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Case No: HQ15D00453

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 02/06/2016

Before:

MR JUSTICE WARBY

- -

Between:

(1) SIR KEVIN BARRON MP	**Claimants**
(2) RT HON JOHN HEALEY MP	
- and -	
CAVEN VINES	**Defendant**

- -
- -

Gavin Millar QC and Sara Mansoori (instructed by **Steel and Shamash**) for the **Claimants**
The Defendant in person

Hearing date 18 May 2016

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Judgment Approved by the court for handing down (subject to editorial corrections)

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Mr Justice Warby :

1. My task in this judgment is to assess damages for a libel of the claimants published by the defendant via a broadcast TV interview in January 2015.

The claim

2. The claimants, Sir Kevin Barron and the Rt Hon John Healey, are Labour MPs for constituencies in the Rotherham area. The defendant, Caven Vines, was the leader of the UKIP group on Rotherham Metropolitan Borough Council (RMBC).

3. As is well-known, Rotherham was at the centre of a child sexual exploitation scandal which came to prominence on the publication in August 2014 of a report commissioned by RMBC from Professor Alexis Jay. She concluded that over a sixteen year period some 1,400 children had been abused by Asian men. The first public accounts of the scandal emerged in September 2012, in articles by Andrew Norfolk published in *The Times.*

4. At lunchtime on 5 January 2015 Mr Vines gave a broadcast interview to Kay Burley on Sky TV. He was accompanied by the third Labour MP for the Rotherham area, Sarah Champion. She had been elected at a by-election in November 2012, as successor to Dennis MacShane. Mr Vines was challenged by Ms Burley about a UKIP campaign poster for the then current elections for Police and Crime Commissioner. It is what Mr Vines said in reply that has led to this libel action. The relevant parts of the interview were as follows, with the words complained of by the claimants in bold:

> "[Kay Burley] It was particularly unimpressive that UKIP used the fourteen hundred kids that had been abused over sixteen years for party political favour and actually put a poster together saying "1,400 reasons not to vote Labour". Haven't those kids suffered enough? Was that really appropriate?
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> [Caven Vines] The kids have suffered enough and whether it was appropriate or not I mean they did appalling …
>
> [Kay Burley] Was it or not?
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> [Caven Vines] Well, I thought it was appropriate, yes. People need reminding. Those fourteen hundred kids had been abused and been let go by the Labour Council and the Labour MPs. They knew what were going off, most … not Sarah, because she's only the new girl on the block. But certainly the other two, not telling me they did not know. In fact MacShane in his book has openly said so. So yes people need reminding. We cannot forget that they let the kids down and they're still letting them down. There's still no arrests, what's going on? Nothing has altered so we need to get in there and blow it open. This has got to be done.

> [Kay Burley] I don't know if Denis MacShane said that in his book, I'll take your word for it but I haven't read it.
>
> …
>
> [Kay Burley] How are you going to change things for the better?
>
> [Caven Vines] We've got this CSE problem. We've got to help these girls. We've got to rid the streets of these perpetrators …"

Judgment on meaning and liability

5. On 29 April 2015 I gave judgment on an application by the claimants for the summary judgment for damages to be assessed: [2015] EWHC 1161 (QB). At paragraph [47] I determined the natural and ordinary meanings of the words complained of.

> "… In my judgment the ordinary reasonable viewer of Sky News who saw and heard the Defendant's interview will have understood him to be saying (1) that the claimants knew for years most of what was going on by way of large-scale sexual abuse of children in Rotherham, and let it go on despite such knowledge; (2) that they thereby let down the children; and (3) that they were still failing to ensure that the perpetrators were brought to justice. Applying the principles I have identified, there can in my opinion be no doubt that these meanings are defamatory."

6. I held that the first meaning was factual, and the other two were expressions of opinion. I went on to consider whether to grant summary judgment, taking particular care in view of the fact that Mr Vines then, as now, was representing himself. I concluded that there was no defence to the claim with a realistic prospect of success. In relation to the points raised by Mr Vines I said this:-

> 54. The Defence contains nothing that could support a defence of truth to the first, factual defamatory meaning I have identified. The matters which the Defendant has put forward since the service of his Defence as supporting a defence of truth could not in my judgment begin to establish the substantial truth of that meaning. Mr Millar was justified in characterising the Defendant's criticisms of both Claimants as quite different in kind from the imputations conveyed by his words in the interview.
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> …
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> 56. The Defendant has no need of an answer to the second meaning I have found, as it is one of which the Claimants do not complain. It does not seem to me, however, that it could be

> defended. The Defendant does not assert the existence of a sufficient factual foundation for that comment. As to my third meaning, that the Claimants were still failing to act, this is not materially different from the last part of the Claimants' meaning. It is essentially the suggestion for which the Defendant has apologised, and which he retracted, in paragraph 5 of his Defence. The Defendant has not sought to defend anything of that nature at the hearing of the applications.
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> …
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> 57. In summary, therefore, the words complained of bore a defamatory factual meaning about both claimants which the Defendant says he did not intend to convey, which he does not seek to defend as true, and which in my judgment he plainly cannot defend as true on the basis of any facts that he has put forward. The words also conveyed a defamatory meaning which is or may be an expression of opinion about the claimants' alleged conduct, but is one of which the claimants do not complain. Thirdly, the words conveyed a defamatory opinion about the claimants' current conduct which the Defendant does not now seek to defend, but has withdrawn and apologised for. Thus far the case would appear to be one where the Defendant has no answer on liability even if he may have points to make in mitigation of damages."

7. I should perhaps add that Dennis MacShane's book ("Prison Diaries") did not "openly say" that the claimants had known of the CSE, or anything close to that.

8. In my April 2015 judgment I went on to consider whether, although he had not raised it, the defence of publication on matter of public interest under s 4 of the Defamation Act 2013 might be available to Mr Vines. It was obvious that the first of the two requirements of that defence was satisfied: the statement complained of was "on a matter of public interest". But the public interest defence is only available if the defendant shows that a second requirement is met: that he "reasonably believed that publishing the statement complained of was in the public interest": s 4(1)(b). Whether that requirement might be established was a great deal less clear. I offered the defendant an adjournment to take advice. But after taking time to consider the position he declined. I concluded I should grant summary judgment for damages to be assessed. Mr Vines did not resist that and indicated that he did not wish to appeal: see [69-70].

Mr Vines' second thoughts

9. Since then, however, Mr Vines has had second thoughts.

   (1) In October 2015 he applied to Master Leslie for an order setting aside my judgment and order. He put forward a draft Amended Defence prepared by Counsel, advancing a public interest defence. That application was refused.

