71. The second highest award was of £40,000 to Shane Roche for general hacking, that is hacking which did not result in the publication of an article. Mr Roche was an entertainer, singer and TV actor. He also made heavy use of his voicemail. He complained about 13 articles. His wife gave evidence that Mr Roche became increasingly paranoid that friends, colleagues and family were leaking stories because he could not understand where else they could be coming from. He even had their home swept for bugs. The judge awarded £40,000 for general hacking over six years. The judge was entitled to have regard to the effect on Mr Roche of the loss of control of private information not otherwise compensated by the award for distress or the awards for the 13 articles. Given the scale of the hacking, there is clearly no basis for saying that the size of the award was perverse or one he was not properly entitled to make.

72. The third highest award was of £40,000 for Articles 14 and 15 taken together of the articles which were written about Robert Ashworth. Robert Ashworth was a freelance TV producer married to Tracy Shaw, a long-standing actress in Coronation Street from June 2001 to late 2004. Both of them were heavy users of voicemail. The messages related to a large number of private matters, including the state of their marriage and Tracy Shaw's problem with alcoholism. The judge found that Robert Ashworth's phone was hacked throughout his marriage to Tracy Shaw until about mid-2005, and that this was done frequently.

73. Article 14 was a story about a three-day hotel stay for the purpose of trying to rescue their marriage, during which Robert Ashworth and Tracy Shaw had consumed a considerable amount of alcohol. The photographs attached to the article included a photograph of a hotel bill. Article 15 described how Robert

Ashworth and Tracy Shaw then immediately went, on advice, to a health farm in an attempt to save their marriage when Robert Ashworth is said to have agreed to give the marriage another go. These articles were the most intrusive of all of the articles written about Robert Ashworth. The judge said that the award of £40,000 would have been higher but for the earlier articles. Robert Ashworth described the effect of the article as devastating and said that he was very angry. He considered that the level of intrusion made it impossible for Tracy Shaw to focus on treatment and recovery. The judge accepted this evidence. The effect of the articles on Tracy Shaw must have had an effect on Robert Ashworth too. These were highly intrusive articles, disclosing intimate details of the couple's marital difficulties, which could only have been written with the fruits of the wrongful hacking.

74. I have considered all the awards which the judge made. They were thorough and fairly done in every case. The judge had a considerable mastery of the facts of each case. I am satisfied that paragraph 229 of the judge's judgment (set out in paragraph 32 above) correctly identified his general approach. I would go further: I would, with one small qualification, adopt that statement as guidance for any future cases where the same or similar points arise. I do not think it is possible to improve on the judge's own description in that paragraph.

75. The one small qualification relates to paragraph 229 (vii). Logically, and as the judge's own awards demonstrate, it is possible that the cumulative effect will mean that additional distress is less rather than increased as a result of repeated disclosures of private information. The judge recognised this point in paragraph 156 of his judgment, (paragraph 24(iv) above).

76. Further arguments are made which I do not think materially assist in resolving this question of principle. Mr Sherborne makes the submission that the appellant cannot be better off because the respondents have sued for a number of different articles at the same time because the existence of the hacking was concealed from them. Lord Pannick rejects this. He submits that there would not have been a repetition had the hacking been detected at an earlier stage and that this counter-factual is unhelpful. Mr Sherborne submits also that there is a trend to higher awards for invasion of privacy in more recent cases. Lord Pannick submits that those awards are not binding on this Court. The law is at an early stage of development. In particular, Lord Pannick submits that the high level of award in *Mosley v News Group* does not assist in this case. His submission is that, even when account is taken of the gravity of the infringement of privacy in this case and the large number of press articles, the sums awarded were disproportionate having regard to the totality of damage done to each of the respondents by reference to the analogy of the personal injuries tariff. For the reasons I have given, I do not accept that Lord Pannick makes the correct comparison.

77. Finally, Lord Pannick suggested that a tariff should be fixed in this area of law. He did not press this argument. I consider that he was right not to do so. This Court has no material on which to fix a tariff in this area. There is virtually no history of such awards and in any event the circumstances could vary so greatly as to render any such tariff of little use.

GROUND 3: The awards were disproportionate compared with awards by the Strasbourg Court

78. This is a new point, not taken before the judge, but it is a pure point of law so that it is not inconsistent with this court's practice on appeals to permit it to be taken.

