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Case No: HQ07X00543

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 09/11/2012

Before :

THE HONOURABLE MRS JUSTICE SWIFT DBE

- -

Between :

PATRICK RAGGETT	**Claimant**
- and -	
THE SOCIETY OF JESUS TRUST 1929 FOR ROMAN CATHOLIC PURPOSES	**First Defendant**
-and-	
GOVERNORS OF PRESTON CATHOLIC COLLEGE	**Second Defendant**

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- -

Andrew Prynne QC and James Arney (instructed by **Irwin Mitchell**) for the **Claimant**
Steven Ford QC and Adam Weitzman (instructed by **Berrymans Lace Mawer**) for the **Defendants**

Hearing dates: 29 June; 2-16 July 2012

- -

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MRS JUSTICE SWIFT DBE

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The Honourable Mrs Justice Swift :

INTRODUCTION

1. The claimant claims damages for personal injury, loss and damage consequent upon sexual abuse perpetrated on him by the late Father Michael Spencer, SJ, a teacher at Preston Catholic College (PCC) which was situated in Preston, Lancashire. I tried the issues of limitation and liability in this case in March 2009. On 5 May 2009, I delivered judgment in favour of the claimant on both issues. Between 29 June and 11 July and on 16 July 2012, I heard evidence and submissions on issues relating to causation and quantum of damages (the quantum hearing). That evidence was directed mainly at establishing what, if any, lasting psychiatric damage had been caused by the abuse and, if such damage had occurred, to determine the effects on the claimant's personal and professional life. I also heard some evidence on the issue of quantum.

THE ABUSE

2. At paragraphs 11-19 of my judgment on limitation and liability, I summarised the claimant's account of the abuse to which he was subjected. At paragraph 70, I accepted that he had been the victim of a sustained course of sexual abuse by Father Spencer during his time at PCC, starting in the early part of 1970, when he was 11 years old. At paragraph 71, I indicated that, save in one respect, I accepted the claimant's account of what had occurred and found that the abuse had "petered out", as the claimant described it, during his fifth year at PCC, when he was aged 15. As I explained at paragraph 73 of my previous judgment, I was unable to be satisfied on a balance of probabilities that there had been any penetrative sexual activity. The claimant claimed that, as a result of undergoing Eye Movement Desensitisation and Reprocessing (EMDR) treatment during the period immediately preceding the limitation and liability trial, he had remembered that there had been two incidents of digital penetration. I accepted that, by the time of the limitation and liability trial, the claimant genuinely believed that digital penetration had occurred. However, I was unable to be satisfied to the required standard that this was a 'real' memory, as opposed to a belief that had arisen as a result of repeated ruminations about the abuse. In the light of my finding, I proceeded at the quantum hearing on the basis that no penetration occurred.

3. At paragraph 109 of my judgment on limitation and liability, I described the abuse in these terms:

> "It is of course true that the abuse resulted in no physical injury to the claimant. It was not (as I have found) penetrative. Nevertheless, its frequency, its duration (the individual "football coaching" in the holidays could last all day), the period of years over which it was committed and the intense feelings of violation, dread, isolation, shame and humiliation that the claimant described experiencing at the time must, if true, all have combined together to produce significant psychological effects."

It should be noted that that description was given in the context of discussing whether or not the claimant should have known at the time that he had suffered a "significant injury" within the meaning of the Limitation Act 1980. It was not intended to imply

that I had made any finding as to whether or not the claimant was suffering from any psychiatric disorder as a result of the abuse. Indeed, at the limitation and liability hearing, I specifically declined to make any findings about causation.

THE CLAIMANT'S LIFE TO DATE: A BRIEF SUMMARY

4. The claimant was born on 24 June 1958. He is now 54 years old. Together with his parents and four siblings, he moved to Preston in 1963. Until the age of 11 years, he was a pupil at St Gregory's Primary School, Preston, before transferring to PCC, where he remained until the age of 18. Thereafter, he read English Literature at Liverpool University, graduating in 1979, and, after a brief period as a trainee accountant in a large firm of accountants, he returned to Liverpool where he completed one year of a Master of Philosophy (MPhil) course. He then went to the College of Law at Guildford where he took his final examinations in June 1982.

5. The claimant served his articles between August 1982 and August 1984 and was admitted as a solicitor in October 1984. Over the next 13 years, he was employed by four different City solicitors' firms, Turner Kenneth Brown (TKB), Gouldens, Norton Rose (NR) and Pinsent Curtis (Pinsents). In April 1997, his employment as a salaried partner with Pinsents was terminated. He has not worked as a solicitor since. He married his first wife in 1991. They separated in 1996 and were divorced in 1998. There were no children of the marriage.

6. After the end of his career as a solicitor, the claimant worked in the field of legal recruitment and legal journalism. In 2000, he joined a leading solicitors' firm, DLA Piper Rudnick Gray Cary UK LLP (DLA), in their business development department. That employment ended early in May 2005 and, in June 2005, he took up a similar post with another large solicitors' firm, Eversheds LLP (Eversheds). He left Eversheds in August 2007.

