



JUDICIARY OF
ENGLAND AND WALES

15 February 2018

PRESS SUMMARY

Sir Kevin Barron MP & Others v Jane Collins MEP & UKIP
[2018] EWHC 253 (QB)
Mr Justice Warby

1. The Court gives judgment on an application by the claimants for a third-party costs order against the second defendant (UKIP, or the Party). UKIP agreed to be joined to the action for the purposes of resolving the question of whether it should pay costs incurred by the claimants in their successful claims for slander and libel against the first defendant (Ms Collins), who is and has at all relevant times been the MEP for Yorkshire and North Lincolnshire, and a member of the Party.
2. The background is set out at **[2]-[10]**.
 - (a) The claimants are three Labour MPs for constituencies in or near Rotherham. They sued Ms Collins for libelling them in a speech she gave to the UKIP Party Conference on 26 September 2014, at which time the 2015 Election was in prospect and Ms Collins was the prospective UKIP Parliamentary Candidate for the constituency of Rotherham.
 - (b) In a Judgment of April 2015, the Court found the speech referred to all three claimants, and bore three defamatory meanings about them, to the effect that they had known many of the details of the scandalous child sexual exploitation that took place in Rotherham, yet deliberately chose not to intervene but to allow the abuse to continue; that they had done this for motives of political correctness, cowardice, or selfishness; and that they were thereby guilty of misconduct so grave that it was or should be criminal.
 - (c) In May 2015, Ms Collins made and the claimants accepted an Offer of Amends pursuant to the Defamation Act 1996. After that, Ms Collins parted company with her lawyers, and made applications to “vacate” her Offer of Amends and to stay the proceedings pending an opinion from the European Parliament on whether her role as an MEP meant she was immune from the claims. The Parliament’s opinion was that she was not, and the Court refused to stay the claim further, and dismissed the application to vacate the Offer of Amends.

- (d) After a hearing in January 2017, the Court awarded compensation of £54,000 to each of the claimants, and ordered Ms Collins to pay their costs, with an interim payment on account of £120,000.
 - (e) None of those sums have been paid. As a result of disclosure given by Ms Collins in the course of enforcement proceedings the claimants brought the present application.
3. The case for the claimants was that UKIP had provided financial support to Ms Collins and sought to influence the conduct of the action for its own ends, so that it was just to order that it bear the costs of the action. It argued that UKIP had regarded the conduct of the litigation as “part and parcel of its 2015 General Election campaign.” UKIP accepted that it had funded Ms Collins for a period of months, in the sum of some £31,000, but maintained that it would be unjust to make any such order as it did not seek control of the litigation; its primary concern was to help Ms Collins settle the claims; the claimants would have incurred the same expense in any event; and it would be wrong to make an order when UKIP had only been put on notice of the claim for costs in July 2017. See **[11]-[16]**.
4. The Court identifies the basis of its discretionary power to make a third-party costs order, and the legal principles that apply: **[17]-[22]**, **[79]-[82]**. The history of UKIP’s role in relation to the libel claims is examined in detail: **[29]-[78]**. Applying the legal principles to the facts as found, the Court reaches these conclusions at **[83]-[89]**:
- (a) It would be unjust to make any order in respect of the period up to the end of February 2015. The Party is not to be held responsible in these proceedings for causing or allowing Ms Collins to make the speech. It began by acting in good faith, funding the provision of initial advice and representation for a defendant towards whom it felt some moral responsibility. Thereafter, it played a supportive role, aiming to facilitate and fund a settlement.
 - (b) But things changed significantly in late February and early March 2015. “In that period the Party took a deliberate, informed and calculated decision, for reasons of party political advantage, to ensure that the case was not settled before the General Election. In my judgment, it very probably did thereby prevent a settlement that it had been advised should be made and which would otherwise have occurred quite swiftly. The likelihood is that, but for its role, the case would have settled” by 20 March 2015, at UKIP’s expense **[83(7)]**, and **[84]**.
 - (c) Ms Collins’ conduct as a litigant in person between June 2015 and January 2017 was not caused or contributed to by UKIP, nor was it foreseen or reasonably foreseeable by the Party. It would be unjust to make them pay towards the costs incurred as a result. **[83(8)]**.
 - (d) But there is every likelihood that a settlement in the Spring of 2015 would have obviated any need for the assessment hearing of January 2017. **[83(9)]**.

5. The Court therefore makes an order that UKIP should pay the claimants' costs from 20 March 2015 to 23 June 2015 and their costs of the assessment hearing.
6. The judgment determines the issue of principle, but the order will be subject to a detailed assessment. That gives the Party the opportunity to challenge the recoverability of individual elements of the Bill and/or the reasonableness of the sums claimed: [15]. The order makes the Party liable in addition to and not in substitution for the orders made against Ms Collins, who remains liable: [22].

References in square brackets are to paragraphs in the judgment

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.bailii.org.uk