79. If the Strasbourg Court finds a violation of any Convention right, it may award a sum to afford "just satisfaction", pursuant to Article 41 of the Convention, which provides:

> **"If the court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the high contracting party concerned allows only partial reparation to be made, the court shall, if necessary, afford just satisfaction to the injured party."**

80. Article 41 is reflected in section 8 of the Human Rights Act 1998, which provides that damages may only be awarded against a public authority for violating a Convention right where the court thinks that it is necessary to do so, taking account of matters which are not material here. More importantly section 8(4) of the Human Rights Act 1998 provides that:

> **"(4) In determining— (a) whether to award damages, or (b) the amount of an award, the court must take into account the principles applied by the European Court of Human Rights in relation to the award of compensation under article 41 of the Convention."**

81. Lord Pannick submits that an award of damages for privacy should be looked at in comparison with awards made by the Strasbourg Court. Lord Pannick submits that Strasbourg awards are relevant because the law of privacy in England is now inextricably bound up with the European Convention on Human Rights ("the Convention"). He cites *McKennitt v Ash* [2008] QB 73 at [11]. This statement of principle was approved by Sir Anthony Clarke MR sitting with Laws and Thomas LJJ in *Murray v Express Newspapers PLC* [2009] Ch 381. This concerned the photograph of a young child in a public place. Sir Anthony Clarke MR, at [27], held that Articles 8 and 10 of the Convention were the very content of the domestic tort that the Court had to enforce. Lord Pannick submits that in assessing what is an appropriate sum to award for breach of privacy, given that the wrong is inextricably bound up with Strasbourg case law in the content of the right, it would be surprising if the law did not look back to the Strasbourg Court. Moreover, he submits, the awards made by the Strasbourg Court are at a much more modest level of compensation than the judge's awards or other recent awards in this jurisdiction for breaches of privacy.

82. In *R (Sturnham) v Parole Board* [2013] 2 AC 254, the question arose of the correctness of an award of damages under section 8(4) made to a prisoner where there had been delay in bringing his case for release on licence before the Parole Board. This involved considering how the court should take account of the principles established by the Strasbourg Court under Article 41. Lord Reed,

with whom all the members of the Supreme Court agreed, drew the following conclusions:

> 39…. **First, at the present stage of the development of the remedy of damages under section 8 of the 1998 Act, courts should be guided, following the *Greenfield* case [2005] 1 WLR 673, primarily by any clear and consistent practice of the European court. Secondly, it should be borne in mind that awards by the European court reflect the real value of money in the country in question. The most reliable guidance as to the quantum of awards under section 8 will therefore be awards made by the European court in comparable cases brought by applicants from the UK or other countries with a similar cost of living. Thirdly, courts should resolve disputed issues of fact in the usual way even if the European court, in similar circumstances, would not do so.**

83. Lord Pannick places emphasis on the first conclusion, from which he contends that this Court should in the present appeals be guided by the clear and consistent practice of the Strasbourg Court. In support of that practice, Lord Pannick cites:

i) *Peck v UK* (App No. 44647/98), where a CCTV recording of the applicant cutting his wrists was made public and the Strasbourg Court awarded €11,800.

ii) *Lustig-Prean v UK* (2001) 31 EHRR 23, where the Strasbourg Court awarded only £19,000 to each applicant as compensation for non-pecuniary damage for especially grave interferences with their private life as a result of investigations by the Ministry of Defence into their sexual orientation.

iii) In *Armonienė v Lithuania* [2009] EMLR 7, the Strasbourg Court found that there had been an outrageous abuse of press freedom by publication of the applicants' HIV medical condition and a statement that the condition had been confirmed by employees of the Aids Centre. The Court held that the award in the domestic court was disproportionately low and awarded €6,500. This, submits Lord Pannick, is again a very low sum. The Grand Chamber held:

> **in a case of an outrageous abuse of press freedom, as in the present application, the court finds that the severe legislative limitations on judicial discretion in redressing the damage suffered by the victim and sufficiently deterring the recurrence of such abuses, failed to provide the Applicant with the protection that could have legitimately been expected under article 8 of the Convention.**

iv) In *Avram v Moldova* (2015) 61 EHRR 24, the Strasbourg Court awarded just satisfaction of €5,000, €6,000 and €4,000 respectively to the applicants.