(2) In February 2016 Mr Vines made a similar application to Sir David Eady, this time asserting truth. Sir David dismissed the application, pointing out that the jurisdiction to re-hear a case which has been the subject of a final judgment is exercised only in exceptional circumstances, and that the proper route was to seek permission to appeal out of time: [2016] EWHC 605 (QB) [13-17].

(3) Undeterred, Mr Vines made a third attempt to set aside judgment at the outset of this hearing. Without issuing an application notice, and relying on a witness statement served the previous Friday, 13 May, he asked me to dismiss the claim and to award him damages. I dismissed that application for much the same reasons as Sir David Eady had dismissed the previous one. I pointed out that I had no power to grant an extension of time for appealing, even if there was a basis for doing so. Only the appeal court has that power: CPR 52.6(1). The claim for damages was of course misconceived.

10. It is not only procedurally abusive for a defendant in Mr Vines' position to accept the court's judgment and then to make repeated, procedurally misconceived, attempts to challenge it, it is also unreasonable and unfair to the claimants. Moreover, although this is not a question that arises at this hearing, it is fair to say that I did not detect in any of Mr Vines' documentation any basis for doubting that my decision on the summary judgment application was correct.

The Collins case

11. The assessment of damages in this action was to have taken place immediately after a hearing to assess the compensation due to these claimants and Sarah Champion MP, in a companion case, *Barron & Others v Collins* ("the Collins case"). In the Collins case the three Labour MPs have sued Jane Collins MEP for slander and libel in a speech ("the Collins speech") at the UKIP conference in September 2014. The Collins speech made similar defamatory allegations against the MPs, as I ruled in a judgment on meaning of 29 April 2015: see my judgment, [2015] EWHC 1125 (QB).

12. In May 2015 Ms Collins' solicitors made an offer of amends pursuant to s 2 of the Defamation Act 1996, and the claimants purported to accept it. The parties did not agree on what should be done to fulfil the offer, the case was eventually fixed for an assessment hearing on 16 and 17 May 2016, with the present assessment to follow on 18 May. This made obvious sense because, as both parties in this action agree, one matter that needs consideration is the impact of Ms Collins speech, made and broadcast some three months before Mr Vines gave his Sky TV interview.

13. The assessment hearing in the Collins case did not in the event take place because, in early May, Ms Collins asked the European Parliament for an opinion on whether the proceedings against her violated the immunities enjoyed by her in her capacity as an MEP. She then sought a stay of the Collins action until after the Parliament had issued an opinion on that matter. I granted the stay. Ms Collins had also applied to "vacate" the offer of amends, and for permission to defend the claim on its merits. I reserved judgment on that application. These events are explained in more detail in my judgment on Ms Collins' stay application, [2016] EWHC 1166 (QB).

14. This assessment hearing has therefore gone ahead without any prior examination of the impact of the Collins speech. But it is obvious, and common ground, that the

claimants cannot recover damages against Mr Vines for any harm to their reputations or feelings caused by the Collins speech. They have made clear that in this action they seek damages only for the additional harm caused by what Mr Vines said. I am able to, and do, keep in mind the importance of avoiding any risk of double compensation.

This assessment hearing

15. Directions for service of witness statements in relation to the issue of damages were given by Master Leslie and complied with by the parties, and each submitted a skeleton argument.

16. It appears that in formulating his skeleton argument Mr Vines has benefited from the help from someone with legal training. The document is well constructed, and focused on relevant issues. It contains some cogent argument on the law, and some sensible submissions on the facts. The same cannot be said of Mr Vines' witness statements, which lack focus and roam well beyond the topics identified in his skeleton argument and into a number of irrelevant and illegitimate areas.

17. On the basis of the skeleton arguments I was able to prepare a list of issues. This was discussed with the parties at the outset of the hearing, and agreed, each party confirming that the issues I had listed were in play, and that no other issues arose. By this process I established that it was not in the event any part of Mr Vines' case on damages that there was partial truth to what he said, or to criticise either claimant for inaction in relation to the scandal.

18. Each of the claimants gave evidence confirming the two witness statements he had made, and each was cross-examined by Mr Vines. I gave Mr Vines some help in putting his case in relation to issues on the agreed list. I guided him by reference to that document, and stopped him when he tried to put questions that went outside the boundaries of the agreed list of issues.

19. Mr Vines gave evidence verifying his two witness statements, and was cross-examined by Mr Millar QC. He also put in evidence a statement from his wife, Maureen. This was agreed evidence, though its relevance was not accepted.

Legal principles

20. The general principles were reviewed and re-stated by the Court of Appeal in *John v MGN Ltd* [1997] QB 586. A jury had awarded Elton John compensatory damages of £75,000 and exemplary damages of £275,000 for libel in an article that suggested he had bulimia. The awards were held to be excessive and reduced to £25,000 and £50,000 respectively. Sir Thomas Bingham MR summarised the key principles at pages 607 – 608 in the following words:

> "The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must **[1]** compensate him for the damage to his reputation; **[2]** vindicate his good name; and **[3]** take account of the distress, hurt and humiliation which the defamatory publication has

> caused. In assessing the appropriate damages for injury to reputation the most important factor is **[a]** the gravity of the libel; the more closely it touches the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. **[b]** The extent of publication is also very relevant: a libel published to millions has a greater potential to cause damage than a libel published to a handful of people. **[c]** A successful plaintiff may properly look to an award of damages to vindicate his reputation: but the significance of this is much greater in a case where the defendant asserts the truth of the libel and refuses any retraction or apology than in a case where the defendant acknowledges the falsity of what was published and publicly expresses regret that the libellous publication took place. It is well established that **[d]** compensatory damages may and should compensate for additional injury caused to the plaintiff's feelings by the defendant's conduct of the action, as when he persists in an unfounded assertion that the publication was true, or refuses to apologise, or cross-examines the plaintiff in a wounding or insulting way. Although the plaintiff has been referred to as "he" all this of course applies to women just as much as men."

21. I have added the numbering in this passage, which identifies the three distinct functions performed by an award of damages for libel. I have added the lettering also to identify, for ease of reference, the factors listed by Sir Thomas Bingham. Some additional points may be made which are relevant in this case:

(1) The initial measure of damages is the amount that would restore the claimant to the position he would have enjoyed had he not been defamed: *Steel and Morris v United Kingdom* (2004) 41 EHRR [37], [45].

(2) The existence and scale of any harm to reputation may be established by evidence or inferred. Often, the process is one of inference, but evidence that tends to show that as a matter of fact a person was shunned, avoided, or taunted will be relevant. So may evidence that a person was treated as well or better by others after the libel than before it.