7. Meanwhile, on 17 April 2005, the claimant experienced a sudden overwhelming realisation of the extent of the sexual abuse to which he had been subjected. I described the events of that day at paragraphs 53-57 of my judgment on limitation and liability. At paragraph 106, I accepted that the episode on 17 April 2005 resulted in an awakening of memories of certain incidents of abuse that had occurred and, more particularly, of the emotions associated with that abuse.

8. Shortly after 17 April 2005, the claimant consulted solicitors with a view to making a claim. They instructed Dr Jonathan Shapero, Consultant Forensic Psychiatrist at Marlborough House Regional Secure Unit, Milton Keynes, to prepare a Report dealing with the psychiatric effects of the abuse on the claimant. Dr Shapero saw the claimant on 21 December 2005 and 8 February 2006 and his first Report was dated 23 January 2007. Dr Shapero expressed the view that the claimant had suffered lasting psychiatric damage as a result of the abuse. Proceedings were commenced on 16 February 2007.

9. After the claimant's employment with Eversheds came to an end in 2007, he worked as a self-employed professional services and general business consultant. In 2010, the claimant began a three-year part-time Master of Science (MSc) course in counselling and psychotherapy at Roehampton University. He has completed over 300 hours of counselling so far and hopes eventually to practise as a psychotherapist. In July 2008,

he started a relationship with Ms Stacey George, who was to become his second wife. She has three children from a previous marriage. The couple married in June 2011 and have a daughter, born in November 2011.

THE PARTIES' CASES

The claimant's case

10. The claimant's case is that he suffered both immediate and long term psychological effects as a result of the sexual abuse. The immediate effects included those to which I have already referred at paragraph 3 of this judgment. In addition, it is contended that, in childhood, the claimant developed a recognised psychiatric disorder, namely a mild conduct disorder, manifested, *inter alia*, by a marked deterioration in his behaviour and academic performance. In adult life, it is contended that the claimant suffered long term psychiatric damage in the form of an enduring personality change, together with a mental and behavioural disorder due to harmful use of alcohol resulting from the abuse.

11. The claimant claims that the psychiatric damage resulting from the abuse caused him difficulties in forming and maintaining personal relationships, in particular with his first wife. He also contends that the personality change caused by the abuse had a seriously detrimental effect on his ability to work as a solicitor. In particular, it adversely affected his ability to relate to people in positions of authority and to exercise appropriate judgment and self-control in his dealings with them. It is said that it also caused the claimant to indulge in 'risk taking' behaviour, to drink excessively and to use illicit drugs. It is claimed that the personality change resulted in the loss of his employment with Pinsents and his inability to obtain alternative employment as a lawyer.

12. The claimant's past and future claim for loss of earnings is based on the contention that, if it had not been for the abuse, he would have been an equity partner at Pinsents by April 1998 and would have continued in that capacity with Pinsents (or a firm offering comparable remuneration) for the remainder of his working life, with a commensurate pension thereafter. In the event that I am unable to be satisfied to the required standard that the claimant would have become an equity partner at Pinsents, it is contended that he should be compensated for the loss of his earnings as a salaried partner with Pinsents (the position he held before his employment with them was terminated), together with the loss of the chance that it is said he would have had, but for the abuse, of securing and retaining an equity partnership at Pinsents or elsewhere. The total claim, on the claimant's primary case, is for a sum in excess of £4 million.

The defendants' case

13. The defendants accept that the claimant suffered some, relatively short term, effects as a result of the sexual abuse. However, they argue that those effects had passed by the start of his third year at University. They accept that he suffered a further psychological reaction after the events of 17 April 2005. However, they argue that the difficulties which have occurred in his personal and professional life were caused by personality traits which were unconnected with the abuse, and by his habit of drinking alcohol to excess. They accept that he has in the past suffered from a mental and behavioural disorder caused by the harmful use of alcohol. However, they

contend that he would probably have suffered from the disorder even had the abuse not occurred. They deny that the effects of the abuse caused the claimant to lose his job as a solicitor or prevented him from continuing to work as a lawyer.

14. The defendants argue that the claimant is entitled only to damages in respect of the psychological effects of the abuse, together with consequent expenses including the costs of therapy.