84. Lord Pannick argues that the fact that the Strasbourg Court is concerned with just satisfaction rather than damages is a distinction without a difference. He accepts that the award of just satisfaction in the Strasbourg Court is discretionary but where the Strasbourg Court has said that just satisfaction is necessary, in his submission, its practice is relevant to this Court. It is nothing to the point that the appellant is not a public authority. Although some articles in the Convention can only be applied to public authorities, Article 8 is not so limited. The principles have to be the same for private and public authorities.

85. Lord Pannick submits that the Strasbourg Court again looks at the conduct as a whole and does not simply say that one arrives at a very large sum where there has been a number of incidents in the course of conduct. The number of incidents will, however, entitle the claimant to higher compensation. Nevertheless, he submits, the total figure must be a figure that bears some reasonable relationship to the Strasbourg level or under his first submission to the personal injury tariff.

86. Mr Sherborne emphasises that this point has never been raised in any previous privacy case. He submits that it is based on a fundamental misunderstanding of just satisfaction as awarded by the Strasbourg Court. Damages for just satisfaction are discretionary. Mr Sherborne submits that in this case the judge had methodically to examine all the newspaper articles. He submits that each article has a separate impact and causes a different type of distress. Mr Sherborne was initially minded to argue that the Strasbourg Court approved the sum of £60,000 awarded in *Mosley*, but Lord Pannick pointed out, correctly, that this is not the case.

87. Mr Sherborne points out that the courts are in the process of developing the tort of misuse of private information and that the damages have been put on a separate path from that of the Strasbourg Court. Notably, in *Spelman v Express Newspapers* [2012] EWHC 355 (QB) Tugendhat J expressed the view that the awards for misuse of private information would be likely to increase:

> **[114] If a remedy in damages is to be an effective remedy, then the amount that the court may award must not be subject to too severe a limitation. Recent settlements in the much publicised phone hacking cases have been reported to be in sums far exceeding what in the past might have been thought to be available to be awarded by the courts. The sums awarded in the early cases such as *Campbell* were very low. But it can no longer be assumed that damages at those levels are the limit of the court's powers.**

88. I prefer Mr Sherborne's submissions on this issue. English law has only recently recognised a civil wrong for intrusions of privacy. Initially the law of confidence was expanded by reference to the values to be found in Articles 8 and 10 of the Convention. However an action for breach of confidence did not completely coincide with a right of action for pursuing private information in

violation of Article 8 (see *Vidal-Hall*, at [21]). In *Vidal-Hall* at [51], this Court took the important step of holding that, insofar as a claim was based on the use of private information, the legal wrong was the tort of misuse of private information for the purposes at least of service out of the jurisdiction, rather than breach of confidence.

89. The court, when making an award for misuse of private information is not proceeding under either section 8 of the Human Rights Act 1998 or Article 41 of the Convention. The question of the measure of damages is more naturally a question for English domestic law. I give two reasons for this. First, the conditions of the tort are governed by English law and not the Convention. That again makes it more appropriate for English domestic law to assess the measure of damages. Moreover, if damages awarded for misuse of private information within the law were excessive, there would be appropriate ways for the national authorities to reduce them. They would not have to wait to be given a lead by the Strasbourg Court. Second, national courts are intrinsically better able to assess the adequacy of an award in their jurisdiction than an international body. This is one of the bases in which the Strasbourg Court is likely to recognise that there is a margin of appreciation in its jurisprudence.

GROUND 4: Some elements of the awards were counted twice

90. Lord Pannick submits that the awards involved double-counting in three ways.

91. The first area of double-counting, on Lord Pannick's submission, was between the damages awarded for the articles and the damages awarded for general hacking. This double-counting occurred, on his submission, in relation to the respondents, apart from Mr Yentob, who did not claim damages for any article. Lord Pannick submits that, when the judge awarded a substantial amount for the invasion of privacy in published articles, the sums of money that he has awarded for the fact of hacking are excessive and amount to double-counting. It must follow that the judge's starting point of £10,000 per year for general hacking was excessive.