(3) The impact of a libel on a person's reputation can be affected by:

a) Their role in society. The libel of Esther *Rantzen* was more damaging because she was a prominent child protection campaigner.

b) The extent to which the publisher(s) of the defamatory imputation are authoritative and credible. The person making the allegations may be someone apparently well-placed to know the facts, or they may appear to be an unreliable source.

c) The identities of the publishees. Publication of a libel to family, friends or work colleagues may be more harmful and hurtful than if it is circulated amongst strangers. On the other hand, those close to a

claimant may have knowledge or viewpoints that make them less likely to believe what is alleged.

d) The propensity of defamatory statements to percolate through underground channels and contaminate hidden springs, a problem made worse by the internet and social networking sites, particularly for claimants in the public eye: *C v MGN Ltd* (reported with *Cairns v Modi* at [2013] 1 WLR 1051) [27].

(4) It is often said that damages may be aggravated if the defendant acts maliciously. The harm for which compensation would be due in that event is injury to feelings.

(5) A person who has been libelled is compensated only for injury to the reputation they actually had at the time of publication. If it is shown that the person already had a bad reputation in the relevant sector of their life, that will reduce the harm, and therefore moderate any damages. But it is not permissible to seek, in mitigation of damages, to prove specific acts of misconduct by the claimant, or rumours or reports to the effect that he has done the things alleged in the libel complained of: *Scott v Sampson* (1882) QBD 491, on which I will expand a little. Attempts to achieve this may aggravate damages, in line with factor (d) in Sir Thomas Bingham's list.

(6) Factors other than bad reputation that may moderate or mitigate damages, on which I will also elaborate below, include the following:

a) "Directly relevant background context" within the meaning of *Burstein v Times Newspapers Ltd* [2001] 1 WLR 579 and subsequent authorities. This may qualify the rules at (3) above.

b) Publications by others to the same effect as the libel complained of if (but only if) the claimants have sued over these in another defamation claim, or if it is necessary to consider them in order to isolate the damage caused by the publication complained of.

c) An offer of amends pursuant to the Defamation Act 1996.

d) A reasoned judgment, though the impact of this will vary according to the facts and nature of the case.

(7) In arriving at a figure it is proper to have regard to (a) Jury awards approved by the Court of Appeal: *Rantzen* 694, *John*, 612; (b) the scale of damages awarded in personal injury actions: *John*, 615; (c) previous awards by a judge sitting without a jury: see *John* 608.

(8) Any award needs to be no more than is justified by the legitimate aim of protecting reputation, necessary in a democratic society in pursuit of that aim, and proportionate to that need: *Rantzen v Mirror Group Newspapers (1986) Ltd* [1994] QB 670. This limit is nowadays statutory, via the Human Rights Act 1998.

Malice

22. Malice is alleged by the claimants in aggravation of damages. However, Mr Millar has accepted my suggestion as to how I should approach that issue. This is that the issue is not the actual state of mind of the defendant. It is whether the claimants have suffered additional injury to feelings as a result of the defendant's outward behaviour. If the defendant has behaved in a way which leads the claimant reasonably to believe he acted maliciously that is enough.

Misconduct and Burstein *background*

23. *Scott v Sampson* laid down boundaries on the ways in which a defendant may mitigate damages. One exclusionary rule the case established was a bar on attempts to prove specific acts of misconduct by the claimant. It is therefore illegitimate, as a rule, to seek to establish partial truth in mitigation of damages. This has more recently been recognised as a qualified, rather than absolute rule. Sometimes it may be legitimate to prove facts tending to establish the truth of some elements of a publication. That may be so if the facts are "directly relevant background context", as explained in *Burstein v Times Newspapers Ltd* [2001] 1 WLR 579 and subsequent authorities. The court should not assess damages "in blinkers."

Other publications

24. Another exclusionary rule established by *Scott v Sampson* was a bar on reliance on rumours or reports to the same effect as the words complained of. A consequence is that, as a rule, other publications to the same effect as the libel are inadmissible in mitigation of damages: *Dingle v Associated Newspapers Ltd* [1964] AC 371 (see Lord Denning at 410-411). But the court may need to "isolate" the harm caused by the publication complained of from that caused by others: see Lord Denning in *Dingle* at 397-8 explaining *Harrison v Pearce* (1858) 1 E & F 567. This is relevant in this case, not least because the claimants rely on a variety of written and oral taunts and it will be necessary to consider whether these are shown to have resulted from the Vines libel, or the Collins speech.

25. In any event, there is a statutory exception in s 12 of the Defamation Act 1952 which allows a defendant to rely in mitigation of damages on the fact that the claimant "has recovered damages, or has brought actions for damages, for libel or slander in respect of the publication of words to the same effect as the words on which the action is founded, or has agreed to receive compensation in respect of any such publication." The Collins action comes into play pursuant to s 12, and I shall need to ensure that there is no risk of compensating these claimants in this action for harm caused by the Collins speech.

An offer of amends

26. Factor (c) in Sir Thomas Bingham's list needs elaboration. Since *John*, which was decided in December 1995, Parliament has laid down a statutory procedure for making an offer of amends: Defamation Act 1996 ss 2-4. Where a defendant uses this procedure, it will be considered a significant mitigating feature and attract a healthy discount to the damages awarded: *Nail v News Group Newspapers Ltd* [2005] 1 All ER 1040 [41]. The usual discount for a prompt and unqualified offer of amends is

between 35-50%: *C v MGN Ltd* [42] (Bean J). There has been no offer of amends in this action. Mr Vines has not offered to make amends for the imputations I have found the words complained of to bear. But, as I shall explain, he has made an offer which he argues was akin to a "qualified" offer of amends under the statutory scheme, and he asks me to apply these principles by analogy.

The facts

The claimants

27. Both claimants are long-serving Labour Party politicians. Sir Kevin Barron has been the Labour MP for Rother Valley since 1983. His constituency falls within the RMBC boundary. He was a member of the General Medical Council from 1999 to 2008 and has been Chair of the House of Commons Standards and Privileges Committee since 2010. He has held a number of shadow cabinet positions. He was knighted in the New Year's honours 2014.

28. Mr Healey has been the Labour MP for Wentworth and Deane since 1997. His constituency falls largely within the RMBC boundary. In the years 2001-2010 he held a number of ministerial positions both in the Treasury and in the Department of Communities and Local Government. He lives with his wife in Rotherham, where his son was brought up.

Context

29. Allegations of child sexual exploitation in Rotherham first emerged publicly in Andrew Norfolk's *Times* articles from September 2012. Two months later Sarah Champion was elected as MP for Rotherham. On 26 August 2014 the Independent Report of Professor Alexis Jay OBE into Child Sexual Exploitation ("CSE") in Rotherham was published. It reported that at least 1,400 children had been subjected to sexual exploitation in Rotherham between 1997 and 2013. The report, which had been commissioned by the RMBC, suggested that some members of the Labour group on the RMBC had been aware of child sexual exploitation and had failed to take action. It did not implicate any MP.