THE EVIDENCE OF THE LAY WITNESSES ON CAUSATION

15. The lay witnesses fell into three distinct categories, the first of which consisted of members of the claimant's family. Apart from the claimant himself, there was evidence from six members of his family, namely Mrs Pamela Raggett (his mother), Mrs Anna Brown (his twin sister), Mrs Maria Lobb (his second sister), Mrs Pamela Molaschi (his third sister), Mr Christopher Raggett (his younger brother) and Mrs Stacey Raggett (his second wife). All the claimant's siblings have achieved success in their chosen fields; they made impressive witnesses and I was confident that they were doing their best to give an accurate account of events as they remembered them although, as I have indicated later in this judgment, I got the impression that some of their memories may have acquired a somewhat 'rosy glow' with the passage of time. Mrs Raggett senior had a poor memory for details and, at times, I considered that her recollection had been coloured by knowledge of later events, in particular her knowledge of the abuse suffered by the claimant. Mrs Raggett junior gave her evidence in a somewhat defensive manner. This was perhaps not surprising; it cannot have been easy for her to speak of her relationship with the claimant and the problems they have experienced during their comparatively short time together.

16. The second category of lay witnesses comprised personal friends of the claimant. There was evidence from Mr Nicholas O'Neill (who was a schoolmate of the claimant both at primary school and PCC), Mr Edward Morgan (a family friend), Mr David Prince and Mr Christopher Shepherd (friends from university), Mr Des McGovern and Mr Niall O'Leary (who met the claimant through his membership of the Fulham Saracens football team) and Mr William Bruinooge (whom the claimant met in 1991 through a mutual friend). All these witnesses provided witness statements which were uncontroversial and they were not required to give oral evidence. Instead their evidence was admitted under the provisions of the Civil Evidence Act 1995. In addition, Mr Mark Martyrossian and Mr Richard Pell-Illderton, who met the claimant at the College of Law, Guildford, and have remained very close friends of his ever since, gave oral evidence. Both men have had successful careers, moving from law to investment. They made impressive witnesses and I am satisfied that, despite their long friendship with and natural loyalty to the claimant, they did their best to give me a dispassionate account of events as they recalled them.

17. The third category of witnesses comprised friends and acquaintances whom the claimant had met in the course of his professional life. I heard oral evidence from Mr Jonathan Collins (who encountered the claimant briefly at Gouldens and was a friend of his first wife); Mr Allan Henderson (who worked with him at Gouldens); Mr Neil Micklethwaite (who worked with him at Gouldens and DLA); Mr Adam Aldred (a colleague of the claimant at NR); Mr Paul Downing, Mr Leon Flavell and Mr Paul Claydon (all of whom were at Pinsents during the claimant's time there); Mr Jonathan Weeks (who was employed by one of Pinsents' clients and worked closely with the

claimant whilst he was at Pinsents) and Mr Kevin Cooper (a partner of Longbridge, the recruitment consultancy for which the claimant worked after his legal career came to an end). Most, if not all, of these witnesses have had extremely successful careers. Whilst I may, on occasion, have found a witness's memory of events to be at fault or may have declined to accept a witness's personal interpretation of events, I have no doubt that all the witnesses were doing their best to give me an accurate and balanced account of their recollections of the claimant, his personality, professional skills and behaviour.

The claimant's evidence

18. It is necessary to say something about the way in which the claimant gave his own evidence. I have of course had the opportunity of observing him as a witness on two occasions now, in March 2009 and at the quantum hearing. My impression was that the claimant's mood was lower in 2009 than in 2012 and, in 2009, he became very distressed when talking about the sexual abuse to which he had been subject. On the more recent occasion, he displayed emotion at times, when talking about the failure of his first marriage and also when describing two distressing incidents in which he had been only peripherally involved. However, he was generally much more composed than on the previous occasion. At both hearings, his attitude in cross-examination tended to be very defensive and, at times, it was difficult to get him to address the question that was being asked. His answers were often lengthy, discursive and contained extraneous and unnecessary detail. At the quantum hearing, I also had access to entries from the claimant's personal diaries dating from 1977 to 2007. Both his written and oral evidence for these proceedings and those diary entries were characterised by the use of somewhat dramatic and emotive language to describe his actions, thoughts and feelings.

19. In my judgment on limitation and liability, I referred at paragraph 38 to the subterfuge which the claimant had employed in order to persuade the Law Society that he should be required to re-sit only the two final examinations he had failed and not all seven examinations. In his witness statement prepared for the hearing in 2009, the claimant had given the clear impression that he had had to re-sit all seven papers. However, he had told both Dr Shapero and Professor Maden about his deception and had observed to the latter that his "whole life as a lawyer was based on a fraud"; Dr Shapero had recorded a similar comment in his notes. In oral evidence at the first hearing, the claimant first denied making the remark to Professor Maden, but eventually accepted that he had done so. He claimed that he had done so because he was feeling very agitated; he said that it had been a "mischievous" remark, made because he was not comfortable with people in authority. He offered no explanation or apology for his subterfuge, observing that he regarded the doctor who had agreed to write the bogus letter as "an angel". There can be no doubt that this episode, coupled with his attempts at concealment at the earlier trial, demonstrated a willingness on the part of the claimant to act dishonestly if it was to his benefit to do so.