92. The second area of double-counting, on Lord Pannick's submission, was the award of an additional sum for general upset and effect on relationships as well as the sum for the fact of hacking and each of the offending articles. Lord Pannick submits that this distress is covered by the earlier awards.

93. The third complaint about double-counting made by Lord Pannick is that the judge failed to take account of the cumulative effect of the articles. The later articles would not have caused such distress as the previous ones. This was another cause of double-counting. Lord Pannick accepts that this will depend on the circumstances but even so cumulative effect has to be taken into account. In the same way, in *Thompson*, the damages for wrongful detention were reduced according to the duration of the false imprisonment.

94. Mr Sherborne dismisses the idea that the judge made any double-counting error. He emphasises that MGN cannot cite any individual award which amounts to double-counting.

95. I would reject each of Lord Pannick's points on double-counting for the following reasons.

96. First, the judge directed himself when dealing with the law in general terms that he had to avoid double-counting: see for example paragraph 156 his judgment, quoted in paragraph 24 above. A further example of a general direction against double-counting can be found in paragraph 340, when the judge was dealing with the case of Robert Ashworth but before he made any award.

97. Second, examples can be given of occasions when the judge made an allowance for possible double-counting of each of these types. In relation to damages awarded for newspaper articles and the damages awarded for general hacking, there were several instances where the judge specifically mentioned that he had taken that point into account. For example, when awarding £37,500 to Sadie Frost for general hacking over four and a half years, the judge specifically made allowance for the fact that some hacking bore fruit in the articles for which he awarded separate sums (Judgment, para.697). In the case of Shobna Gulati he described his award for general hacking as for invasion "not reflected in" other awards (Judgment, para. 477).

98. The position was the same with respect to the activities of private investigators. Thus when awarding £5,000 to Robert Ashworth for the intrusion caused by their activities, the judge took into account that the activities of private investigators were likely to have contributed to the articles written about Robert Ashworth and that they could not be counted twice. There was another instance of this in relation to Lucy Taggart at paragraph 433 of the judge's judgment.

99. Lord Pannick criticises the judge's starting point of £10,000 per year for general hacking as excessive, but the attribution of £10,000, and any adjustment of this sum, involves by implication a factual finding by the judge that this was an appropriate starting point. No challenge was made to any of the factual findings of the judge.

100. As regards any double-counting between damages for the articles and general hacking on the one hand and damages for the effect on relationships, which formed part of the award for distress, on the other, the judge was alive to the danger of this too. He awarded Shobna Gulati £15,000 for additional anxiety and distress caused by the pattern of intrusion and the effect the intrusion had on her relationships. The judge expressly satisfied himself that the damages for the compensation for the articles did not compensate for this (Judgment, para.476). The judge makes many references to the "corrosive" effect that hacking had on relationships and he found that, for example, the relationships which Paul Gascoigne had with his family and friends were seriously affected by suspicions that they were leaking information (Judgment, para. 595).

101. The judgment was likewise sensitive to the risk of double-counting from the cumulative effect of the articles. For example, the judge made a reduced award to Shane Roche for an article on his financial affairs which disclosed private information that had already featured in some of the articles (Judgment, para. 524). In relation to Sadie Frost also, he took account of the fact that an article repeated information that had already been published about her (see para. 582 of his judgment). The judge also took account of the fact that personal information

about Lucy Taggart had also appeared in articles in other newspapers apart from those owned by MGN (see Judgment, para. 418).

102. Third, the judge was undoubtedly entitled to make an award for general hacking or for general distress if he considered that that was likely to have occurred and was not covered by any other award. The published articles were the tip of the iceberg since there was an evidentiary gap in MGN's records which meant that the court could not be satisfied as to the precise extent of the hacking, blagging or other activities of the private investigators. He found that it was probable that these activities had occurred and were not covered by the surviving records of MGN.

103. In the circumstances it is impossible for this court to conclude that the judge fell into error and that there was any double-counting. He was clearly well aware of the need to be mindful of the risk of double-counting and the need to eliminate it in fairness to MGN.

104. Should the judge have performed some overall review at the end of his assessment of damages for any respondent? In the course of his submissions, Lord Pannick submits that it is necessary to stand back when more than one significant injury has been inflicted and look at the position in its totality. Once the Court does that, then on his submission, the damages awarded were manifestly excessive and wrong in principle.