30. Sir Kevin Barron told me that he had been approached in 2003 by the father of a young woman victim. He met the family and acted on their behalf. Sir Kevin was praised by the father of the family when the father gave evidence to the Commons Home Affairs Select Committee on 8 January 2013. He had however been unaware of the scale of sexual exploitation until the newspaper articles of 2012.

31. After the publication of the Jay Report Rotherham was, in Mr Healey's words, "darkened and dragged down" by the report and the wide media coverage that it generated. People were angry and looking for someone to blame. Mr Healey made public statements calling for those who had failed the victims to be held to account.

The Collins speech

32. On 26 September 2014 Ms Collins made her speech at the UKIP conference. She was introduced as UKIP MEP for Yorkshire and "our next MP for Rotherham". She was the UKIP candidate for Rotherham at the General Election that was held in May 2015.

The speech took CSE in the Rotherham area as its main theme. Ms Collins focused on the role of the Labour Party, including that of RMBC and made reference to "the three Labour MPs for the Rotherham area". This will have been taken by listeners as a reference to the three claimants in the Collins action: the claimants in the present case and Ms Champion MP.

33. The full wording of the Collins speech is set out in paragraph [9] of my judgment of 29 April 2015, [2015] EWHC 1125 (QB). At [32-34] of that judgment I held that the speech conveyed three defamatory meanings:

> "32 … that each of the three Rotherham MPs "knew many of the details of the scandalous child sexual exploitation that took place in Rotherham over a period of sixteen years, in the course of which an estimated 1,400 children were raped, beaten, plied with alcohol and drugs, and threatened with violence by men of Asian origin, yet deliberately chose not to intervene but to allow the abuse to continue."
>
> 33 … that the MPs "acted in this way for motives of political correctness, political cowardice, or political selfishness", and that each "was thereby guilty of misconduct so grave that it was or should be criminal, as it aided and abetted the perpetrators and made the Claimants just as culpable as the perpetrators."
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> 34. … The first meaning represents the factual imputations I considered that the Defendant made in her speech. The other two meanings encapsulate what I considered to be expressions of opinion."

34. The Collins speech was broadcast live on the BBC Parliament channel, and republished in whole or in part on the UKIP website, Twitter, and the Press Association Mediapoint wire service. The claimants have made clear that they regard this as the more serious of the two libels of which they complain.

35. In October 2014 there was a by-election for the Police Crime and Commissioner by-election in Rotherham ("the PCC Election"). A UKIP campaign poster featured a photograph of a child with the words "There are 1,400 reasons why you should not trust Labour again". Mr Vines told me that he was not consulted about this poster before it was published. Once it had been published, he questioned it. He did not think it was appropriate to use that in the PCC Election, so soon after the Jay report. But the local paper, the Advertiser, ran a poll in response to which 75% said they thought it was appropriate, so Mr Vines changed his mind.

36. It was against this background that Mr Vines went on air on 5 January 2015 and spoke the words complained of.

Gravity of the imputations

37. The imputations are clearly serious. Mr Vines points out, correctly, that he did not allege complicity in criminal activity and the rape of children, or any deliberate action by way of cover-up. He submits that the culpability suggested is participation in a

collective failure, or "nonfeasance", as it is put in his skeleton argument. The claimants were placed in the same category as Labour councillors, he suggests.

38. Mr Vines rightly acknowledges however that his words accused the claimants of failure to combat what they knew to be a serious problem and that they "singled out" the claimants "due to their dominant position in Rotherham politics". For an MP to know for years most of what was going on by way of large-scale sexual abuse of children in Rotherham and yet let it go on would represent a very serious failure of civic duty. It is fair for Mr Millar to submit that the allegations related to the integrity, professional reputation, honour of each claimant and the core attributes of his personality.

Authority and extent of publication

39. Sky is an influential political news channel. The claimants suggest that Mr Vines, as UKIP group leader, would appear to viewers to be in a position to speak authoritatively on the topic. This suggestion, which I accept, is not disputed by Mr Vines. The scale of publication is in dispute. The interview was broadcast once, live. There is no evidence it was repeated or made available online, or covered in other media. The average daily viewing figure for Sky News during the week in question, 5-11 January 2015, was 2,667,000 according to BARB (the Broadcasting Audience Research Bureau). On the back of this, the claimants suggest that millions saw the interview. But I accept Mr Vines' submission that this figure must be approached with caution, as a basis for assessing how many viewed his short interview.

40. The actual viewing figures for the segment have not been obtained, though they appear to have been promised by the claimants' solicitor. What is known from the research data is that on average each viewer watched the channel for a total of 19 minutes over the course of the week. So the average viewer watched Sky News for an average of under 3 minutes a day. This was a short lunchtime broadcast. Other events that may have accounted for some of this viewing included allegations about Prince Andrew, a debate about whether Oldham Athletic should hire the footballer Ched Evans, at that time recently convicted of rape and, on 7 January 2015, the Charlie Hebdo shootings in Paris. In these circumstances I approach the assessment of damages on the conservative assumption that tens of thousands or at most hundreds of thousands are likely to have viewed the interview complained of. These are still very substantial numbers.

41. I reject as unfounded and unreasonable the suggestions in Mr Vines' skeleton argument that damages should be reduced because the claimants are themselves responsible for disseminating the sting contained in the interview, by means of press releases. The issue of press releases refuting libellous allegations is an entirely reasonable step in mitigation of damage. No damages will be awarded for any re-publication brought about in this way, but nor can damages for the primary publication be reduced on this account.

Identity of publishees

42. I accept the claimants' case that those who viewed the interview are likely to have included a substantial number of people in the Rotherham area, as well as others whose opinion of the claimants mattered considerably to them.

43. The claimants suggest that Mr Vines' interview was broadcast to a new audience, different from that of the Collins speech. I have no evidence about the extent of any overlap. I do not think I would be justified, however, in treating the two audiences as entirely separate. These were both broadcast on national TV channels on political matters, and on the same topic. It is inherently likely that there was some overlap in the immediate audience, and a rather greater overlap between the secondary publishees: those who learned of the allegations from those who watched.

"Percolation" and social media

44. The claimants assert that the Collins speech "led to the allegations being widely repeated on social media sites and raised by members of the public", in targeted and repeated attacks against the Claimants. They maintain that Mr Vines' interview had a similar, but exacerbating effect. There is certainly evidence of hostile tweets, and ample evidence of other hostile remarks, but attributing causation is not easy.