20. A further example of that willingness came to light during the claimant's oral evidence at the quantum hearing. He related how, whilst employed at Gouldens, he had submitted a written memorandum to one of the firm's partners in connection with an investigation concerning damage which had been caused to the firm's premises. In that memorandum, he untruthfully denied any involvement in causing the damage. It is true that he wrote the memorandum apparently with the agreement of another

partner who had also been involved in causing the damage but, nevertheless, this was a deliberate act of dishonesty. The claimant was entirely unapologetic for his action, apparently considering that, in the circumstances in which he had found himself at the time, the conventional rules of honesty did not apply to him. It is noteworthy that both the incidents to which I have referred occurred in a professional legal context.

21. There were some aspects of the claimant's evidence at the quantum hearing which were quite different from the evidence he had given at the hearing of the of limitation and liability issues. The most striking example related to his attitude to his legal career. At paragraph 40 of my judgment on limitation and liability, I referred to the claimant's evidence that he had not enjoyed his time in the law. In his witness statement dated 1 July 2008, he said:

> "… for the next fifteen years until I was forced out of legal practice, law always seemed some kind of curse I'd been inflicted with, I rarely enjoyed it or rather only did when I was working for an all too rare congenial older lawyer, who was supportive. Most of the time, I felt like a cat in a sack flung in a river. I was always aware that I was using so little of my true talent, and that it all caused me far more angst than it seemed to cause others less able than me – this set up a tremendous self-loathing from time to time. Sometimes being in law has felt as if I am being punished for a crime I have not committed."

22. When giving his oral evidence in March 2009, the claimant did not resile from what he had said in his witness statement. He had given a similar description of his feelings to Dr Shapero in December 2005. Dr Shapero's notes record that the claimant told him that he "detested the law", that he felt that his "whole legal career was ludicrous" and that he now (i.e. in 2005) saw the termination of his employment at Pinsents as a "blessing in disguise". He spoke in similar terms to Professor Maden in March 2008. In February 1985, his GP recorded that he was a "frustrated journalist working as solicitor". Similar sentiments also appeared in his diary entries, e.g. "How I hate this LAW life. It really is destroying my life" (November 1985) and "…more and more I have this ache to achieve. Not in law" (January 1987). One of his common themes in the diaries was the extent to which legal practice stifled and stunted his creative abilities. In August 1990, he wrote:

> "Reading Styron, I realise my vocabulary, at least written, is limited, particularly adjectives. Thank you 8 years law. A hysterectomy for the creative language part of the mind."

In 1992, he wrote of his dread of having "football and my life generally disrupted by a job to which I cannot stand giving more than the bare minimum". His diaries show that, over his years as a lawyer, he actively considered a number of alternative careers. He frequently recorded in his diary and in discussions with others his regret that he had not pursued a career as a writer or an actor. He has written short stories, poems and other material from time to time and continues to do so.

23. At the quantum hearing, however, the claimant's evidence was very different. He said that he had written his first witness statement when he was in a distressed state following a meeting with his solicitors and counsel in about 2005. After that time, he had not looked at the witness statement until shortly before he signed it in July 2008.

He described the contents of the witness statement and the remarks he had made to Dr Shapero and Professor Maden as being typical of the "self-lacerating hyperbolic" way that he would have expressed himself during the aftermath of his realisation, in April 2005, of the full impact of the sexual abuse. They did not, he said, represent his real feelings.

24. I am unable to accept the claimant's change of evidence about this matter. The strength of his feelings, as expressed in his witness statement of July 2008 and in his remarks to Dr Shapero and others, coupled with his contemporaneous remarks in his diaries and his failure to indicate any change of mind at the earlier hearing, cause me to conclude that his previous evidence correctly reflects the views that he held when he was in legal practice and for many years afterwards. I am satisfied that he was temperamentally unsuited to the law and that, insofar as many aspects of it were concerned, he disliked and was bored by it. He clearly did not feel that the law enabled him to make proper use of his creative and other talents.

25. It is hard to avoid the conclusion that, between the time of the trial of limitation and liability and the recent quantum hearing, the claimant realised that a profound dislike of the law might not assist his contention that, had it not been for the abuse, he would have become and remained an equity partner at a leading firm of City solicitors until retirement. I am not suggesting that the claimant has necessarily made a conscious decision to give dishonest evidence about the matter. I consider it probable that, having realised the difficulty caused by the evidence he gave previously, he has thought further about it and has persuaded himself that the views he has expressed in the past were all part of the distress and disorder from which he was previously suffering as a result of the sexual abuse.

26. There were other significant changes in the claimant's evidence (e.g. concerning his feelings about his relationship with his father and his belief about the reason why his legal career came to an end) which I shall deal with later in this judgment. The reason given by the claimant for these changes was the same as for the change in his evidence about his attitude to the legal profession, namely that the evidence he had given previously was incorrect and had resulted from the distress and psychological disorder from which he was then suffering.