105. For my part, I do not consider that this is a case in which the judge was bound to take that course. It would not have led to the appreciation of any points which would merit some scaling back of the awards. (It is not suggested that it would be needed for any other purpose). It might be appropriate to have an overall review if there were mitigating circumstances, such as the repeated misuse of information where there was some genuine mistake for instance as to its source, or timely apologies. But there was no such mistake in this case, and Lord Pannick does not rely on any apology.

106. Indeed, so far as I can see, there were no mitigating circumstances at all. The employees of MGN instead repeatedly engaged in disgraceful actions and ransacked the respondents' voicemail to produce in many cases demeaning articles about wholly innocent members of the public in order to create stories for MGN's newspapers. They appear to have been totally uncaring about the real distress and damage to relationships caused by their callous actions. There are numerous examples in the articles of the disclosure of private medical information, attendance at rehabilitation clinics, domestic violence, emotional calls to partners, details of plans for meeting friends and partners, finances and details of confidential employment negotiations, which the judge found could not have been made if the information had not been obtained by hacking or some other wrongful means. The disclosures were strikingly distressing to the respondents involved.

107. In the course of his judgment, the judge relied on the principle in the old case of *Armorie v Delamirie* in making his findings of fact and assessing damages. That case concerned a chimney sweep who found a diamond ring in a chimney which he took to the defendant jeweller for valuation. When the jeweller failed to return the diamond, the chimney sweep sued him for damages. The court

adopted the presumption that the missing stone was of the highest value that would fit inside the empty socket. That presumption, as the judge explains in his judgment, is not inflexibly applied: for example, if it was clear that a finding about the diamond's real value could be made from other evidence. Leaving those matters aside, *Delamirie* is an example of the ability of the law to prevent a person responsible for wrongdoing from escaping liability to his victim, without disturbing the general rule as to the conditions of liability. In this case, too, the judge was not prevented from making proper awards by the absence of records detailing the hacking and other wrongful activities. Another example occurs where equity places the onus on a wrongdoer when conducting an equitable account (*Manley v Sartori* [1927] Ch 157). The principle of the rule of law is clear: in the words of Thomas Fuller, quoted by Lord Denning MR in *Gouriet v Union of Post Office Workers and Others* [1977] QB 729, 762, reversed [1978] AC 435, "Be you [n]ever so high, the law is above you."

108. In the present case, MGN has asked the court to reduce the awards without, as the respondents point out, taking the court to so much as a single award which they contend is excessive or explaining the element of it which is on their case excessive. I have, as it happens, read the articles alongside the judge's detailed rulings on them. It does not strike me reading them, in the light of the judge's rulings and his factual findings, that any of them involved an error of law. The test is not whether I would have made exactly that award - the assessment of general damages is not an exact science - but whether he was entitled to make the awards that he did. MGN cannot expect this Court to come to its rescue and find some way of finding the awards to be excessive when its staff have been responsible for disgraceful conduct with such distressing consequences, and when to boot it is quite unable itself to point to actual awards that it contends are wrong.

109. These appeals, hopefully, concern an exceptional situation. There were misuses of private information beyond our ability to know and count. So it is wrong to look at the global sums in the schedule which each respondent has been awarded without remembering that fact. In addition the circulation of the private information was to a very large number of persons and touched on the most intimate part of the lives of the some of the respondents. It understandably caused great distress.

110. I would dismiss these appeals.

Lady Justice Rafferty

111. I agree.

Lord Justice Kitchin

112. I also agree.

SCHEDULE TO JUDGMENT OF ARDEN LJ

Claimant	Category of Damage	Damages suggested by Claimant	Damages suggested by Defendant	Damages awarded by Judge
Alan Yentob	**Total**	£125,000	c.£10,000	**£85,000** (sum takes into account extent/nature of hacking, private investigators, distress and a small amount for aggravated damages).
Lauren Alcorn	**Hacking**	£35,000	Not provided	£17, 500
	Private Investigators/ Blagging	£25,000	Not provided	£3,000
	Articles	*Article 1:* £45,000 *Article 2:* £30,000 *Article 3:* £3,000 *Article 4:* £5,000 *Article 5:* £25,000	Not provided	*Article 1:* £12,000 *Article 2:* £10,000 *Article 3:* £0 *Article 4:* £5,000 *Article 5:* £15,000
	General Distress	Not provided	Not provided	£10,000
	Aggravated Damages	100%	Not provided	£0
	Total	£168,000 (before aggravated damages)	c. £15,000	**£72,500**