45. Mr Healey gives, as examples, details of three tweets on 28 October 2014, each of which named him in connection with the scandal. One said "Labour denying grooming gangs esp in Rotherham, Labour are a disgrace". A second referred to a Rotherham Advertiser article and said "exposure is what you get for enabling paedo rapists." A third suggested it was "time to shame these enablers." These are put forward as instances of comments flowing from the Collins speech. Sir Kevin says "it is Jane Collins who first put these extremely serious allegations against me into circulation… and is therefore primarily responsible for the damage I have been caused."

46. It is not obvious that these tweets do flow from that speech, or if they do that they are a reasonably foreseeable consequence. They go beyond the meanings conveyed by the speech. One must bear in mind the PCC Election campaign current at around this time. For present purposes I do not need to decide. What is obvious is that none of this could be attributed to Mr Vines' speech. It also shows that there was an existing and extreme hostility to Mr Healey in connection with the issue. It is some evidence of an existing bad reputation.

47. Mr Healey is on stronger ground when he points to a series of tweets on 12 and 14 January 2015 criticising him for suing "when you r involved with a party hiding child molesters" and "suing @UKIP for telling the truth … We ALL know you're ALL guilty as sin." But again, there are candidates as causes of these tweets, other than Mr Vines' speech. And one of these tweets also names Ms Champion, whom Mr Vines had expressly excluded as a target of his remarks. In the end, I am not persuaded that it would be safe to conclude that any of the tweets relied on probably flowed from the Vines interview.

48. It does not follow, of course, that there were no tweets or other social media comments or postings that did flow from the interview. Nor are social media or online postings necessary in order to infer as I do that, on the balance of probabilities, a broadcast making allegations of this kind did lead to "percolation" of those allegations beyond the immediate audience. The "hidden springs" still exist in the era of social media. It is not yet the case that all social interaction is visible online. People still speak to one another by telephone and face to face.

49. Sir Kevin's witness statement makes the common-sense point that "people talk about these things, particularly during election campaigns". He says that CSE was raised at each of his three 2015 election hustings. He speaks of "a hostile undercurrent", which he attributes to Mr Vines' allegations. This must be taken in the context of Sir Kevin's own evidence that it was the Collins speech that caused most of the damage, and his realistic acceptance that the fact that it is not surprising CSE was raised by electors, given the Jay Report. But with those qualifications the suggestion that Mr Vines' allegations gave rise to insinuations of complicity is credible, given the scale of publication, and the fact that Mr Vines personally attended one hustings.

50. Mr Healey also found that allegations of complicity in CSE continued to surface during the General Election campaign. He found people telling him, on the door step, that he had "known all about it" and "covered it up". His son, delivering leaflets, was confronted by a man who told him that his dad knew all about it, was a paedophile and should be in prison. The same qualifications apply to this evidence, which does not contain anything that allows one to tie these events causally to Mr Vines' TV interview, as opposed to suspicions aroused by the Jay report, or the Collins speech. But I accept that Mr Healey is probably right to say that Mr Vines' repetition of similar allegations, after the claimants had publicly denied them and brought proceedings against Ms Collins, "cemented them in the minds of local constituents and the general public".

Mitigation and/or aggravation by conduct

51. The claimants' perception is that Mr Vines published the allegations knowing they were baseless. They maintain that he did so in a particularly emphatic manner, in order to justify UKIP's attempt to make political capital out of the scandal via the PCC Election campaign poster. They claim increased compensation for the hurt this caused to their feelings Mr Vines responds that this "comes perilously close to suggesting that this action is a front for the Labour Party suing UKIP". He says it was in any event appropriate for UKIP to rely on the CSE issue in the PCC Election. That election came only two months after the Jay Report, and it was the CSE scandal that had caused the departure of the outgoing Commissioner, Shaun Wright. Mr Wright had been a long-standing councillor for a ward within Mr Healey's constituency, deputy chair of the police authority, mayor, and the cabinet member for children's services. He resigned after his conduct came under intense criticism.

52. Mr Vines denies the allegation of malice, stating that he was only invited to participate in the interview with Kay Burley on the morning of 5 January 2015. This was an initiative of Sky News, not him, he says. "There was no preparation or intent to make a defamatory comment and cause harm to the reputation of the Claimants." Mr Vines was subjected to detailed cross-examination on these aspects of his case. He accepted that when he gave the interview he knew that the three Labour MPs had sued Ms Collins over what she had said about their involvement with CSE in Rotherham. It was put to him that he had deliberately suggested in the interview that the claimants knew about CSE for years. He was accused of having dishonestly tried to cover his back since then by pretending that he only meant to allege knowledge on the claimants' part after publication of the *Times* articles of 2012.

53. As I have indicated, it is not necessary or relevant for me to determine Mr Vines' actual state of mind. Nor is it my function to adjudicate on the detail or propriety of

UKIP's campaign methods in the PCC Election. What matters for present purposes is whether the claimants have shown that the way Mr Vines behaved in making the offending allegations led them to conclude, reasonably, that he was malicious in the ways I have outlined, and thereby caused them increased hurt. In my judgment the claimants have established these points.

54. Mr Vines' evidence is that he and Ms Collins "are not the best of amicable friends", and that he had not enquired into the detail of what it was that she had said, that led to her being sued for libel. Whatever the truth of that, it is not what the interested observer would have supposed. It could easily and reasonably appear to the observer that the PCC Election poster, and the attacks by Ms Collins and Mr Vines were all of a piece; and that the speech and the interview formed part of a co-ordinated UKIP campaign to damage the prospects of the claimants as Parliamentary candidates by associating them with the CSE scandal. I am sure that is how they were seen by the claimants.

55. A reasonable person in the position of the claimants could also conclude that Mr Vines quite deliberately suggested that the claimants had known details of the CSE scandal for many years. As was pointed out to him in cross-examination, if he had intended only to suggest knowledge from the date of the *Times* articles of 2012 it would have made no sense to exempt Ms Champion from his attack on the basis that she was "the new girl on the block". She was elected only two months after the articles. He had no answer to the point. And if Mr Vines' point had been that the claimants knew of CSE from the time when the *Times* articles were published, it would have been a very weak point: the fact of CSE became public knowledge then. Yet Mr Vines made his point with considerable emphasis.

56. Mr Vines sought under cross-examination to suggest that all he was doing in the interview was calling for an inquiry into the state of the claimants' knowledge. He said "I had a mandate to represent the people of Rotherham and to ask the questions they wanted to know. If you look back there are a lot of questions from them: what did the MPs know? There was no mechanism to ask those questions. It was my role to question the MPs. Who else is going to question them if not me?" Having watched the claimants in court during this cross-examination I am confident they were wholly unconvinced by this reasoning. That is a reasonable response. Mr Vines did of course hold an important democratic position, but this evidence does not engage with the language he actually used in the interview. That language plainly was not just raising questions or calling for an enquiry. It was stating as a fact that the claimants "certainly" knew most of what was "going off". What this explanation does tend to do is support the view which the claimants were entitled to take at the time: that Mr Vines knew of no evidence supporting the allegations he was making.