27. These significant changes in the claimant's account of events, coupled with the matters to which I referred at paragraphs 19 and 20 of this judgment cause me to conclude that he cannot be regarded as a reliable witness, particularly when describing his own thoughts and feelings**.**

28. I bear in mind also the fact that the claimant has a strong belief that all his past personal and professional misfortunes can be attributed to the sexual abuse to which he was subjected. I summarised his evidence about this at paragraph 58 of my judgment on limitation and liability:

> "The claimant said that, following the events of 17 April 2005, he suffered overwhelming sadness and pain. However, he also experienced a sense of illumination. He viewed the events of his life in a wholly different way. He told me that he had realised over the years that he was making a mess of his life. He believed that he had consistently under-achieved, both academically and in his various employments. This had

> caused him a great deal of anguish. Previously, he had attributed his under-achievement, his poor employment record, his drinking, his difficulties in forming relationships with the opposite sex and the failure of his marriage to his own defects of character and had hated himself for them. However, he had realised after 17 April 2005 that all these various features, together with his feelings of anger, low self-esteem, depression, extreme negativity and exclusion, had occurred as a result of the abuse. He had realised also that, had it not been for the abuse, things would have been "utterly different". He said that, although this had been a painful process, he had experienced an element of relief since he no longer had to blame himself for his failures… ."

Whether or not the claimant is correct in his belief that, had it not been for the abuse, things would have been "utterly different", his evidence must be viewed in the knowledge that he holds that belief and that his account of events has inevitably been coloured by that belief.

The effects of delay

29. The sexual abuse occurred in the 1970s and, for the purposes of the quantum hearing, it has been necessary to examine in detail the events of the claimant's life over the last 40 years. Only a limited number of documents have survived and I have been largely reliant on the recollections of the claimant and the other lay witnesses which must inevitably have faded over time. I have borne these features very much in mind when approaching the evidence in this case.

The claimant's family background

30. It is necessary to consider the claimant's family background in some detail. He came from a traditional background. His mother was a devout Catholic and, despite the fact that the claimant's father did not share her faith, he accompanied the family to Church on a regular basis. The family was well-respected in the local community.

31. The claimant's parents were married on 18 August 1956. At that time, Mr Raggett senior was a fighter pilot serving in the RAF. When the claimant and his twin were born, in June 1958, their parents were living in Ripon. They moved to RAF Leeming the following year. In 1961, the claimant's father was posted to an RAF base in Norfolk and the family, which by that time included the two younger daughters, moved to Norwich.

32. After his marriage, the claimant's father suffered from a number of health problems, both physical and psychological. In August 1958, he had a serious episode of ulcerative colitis which necessitated a 29-day stay in hospital. He returned to full duties as a pilot in mid-September 1958. He had two less severe bouts of the condition in 1959. Thereafter, he was in remission for more than two years until January 1962 when he had a recurrence which led to a 57-day admission to hospital. After that episode he was retired from the RAF on medical grounds and the family moved temporarily to Harrogate.

33. In the early part of 1964, the claimant's father started work as an air traffic controller, first at Barton Hall, near Preston, and later at Manchester Airport. The family moved

to Preston in April 1964 and the claimant started at primary school shortly afterwards. The claimant's father was physically well at that time but, in the summer of 1967, he had an episode of depression for he which was referred to a consultant psychiatrist, Dr Oakley. The claimant's father reported to Dr Oakley that he had had two previous similar bouts of depression, one ten years before and the other about three years before. There are no medical records relating to those episodes and I have assumed that they were of lesser severity than the 1967 bout. The claimant's father told Dr Oakley that, during the previous seven years, he had become "increasingly depressed" and that this had shown itself most prominently in a "dislike of the company of other people". Dr Oakley made a diagnosis of endogenous depression. He prescribed anti-depressants and arranged for the claimant's father to have a course of electro-convulsive therapy (ECT). Six weeks later, the claimant's father was free of symptoms and no longer on medication. In October 1969, he was reported to be off work again with depression. However, in October 1970, he successfully applied for a commission as a pilot in the RAF Voluntary Reserve (RAFVR), a role which involved participating in flying displays and performing aerobatics. He continued to fulfil that role until 1979. Meanwhile, in September 1969, the claimant had started to attend PCC.

34. In January 1973, the claimant's father suffered a further episode of ulcerative colitis together with what the consultant surgeon treating him described as "recent mental deterioration". As a result, it was decided that he should undergo a total proctocolectomy with the construction of a permanent ileostomy. This was a major surgical procedure which must have had long term effects on his quality of life. Nevertheless, after a period of recovery, he was able to return to his work as an air traffic controller and his activities in the RAFVR.