Robert Ashworth	**Hacking**	£30,000	Not provided	£30,000
	Private Investigators/ Blagging	£25,000	Not provided	£5,000
	Articles	*Article 1:* £3,500 *Article 2:* £20,000 *Article 3:* £2,500 *Articles 4/5:*£40,000 *Article 6:* £7,500 *Article 7:* £20,000 *Article 8:* £22,500 *Article 9:* £7,500 *Article 10:* £3,500 *Article 11:* £2,500 *Article 12:* £20,000 *Article 13:* £5,000 *Articles 14/15:* £75,000 *Article 16:* £25,000 *Article 17:* £2,500 *Article 18:* £10,000 *Article 19:* £5,000	Not provided	*Article 1:* £1,000 *Article 2:* £15,000 *Article 3:* £1,000 *Articles 4/5:*£20,000 *Article 6:* £7,500 *Article 7:* £8,000 *Article 8:* £15,000 *Article 9:* £1,000 *Article 10:* £3,000 *Article 11:* £1,000 *Article 12:* £15,000 *Article 13:* £1,000 *Articles 14/15:* £40,000 *Article 16:* £12,000 *Article 17:* £0 *Article 18:* £750 *Article 19:* £1,500
	General Distress	Not provided	Not provided	£ 20,000
	Aggravated Damages	100%	Not provided	£3,500
	Total	£327,000 (before aggravated damages)	c. £20,000	**£201,250**
Lucy Taggart	**Hacking**	£45,000	Not provided	£40,000

	Private Investigators/ Blagging	£40,000	Not provided	£3,000
	Articles	*Article 1:* £7,500 *Article 2:* £7,500 *Article 3:* £12,500 *Article 4:* £10,000 *Article 5:* £3,500 *Article 6:* £20,000 *Article 7:* £35,000 *Article 8:* £45,000 *Articles 9/10/11:* £22,500 *Article 12:* £25,000 *Article 13:* £5,000 *Article 14:* £7,500 *Article 15:* £5,000 *Article 16:* £5,000 *Article 17:* £5,000 *Article 18:* £10,000 *Article 19:* £15,000	Not provided	*Article 1:* £2,000 *Article 2:* £750 *Article 3:* £4,500 *Article 4:* £5,000 *Article 5:* £750 *Article 6:* £10,000 *Article 7:* £20,000 *Article 8:* £10,000 *Articles 9/10/11:* £12,500 *Article 12:* £12,500 *Article 13:* £5,000 *Article 14:* £6,000 *Article 15:* £3,000 *Article 16:* £2,500 *Article 17:* £750 *Article 18:* £1,500 *Article 19:* £2,500
	General Distress	Not provided	Not provided	£15,000
	Aggravated Damages	100%	Not provided	£0
	Total	£326,000 (before aggravated damages)	c. £25,000	**£157,250**

Shobna Gulati	**Hacking**	£40,000	Not provided	£22,000
	Private Investigators/ Blagging	£30,000	Not provided	£5,000
	Articles	*Article 1:* £35,000 *Article 2:* £35,000 *Article 3:* £45,000 *Article 4:* £25,000 *Article 5:* £20,000 *Article 6:* £20,000 *Article 7:* £2,500 *Article 8:* £7,500	Not provided	*Article 1:* £12,500 *Article 2:* £12,500 *Article 3:* £10,000 *Article 4:* £10,000 *Article 5:* £20,000 *Article 6:* £7,500 *Article 7:* £0 *Article 8:* £3,000
	General Distress	Not provided	Not provided	£15,000
	Aggravated Damages	100%	Not provided	£0
	Total	£260,000 (before aggravated damages)	c.£20,000	**£117, 500**
Shane Roche	**Hacking**	£55,000	Not provided	£40,000
	Private Investigators/ Blagging	£25,000	Not provided	£5,000
	Articles	*Article 1:* £25,000 *Article 2:* £40,000 *Article 3:* £5,000 *Article 4:* £25,000	Not provided	*Article 1:* £12,000 *Article 2:* £20,000 *Article 3:* £1,000 *Article 4:* £12,500