57. I turn to Mr Vines' subsequent conduct, which includes steps on which he relies as mitigating damage. A letter of claim was sent to him on 12 January 2015. It asked him to undertake not to repeat the allegations complained of, to publish a full and unqualified apology, and to pay the claimants' legal costs and £10,000 each in damages. He replied by an undated letter received by the claimants' solicitors on 20 January 2015. This stated that he wanted to "take the opportunity to clear up any misunderstanding" the claimants might have. But the wording that followed fails, in my view, to clear up anything much. It says that Mr Vines' comments were "In reference to the publication in Mr MacShane's book", but it does not make clear what

that book said, or how exactly it is relevant. The implication is that the book was in some way an authoritative source for Mr Vines' allegations. Mr Vines' letter goes on to say that the year to which he was referring to was 2012 and no other period of time. But the final paragraph states that "All my references were made to Mr MacShane's publication of the article by Mr Andrew Norfolk published in 2012, and my reference to Sarah Champion in the same year." This is little more than confusing. It does not go far, if anywhere, towards meeting the claimants' requirements.

58. Mr Vines' letter said that he would be releasing a press statement "clearly stating my comments on Sky TV were referring, as outlined above, to the year 2012 only, and at no time prior." On 24 January 2015 an article was published on an inside page of the Rotherham Advertiser, the readership of which is said to be some 53,000. The article was headed "UKIP Chief pledges to fight MPs' libel action". Its opening paragraphs recorded that Mr Vines had "vowed to defend himself" after being sued by the claimants "for allegedly suggesting they knew about the child sex abuse exposed by the Jay report".

59. To this extent, the content of the Advertiser article tends to aggravate rather than mitigate damages. Mr Vines points out that he did not write the headline or the article, but he has not denied that he was accurately quoted in the article. On that basis the opening paragraphs seem to be to be a reasonable reflection of the thrust of what he said. He is quoted as stating that "after careful consideration … I will rigorously defend myself with every means available …" The natural inference, without more, would be that he intended to assert the truth of the allegation described in the article.

60. The article goes on to quote a statement made by Mr Vines "to clear any misunderstanding or misinterpretation" of his "comments" in the Sky interview. This would appear to have been along the lines of his undated letter because the quoted words that follow in the article are very similar.

61. Sir Kevin Barron told me that he had not seen the January letter, and did not feel the January article made things any better: "He was not prepared to withdraw what he had said". When Mr Vines asked Mr Healey in cross-examination whether he had seen "the retraction letter in the Advertiser" he said he saw it, but didn't read it as a retraction. These are reasonable responses. I do not accept Mr Vines' characterisation of the Advertiser article as a "rapid step to correct the record." The account of Mr Vines' position as reported in the Advertiser does indicate to the careful reader that he was not maintaining that the claimants knew of the CSE scandal from before 2012, but otherwise it seems to me to be garbled, tending to sow confusion rather than create clarity. It cannot fairly be called a retraction, and it contains no apology.

62. These proceedings were issued on 29 January 2015, with Particulars of Claim attached. A Defence was served on 10 February 2015. I examined this document in my judgment of April 2015, but it is relevant to recall the following features: it (1) admitted that in their natural and ordinary meaning the words complained of meant and were understood to mean that "at all material times the claimants knew of child sexual exploitation involving approximately 1,400 children in Rotherham"; (2) denied that the words meant that the claimants let the sexual abuse go on, in the sense that they failed to do something they could have done to stop it; (3) accepted that he had asserted that the claimants "are now failing" by omitting to ensure the perpetrators were arrested; (4) apologised for the words "and they're still letting them down", and

retracted those words; but (5) declined to admit that the words were defamatory or disparaging; and (6) claimed the costs of defending the action. In summary, the defence was certainly asserting that the claimants had nothing to complain about. It did not assert the truth of the primary imputation but cannot be said to mitigate damages to any substantial degree.

63. On 5 March 2015 Mr Vines wrote to the claimants' solicitors recording that he denied "the allegations made by your clients" and claiming that he had "clarified the situation that the statements I made relate to the time period from 2012." He went on to make proposals "in an effort to settle matters". He offered not to say or publish that the claimants were aware of the scale of the CSE prior to 2012; to ask the Advertiser to publish an agreed statement clarifying this (though he said he had already done so); to pay £500 to the Women's Refuge local charity; and to pay £1,000 towards legal costs. He offered to meet to mediate, if this offer was not agreed.

64. There was no response to this letter, a fact on which Mr Vines has laid considerable emphasis in his cross-examination and in his submissions. In the agreed list of issues this point was characterised as one involving (a) actual mitigation – the point being that the claimants' feelings were or should have been assuaged - and/or (b) a failure by the claimants to take reasonable steps to mitigate harm – in this respect, both reputational harm and distress are relevant. It is important to recall, though, that at its highest Mr Vines' case is that by this point he had in substance taken most of the steps required for an offer of amends complying with s 2 of the 1996 Act.

65. I cannot accept that characterisation of Mr Vines' offer. An offer under s 2 can only be made before service of a Defence: see s 2(4). It must have three elements: the defendant must offer to make "a suitable correction … and a sufficient apology"; to publish that correction and apology "in a manner that is reasonable and practicable in the circumstances"; and to pay "such compensation (if any) and such costs as may be agreed or determined to be payable". If the offer is accepted and the parties cannot agree on how to implement these measures, the court will assess the compensation due. The statutory regime has other requirements, but these are the key features for present purposes. Mr Vines' offer was made only after service of his Defence. It did not contain any, or any clear offer to correct anything. It suggested, rather, a willingness to repeat his previous assertion that there was nothing needing correction. It contained no offer to make any apology. It did not offer to pay compensation as assessed if not agreed, but offered a specific, small sum. Nor did it offer to pay costs as assessed if not agreed.

66. The claimants were in my judgment entitled to regard this letter as not amounting to an acceptable offer. Cross-examined by Mr Vines, Mr Healey gave three reasons for not responding: (i) the offer fell far short of what the claimants had said they wanted; it was described as "risible"; (ii) their legal advice was that they had a strong case; (iii) they did not accept it was sincere. Mr Healey said to Mr Vines, "frankly, I didn't believe you". He told me that the claimants placed weight on their view that Mr Vines' interview was part of a concerted UKIP strategy, and the fact that Ms Collins was trying to contest their claims. These are reasonable grounds for rejecting the specific offer. But I do not think they justify a complete failure to respond to the letter. There is force in Mr Vines' complaint that the claimants simply failed to engage with his offer of mediation. Acting reasonably, they ought in my judgment to have responded, through their solicitors, in an attempt to achieve something closer to

their objectives. It is hard to see much risk involved, even if the claimants reasonably assessed the prospects of success as poor.