35. The claimant's father suffered a further episode of depression in the early part of 1977. Depression was again noted in his GP records in May 1977 and, in June 1977, his Civil Aviation Authority air traffic controller's licence was suspended temporarily on medical grounds. He underwent further ECT treatment. It seems that he was able to return to work at about the end of September 1977. By that time, the claimant was studying at Liverpool University, having left PCC in the summer of 1976. An entry from the claimant's diary in March 1977 refers to a discussion with his mother about his father's depression. The claimant recorded that his mother was "sad at the insecurity he *[i.e. the claimant's father]* creates by it".

36. In April 1979, the claimant's father was again referred to Dr Oakley with a history of anxiety and depression over the previous two months. He was treated with tricyclic anti-depressant medication and ECT and, by June 1979, he was much improved. In October 1979, he was symptom-free. Since he had suffered two significant depressive episodes within two years, a decision was taken to start him on the lithium-based mood-stabilising drug, Priadel, as a prophylactic. Some years later, the claimant's mother told a consultant psychiatrist that the Priadel had reduced the severity of her husband's depressive episodes but had "not altogether obliterated them". However, after 1979, he does not appear to have reported any episodes of depression to a doctor. Indeed, in January 1982, he was noted by his GP to be feeling very well, to be stable in mood and to be able to cope with his work as an air traffic controller. He continued to take Priadel until 1998, when it was stopped because he was suffering from renal failure.

37. The claimant's father retired from his work as an air traffic controller in 1984 or 1985. By that time, the youngest child, Christopher, had left home and Mr and Mrs Raggett senior moved to Pateley Bridge to be nearer to members of Mrs Raggett's family. There is evidence that, after that time, Mrs Raggett became increasingly concerned about her husband's mood and behaviour. On 22 December 1985, an entry in the claimant's diary recorded a conversation with his mother which took place when she collected him from Harrogate to spend Christmas at his parents' home. He wrote:

> "By the end of the drive I'd moaned about law, she about her dead marriage."

Five days later, he recorded:

> "Chatted with mummy about the marriage saying she should leave Daddy. The whole thing is so fucked up that it leaves me cold really except I want her to be happy. Daddy has had enough chances yet still continues to look for grievances. God, if my wife was as giving as my mother!"

38. In 1987, the claimant's mother's GP noted on one occasion that she was complaining of "tension", at another time that she was "very depressed and agitated re: husband" and on yet another occasion that she appeared "very agitated with husband". In 1988, she persuaded her GP (who was also her husband's GP) to refer him to a consultant psychiatrist, Dr Rugg. In his letter of referral, the GP told Dr Rugg that Mrs Raggett senior had manifested "all manner of mainly psychosomatic problems" since her arrival in Pateley Bridge and that she complained vehemently about her husband's "unpleasantness, depression and generally unreasonable behaviour". He observed that he thought the claimant's mother would have left her husband "long ago" if it had not been for their family. Dr Rugg reported to the GP that the claimant's mother had told him that her husband had:

> "…always been rather a distant husband and father, finding it difficult to engage in emotionally close relationships. At times he can be irritable, aggressive, and quite unpleasantly demanding, but apparently unaware of it."

Dr Rugg observed no sign that the claimant's father was suffering from any psychiatric disorder. Mr Raggett senior seemed reasonably cheerful and had told Dr Rugg that he was enjoying his retirement and was happy living in Pateley Bridge.

39. It appears that the problems continued and, in 1989, the claimant's mother was reported by her GP to be suffering with "stress". In 1994, she and her GP had "discussions re: difficulties with husband". In May and August 1995, she was again reporting "stress" and "depression". In early 2000, after his Priadel had been discontinued, the claimant's father displayed signs of a "lower mood, fitful sleeping, pessimism and occasional guilt feelings". He was treated with strong anti-depressant medication, which resulted in some improvement.

40. Later in 2000, the claimant's father was referred by the GP to another consultant psychiatrist. In the letter of referral, the claimant's mother was reported to have had "difficulty …living with *[the claimant's father]* over the years" and to have become

"intolerably burdened" by his "interference in family relationships". The GP observed that it sounded as though she had been a "martyr" to her husband's mental state. In her records, the GP noted that she was "distraught over her husband's unreasonable and aggressive behaviour, especially to female family members and herself". In May 2000, he recorded that she was "coming to the end of tolerance of relationship with husband". On 26 May 2000, the couple's GP spoke to Mrs Brown about the situation. Mrs Brown told the GP that she had witnessed a recent episode when her father had become "uncontrollably aggressive/angry" and had reached for a knife but had not threatened anyone with it. She told the GP that her father "could be volatile". In August 2000, the GP described the claimant's mother as "weepy+ *[i.e. very weepy]*" and noted that "difficulty continues in relationship with husband whose behaviour appears bizarre".

41. From the beginning of 2001, the claimant's father was physically very unwell, with persistent vomiting and diarrhoea. Notes in the claimant's mother's GP records made in 2001 and 2002, stated that she was "depressed", had "pressures at home" and was "stressed". The claimant's father died in October 2002 aged 73 years. Five years after his death, in 2007, the claimant's mother referred herself to a psychologist for help with, *inter alia*, a "disturbed sleep pattern affected by disturbing thoughts and memories of a difficult 41 year long marriage".