		Article 5: £5,000 *Article 6:* £2,500 *Article 7:* £5,000 *Article 8:* £25,000 *Article 9:* £7,500 *Article 10:* £12,500 *Article 11:* £10,000 *Article 12:* £15,000 *Article 13:* £2,500		*Article 5:* £1,000 *Article 6:* £1,000 *Article 7:* £3,000 *Article 8:* £15,000 *Article 9:* £0 *Article 10:* £6,500 *Article 11:* £5,000 *Article 12:* £6,000 *Article 13:* £2,000
	General Distress	Not provided	Not provided	£25,000
	Aggravated Damages	100%	Not provided	£0
	Total	£ 260,000 (before aggravated damages)	c.£20,000	**£155,000**
Paul Gascoigne	**Hacking**	£75,000	Not provided	£50,000
	Private Investigators/ Blagging	£35,000	Not provided	£10,000
	Articles	*Article 1:* £35,000 *Article 2:* £20,000 *Article 3/6/7/8/10:* £155,000 *Article 4:* £7,500 *Article 5:* £15,000 *Article 9:* £7,500 *Articles 11/13:* £15,500 *Articles 12/14:* £10,000 *Article 15:* £15,000 *Article 16:* £25,000 *Article 17*: £7,500	Not provided	*Article 1:* £7,500 *Article 2:* £7,500 *Article 3/6/7/8/10:* £30,000 *Article 4:* £10,000 *Article 5:* £8,500 *Article 9:* £4,000 *Articles 11/13:* £8,500 *Articles 12/14:* £10,000 *Article 15:* £7,500 *Article 16:* £7,500 *Article 17*: £750

		Article 18: £10,000		*Article 18:* £6,500
	General Distress	Not provided	Not provided	£ 20,000
	Aggravated Damages	100%	Not provided	£0
	Total	£433,000 (before aggravated damages)	c.£40,000	**£188,250**
Sadie Frost	**Hacking**	£45,000	Not provided	£37,500
	Private Investigators/ Blagging	£55,000	Not provided	£10,000
	Articles	*Article 1:* £15,000 *Article 2:* £3,000 *Article 3:* £25,000 *Article 4:* £25,000 *Articles 5/6:* £40,000 *Article 7:* £15,000 *Article 8:* £7,500 *Article 9:* £30,000 *Article 10:* £10,000 *Article 11:* £25,000 *Article 12:* £10,000 *Article 13:* £25,000 *Article 14:* £22,000 *Article 15:* £7,500 *Article 16:* £5,000 *Article 17:* £3,500 *Article 18:* £15,000 *Article 19:* £15,000 *Article 20:* £2,500 *Article 21:* £2,500 *Article 22:* £5,000 *Article 23:* £7,500	Not provided	*Article 1:* £6,000 *Article 2:* £1,500 *Article 3:* £25,000 *Article 4:* £10,000 *Articles 5/6:* £25,000 *Article 7:* £8,000 *Article 8:* £2,000 *Article 9:* £5,000 *Article 10:* £7,500 *Article 11:* £14,000 *Article 12:* £6,000 *Article 13:* £6,000 *Article 14:* £8,500 *Article 15:* £2,000 *Article 16:* £0 *Article 17:* £1,000 *Article 18:* £0 *Article 19:* £5,000 *Article 20:* £0 *Article 21:* £1,000 *Article 22:* £3,500 *Article 23:* £2,500

		Article 24: £5,000 *Article 25:* £5,000 *Article 26:* £5,000 *Article 27:* £30,000 *Article 28:* £60,000 *Article 29:* £3,500 *Article 30:* £2,500 *Article 31:* £2,500		*Article 24:* £3,000 *Article 25:* £2,500 *Article 26:* £2,000 *Article 27:* £10,000 *Article 28:* £25,000 *Article 29:* £0 *Article 30:* £750 *Article 31:* £0
	General Distress	Not provided	Not provided	£30,000
	Aggravated Damages	100%	Not provided	£0
	Total	£529,500 (before aggravated damages)	c.£30,000	**£260,250**