67. What difference would it have made? It is not easy to tell, but in my view the probability is that it would have made some difference. I acknowledge that Mr Vines' position on these issues has been less than clear, or consistent. The context was highly political. I think it unlikely that mediation would have resulted in a compromise of the claim. I doubt that Mr Vines would have agreed to apologise for anything. That too is improbable, in the light of all that went before, and has happened since. But none of this should have barred an attempt to reach some compromise. In my view Mr Vines probably could have been persuaded to put his name to a clearer and more coherent statement of the position he had then taken, absolving the claimants of any detailed knowledge of CSE before the scandal became general public knowledge in the latter part of 2012. That clearer statement could have been publicised, alleviating the continuing harm to the claimants' reputations and feelings.

68. The weight that can be attributed to this point is however considerably reduced by Mr Vines' subsequent conduct. This is far from being a case in which the defendant has made a reasonable offer, and maintained a conciliatory stance throughout. On the contrary.

Evidence of harm or the lack of it

69. It is very easy to infer from the circumstances identified above that the serious harm threshold in s 1 of the Defamation Act 2013 was crossed by the original publication. Mr Vines has however challenged the claimants over what he suggests is their complete failure to produce any evidence of actual harm to reputation, or of any need for public vindication. He relies on the General Election results, and the fact that Mr Healey was in September 2015 promoted to the Shadow Cabinet, as evidence to the contrary. His skeleton argument adds a suggestion that the court should, as in *Joseph v Spiller* [2012] EWHC 2958 (QB), make a "deliberately modest award" on the basis that the claimants have told falsehoods in their witness statements

70. The facts are that both claimants were returned with increased majorities. Mr Millar submits that it is, if not wrong in principle, impossible in fact to treat the claimants' election results as any evidence of a lack of harm to reputation. The causation issues involved in making any assessment render it impossible to reach a safe conclusion. Some of the causation issues have been canvassed in the evidence. They are self-evident. For instance, it is pointed out that many voters vote for the Party not the candidate. I am left in broad agreement with Mr Miller's submission on the facts. I think it safe to say nonetheless that the results and Mr Healey's promotion do indicate that the claimants' political reputations with their own electorate and party were not destroyed by what was said by Ms Collins and/or Mr Vines.

71. I reject Mr Vines' "*Joseph v Spiller*" point, but it is possible to see how it arose. In his witness statement, having referred to the "hostile undercurrent" at hustings resulting from Mr Vines' interview, Sir Kevin Barron stated that "As a result I was compelled to recruit extra staff and employed Michael Denoual to assist me with the election campaign. … This was not solely funded by the Labour party and I therefore incurred significant extra costs." Mr Healey said in his statement that "the UKIP allegations" increased the "political jeopardy" for the Labour MPs in Rotherham and that "As a

result I had to take steps to raise more than £25k personally in order to fund a campaign to secure re-election…" Mr Vines had understood this evidence to be advanced in support of a claim for financial loss. No such claim has been made. But the evidence was relied on as evidence of damage. Mr Vines was justified in testing it.

72. On examination, the claimants' evidence was that Mr Denoual had been engaged by the Party and not by either of the claimants; that this had happened in September or October 2014, after the Collins speech, and before Mr Vines' interview; and that the claimants had agreed their personal contributions before that interview also. I do not believe either claimant intended to mislead. Their statements were designed to deal with the Collins case and the present case. But they could (and should) have been more carefully phrased. The allegation made by Mr Vines was offensive and wrong, and fails in its objective of diminishing damages. But nor do I think it appropriate to increase damages on that account.

73. I reject Mr Vines' contention that it is "preposterous" to suggest that his interview caused stress, when the claimants were returned with increased majorities. I am satisfied that the publication complained of and the subsequent conduct of Mr Vines have both caused significant hurt feelings to both claimants. There is clear evidence of real distress continuing ever since the Collins speech. It is accepted on the claimants' behalf that one can only apportion some of that to what was said by Mr Vines. But I have heard and seen evidence at this hearing of the real anger and distress felt by both claimants.

74. Sir Kevin told me he had felt his reputation was under attack throughout the 18 months this case has "dragged on", as he put it. Mr Healey said in cross-examination that on re-reading the transcript of the interview "the same feeling of sickness came back, because you were asserting that we knew about it then and had let them down and were still letting the children down. That sense of personal injury and frustration of not being able to prove a negative to register my challenge to that assertion – that lives with you." This was convincing evidence.

75. There is a suggestion in Mr Vines' evidence and his skeleton argument that the claimants have contributed to the damage they have suffered, by failing to take action to counter existing suspicions, or to make efforts to assist Prof Jay after RMBC was condemned by the Home Affairs Select Committee in 2013. I am concerned only with damage caused by Mr Vines' interview, so this is largely irrelevant. The alleged failure to help Prof Jay is however said to have "fuelled the frustration and suspicion reflected in the comments" made by Mr Vines. This is neither logical nor reasonable, nor do I consider there is any acceptable evidence to support it. The attempt to blame the claimants for what the defendant said is, instead, a suggestion that tends to increase the injury to the claimants.

Other aspects of Mr Vines' conduct of the action

76. Other aspects of Mr Vines' conduct have in my judgment added to the harm caused to the claimants. He contested the summary judgment hearing on bases that were manifestly ill-founded. Having lost, and apparently accepted the court's conclusions on those issues, he then changed his position and made repeated attempts to set aside the judgment against him, which were misconceived. During this assessment process he has behaved in ways more likely to inflame feelings than to mitigate the harm done

by his original publication. I am satisfied he has behaved unreasonably and, by doing so, caused additional hurt feelings by the way he has conducted himself.

77. Some of the material in Mr Vines' witness statements, and some of the cross-examination that he attempted, involved attempts to establish that, to some extent at least, what he said on Sky TV was true. Mr Vines has seemingly had difficulty taking this on board, but I explained more than once that his opportunity to put up an arguable defence to the claim had come and gone. This point had been made to him in the ruling I gave at the start of the hearing, dismissing his application to set aside judgment, and before that by Sir David Eady, and by Master Leslie.

78. Given that Mr Vines is unrepresented I have considered whether any such matters could sensibly be viewed as *Burstein* material, but I was unable to see how this could be so. To the extent that Mr Vines' statements seek to establish the truth of any of the imputations conveyed by the words complained of, or any other substantive defence, therefore, their relevance is that they tend to increase the compensation due for hurt feelings. I shall also reflect in my awards the hurt caused by Mr Vines' persistent and ill-founded suggestions that what he said caused the claimants no real harm.