42. It is to be noted that, although the possibility that the claimant's father was suffering from manic depression (now known as bipolar disorder) was mentioned in his medical records, that diagnosis was never made formally. He was diagnosed and treated for endogenous depression. Although there are references in the claimant's mother's medical records to her being "depressed" from time to time, the evidence was that no diagnosis of endogenous depression has ever been made in her case.

The evidence about the claimant's relationship with his father

43. The claimant has given a number of accounts of his relationship with his father. In 1996, after his first wife left him, he referred himself to Dr Anthony Fry, then Senior Consultant Physician in Psychological Medicine at the London Bridge Hospital. Dr Fry's handwritten notes of his first meeting with the claimant on 2 September 1996 record that the claimant told him that his parents had a "dysfunctional" 40-year marriage. At later meetings, Dr Fry noted, *inter alia*, "Father never affectionate", "Estrangement from father", and "Could never save his parents' marriage". In a referral letter dated 4 September written to a psychotherapist, Dr Fry wrote:

> "The problem for him *[the claimant]* … was that his father was very passive and withdrawn … When father was assertive, he was out of control and irrational and when he wasn't that, he was withdrawn and not to be seen."

44. Dr Shapero's notes of his first meeting with the claimant in December 2005 record that the claimant told him:

> "Father had 2 or 3 ns *[nervous]* breakdowns – melancholic. "Absent father" – emotionally. Endogenous depressive, on Lithium 15yrs. Parents argued ++ - family matters. Mellowed with age."

In his first Report, Dr Shapero said that, after counselling, the claimant had sorted out his relationship with his father and they had been closer for the last six years of his father's life, i.e. from a time shortly after he saw Dr Fry for the first time. At his first meeting with Professor Maden in March 2008, it seems that the claimant again used the word "absent" to describe his father. Professor Maden's note of that meeting records that the claimant also told him that he had had a poor relationship with his father until six years before his death.

45. In a Report for these proceedings dated 15 November 2011, one of the defendants' expert witnesses, Professor Harry Zeitlin, referred to the evidence about the claimant's poor relationship with his father, his father's physical and mental illnesses and what he termed the "severe disharmony" between the claimant's parents. He expressed the view that those factors had played a significant role in causing the claimant's behavioural problems in adulthood. Following disclosure of that Report, the claimant made a further witness statement recalling events from his childhood in which his father had played a part. In that statement, he referred to two occasions during his childhood when his father had suffered bouts of depression and had withdrawn from the usual evening activities of the family. Otherwise, the impression given by the witness statement was that Mr Raggett senior was an affectionate father who, subject to the demands of his work, took a full and caring role in the lives of the claimant and his siblings and joined in all the fun of a large and lively family.

46. In oral evidence, the claimant said that, at the time he saw Dr Fry, he was very angry. Nevertheless, he did not accept that he had described his father in the terms recorded in Dr Fry's notes or in his referral letter. In particular, he did not accept that he had told Dr Fry anything "remotely resembling" the fact that, when his father was assertive, he was out of control and irrational. He suggested that Dr Fry had merely recorded his own (flawed) interpretation of the "multi-faceted narrative" that he (the claimant) had given to him. By contrast, the claimant accepted Dr Shapero's account of what he (the claimant) had told him, although he said that he had made the negative comments about his father and his parents' marriage because, in 2005, when he saw Dr Shapero, he was in a "fragmented" and extremely agitated state and was blaming his parents for the emotional mess that he was in. His final position in evidence appeared to be that, whilst his father had at times been "emotionally absent" when in the throes of a temporary bout of depression, relationships within the family were in general close and happy.

47. The claimant's mother and all four of his siblings gave evidence about their family life in Preston. His siblings described a happy childhood in which their father took a full part. Mrs Brown described him as an "amazingly devoted" father and cited as an example of his devotion his determination to recover from his illnesses so as to be able to provide for the family. In oral evidence, she denied that he could properly have been described as "emotionally absent" or "never affectionate". She also denied that her parents' marriage had been "dysfunctional", although she accepted that her parents had argued intermittently. She suggested that this had occurred no more frequently than might be expected in a large family. She said that her father had never been aggressive to herself, her mother or her sisters although he could be verbally argumentative. Mrs Molaschi expressed similar views. She said that, when he was depressed, her father would become silent and somewhat detached from the family and would tend to withdraw to a separate room and read the Bible. The effects

of his depression had not been very evident to her when she was a child because (she now realised) her mother had succeeded in maintaining a normal home life during his periods of illness. Mrs Molaschi recalled occasional arguments between her parents about family matters during her childhood and had become more aware of strains within her parents' marriage after she had grown up and left home.