Discussion and conclusions

The framework for my awards

79. The current "ceiling" on libel awards, arrived at by reference to the top figure for pain, suffering and loss of amenity in personal injury claims, is about £275,000: *Cairns v Modi* [2012] EWCA Civ 1382, [2013] 1 WLR 1051 [25]. Awards at that level are reserved for the gravest of allegations, such as imputations of terrorism or murder. One must seek to place an individual case in its proper place on the scale that leads up to this maximum.

80. In *John* at 608 Sir Thomas Bingham MR continued, after the passage cited above, as follows:-

> "There could never be any precise, arithmetical formula to govern the assessment of general damages in defamation, but if such cases were routinely tried by judges sitting alone there would no doubt emerge a more or less coherent framework of awards which would, while recognising the particular features of particular cases, ensure that broadly comparable cases led to broadly comparable awards."

81. Practice in libel actions has developed considerably since 1997, and the Defamation Act 2013 has removed the presumption in favour of trial by jury in defamation cases. As a result, most damages awards in recent years have been made by judges, rather than juries. It is fair to say that a "more or less coherent framework of awards" has been built up. Whilst properly acknowledging that each case turns on its own facts, each side has referred me to aspects of this framework.

82. Mr Millar has relied on the following:

(1) A table of damages awards in Duncan & Neill on Defamation, 4th Edition, highlighting in particular *Rantzen*, where the libel was that the claimant, a well-known broadcaster, had protected a teacher she knew to be a child abuser. The Court of Appeal reduced the jury's 1993 award, but approved £110,000.

(2) *C v MGN Ltd* (above) in which the claimant, falsely accused of having been convicted in the 1970s of raping a 14 year-old girl, recovered £50,000 although he was not named in the article, few would have identified him as its subject, and the defendant had made a prompt offer of amends leading to a 50% discount.

(3) *Appleyard v Wilby* [2014] EWHC 2770 (QB) where Bean J (as he then was) awarded £60,000 in respect of allegations in tweets and on a website that the Claimant police officer had befriended and protected a celebrity he knew to be a paedophile or rapist, misusing his position as a police officer to do so.

83. Mr Vines' skeleton argument seeks to distinguish all three of these cases:

(1) The allegation in *Rantzen* was one of actively protecting a known child abuser, which is far more serious. Attention is drawn to the fact that the allegation had not affected Ms Rantzen's career, which had a deflationary effect on damages.

(2) In *C v MGN* also the allegation was far more serious, and created a real possibility that the claimant's other children might be placed in permanent foster care. It was naturally deeply distressing given that the reason for the article was that C was the father of "Baby P", who had been killed by others.

(3) Although *Appleyard v Wilby* involved a holder of public office the allegations were of knowing complicity in paedophilia and rape, actively engaging in police corruption and using indecent photographs of children, all of which are clearly significantly more serious than the allegations in issue here.

84. Mr Vines' skeleton argument draws attention to five other cases said to be more useful by way of comparison:

(1) *Picardo v Sindicato Colectivo de Functionarions Publicos Manos Limpias & Miguel Bernard Remon* 2013-P-160, where a senior politician, a minister, was directly accused of a variety of criminal offences. The minister was a former barrister, the allegations were widely published in Gibraltar, but the award of damages was £30,000.

(2) *Kadir v Channel S Television* Ltd [2014] EWHC 2305 (QB) involving a broadcast to about 3,500 people alleging evasive and incompetent dealings with concerns of fraud in a company in a highly evasive and incompetent manner.

(3) *Royal Brompton & Harefield NHS Foundation Trust v* Shaikh [2014] EWHC 2857 (QB), involving repeated publications alleging racism, dishonesty and paedophilia.

(4) Reaching back in time, Mr Vines points to *Campbell v News Group Ltd* [2002] EMLR 43 and *Jones v Pollard* [1997] EMLR 233, each involving allegations of direct involvement in criminal activity centred on sexual offences, as a pimp (Jones) or the sexual abuse of children and voyeurism (Campbell). Neither case yielded more than £40,000 in damages.

85. I need to bear in mind that some of these figures need adjustment to reflect inflation, at least when the awards are many years old. Where this seemed appropriate I have used the Bank of England's inflation calculator to guide me.

Article 10 and political expression

86. In his skeleton argument Mr Vines has emphasised the need for extreme caution when potentially limiting political expression through actions for defamation. He has referred me *Lingens v Austria* and *Steel and Morris v United Kingdom* in this regard. The primary focus of this jurisprudence is on the need to avoid chilling legitimate political expression by ensuring that those who speak out in good faith on political topics are not unreasonably exposed to findings of liability for defamation. I have taken the jurisprudence into account at the liability stage of this case, and concluded that Mr Vines is liable. But I accept that the caution prescribed by these authorities extends to the stage at which damages are assessed for a statement that has been found to be libellous.

87. The general point has been acknowledged domestically for over 20 years, albeit the focus in *Rantzen* was on the chilling effect of excessive awards of exemplary damages. I would accept the more specific proposition that special caution is required when it comes to deciding what is justified and proportionate by way of compensation for libels such as those in issue here, which are published by one politician about another on a topic of public interest. Politicians may in general have thicker skins than the average. Whether or not that is so in the individual case, they are expected to tolerate more than would be expected of others.

The present case

88. Drawing together all these threads, I have reached the conclusion that the appropriate award for each of the claimants is £40,000. This is a sum which, in my judgment, is in each case justified but no more than justified in all the circumstances. It strikes an appropriate balance between the need to vindicate the claimant's reputation and compensate them fairly for the harm done, and the need to avoid over-chilling freedom of speech in the political arena. I have not awarded damages for the imputation I found, but of which the claimants did not complain. My focus has been on compensating and vindicating in respect of the first, factual defamatory meaning.

89. I have taken a cautious approach in other respects for all the reasons already indicated. Among these are that whilst the impact of these allegations was no doubt considerable, the Collins speech is understandably put forward as the main cause of harm. That speech and the background of the CSE scandal more generally are confounding factors making causation less than clear-cut. The failure to take the reasonable step of pursuing Mr Vines' offer to mediate has a moderating impact on my awards.

90. I have increased the awards to reflect the hurt caused by the factors discussed above, including the claimants' reasonable perception of malice on the part of Mr Vines. But I have done so in a moderate way. I have not discounted the figure substantially on account of this reasoned judgment. In all the circumstances each of these claimants requires, in my judgment, a substantial award that he can point to as evidence of proper vindication.