48. In his witness statement, Mr Christopher Raggett described his memories of the family being:

> "… a busy and on the whole happy unit albeit with my father somewhat removed as a result of the shift patterns at his work and his insular nature."

In oral evidence, he denied that he would describe his father as "emotionally distant" and said that, as a child, he had little awareness of his father's physical illness or depressive episodes. Both he and his father had enjoyed cricket and had spent a great deal of time playing cricket together in the garden. He did not accept that there had been significant disharmony in his parents' marriage.

49. Mrs Raggett senior described her husband as an intelligent and able man but very quiet. In her witness statement, she described how he would have intermittent mood swings when he would become very unreasonable and would get annoyed and "flare up" at the smallest thing. This would place her under a great deal of stress. In oral evidence, she said that, in between these episodes, life went on in a normal fashion, although things became more difficult after her husband's retirement and the move to Pateley Bridge in 1985. She could not say why she had told Dr Rugg that her husband had "always been a rather distant husband and father". She said that, on the contrary, he had been "a very, very good father and very involved with the children". Despite the problems, she described her marriage as no less happy than the marriages of many people.

Discussion and findings of fact: the claimant's relationship with his father

50. For over 40 years, the claimant's father was prone to episodes of endogenous depression. These episodes were plainly severe, since they necessitated treatment by strong anti-depressant medication together with, on at least three occasions, courses of ECT. In an attempt to prevent further episodes, the claimant's father was eventually prescribed regular doses of Priadel, a mood stabiliser. The potentially harmful effects of lithium-based medication were well-recognised and I am satisfied that the medication would not have been prescribed unless it was considered absolutely necessary for his future well being. It appears that the onset of his depressive illness occurred at or about the same time as the onset of his ulcerative colitis and it is evident from his consultant's observations about his "recent mental deterioration" in early 1973 that there was a perceived link, at least at that time, between his physical condition and his depressive symptoms.

51. The effects of the depressive episodes was to cause the claimant's father, who was by nature a quiet and private man, to withdraw from the family circle and to spend much of his time on his own. It is clear that, on occasion, he could also be irritable, argumentative and unreasonable. It seems that a persistent cause of discord between the claimant's parents was the relationship with each other's families, in particular

their mothers. It was significant that the only cause of arguments between the couple mentioned in the evidence was the issue of which of their mothers should be invited to visit on Christmas Day. In 2000, the claimant's father was still complaining that his mother, who was then dead, had never been invited to their house for Christmas dinner. I accept of course that, despite his ill health, the claimant's father worked hard to provide for his family and that there were times when he joined in family activities and a happy atmosphere prevailed.

52. I am satisfied from the documentary evidence that the perception of the claimant's mother was – at least until recently – that the claimant's father had always been deficient as a husband and father. In 1983, before his retirement and the move to Pateley Bridge, she described him to her GP as "withdrawn and cold". Her complaints to her GPs in Pateley Bridge and London (where she now lives), made over a period of more than 20 years, plainly refer to marital and other problems which were of long standing. I regard it as probable that, for many years, the claimant's mother managed successfully to conceal much of her dissatisfaction at her husband's behaviour from at least some of her children. However, I am satisfied that the dissatisfaction was present and that it became more pronounced once Mr Raggett senior had retired and they were living alone together.

53. I find that the claimant shared his mother's perception of his father's deficiencies and that he blamed his father for the disharmony in his parents' marriage. That is clear from his diary entries in 1985 and from what he told Dr Fry in 1996. The description contained in Dr Fry's letter is strikingly similar to the complaints that Mrs Raggett senior had made to her GP and Dr Rugg in 1988. I am satisfied that Dr Fry did not, as the claimant contended, misinterpret what the claimant had said to him. I find that he correctly recorded the claimant's description of his father's behaviour, a description which represented the claimant's own view of his father's behaviour at the time and, indeed, when he saw Dr Shapero almost ten years later. It may be that the claimant's relationship with his father improved during the latter's last years, after the claimant had seen Dr Fry in 1996. However, I am satisfied that – at least until recently – the claimant nevertheless considered that there had been an emotional distance between himself and his father during his childhood and adolescence and that he resented that fact and blamed his father for it. In evidence, the claimant suggested that it had been Father Spencer who had caused the distance between himself and his father. I do not accept that evidence. It is plain from the contemporaneous evidence in the claimant's diaries and from what the claimant told Dr Fry that the primary cause of their poor relationship lay in the family background.

54. It is argued on behalf of the claimant that, since the claimant's siblings were apparently unaware of any significantly adverse effects on their family life caused by their father's ill health or behaviour, those effects cannot have been as pronounced as the defendants suggest. I do not accept that contention. It may be that the claimant's siblings' memories of family life in the 1960s and 1970s have faded and that now, after their father's death, they recall only the happy times. It may be that their individual relationships with their father were different from the claimant's. There may have been differences in temperament and a lack of shared interests that made it impossible for the claimant and his father to be close. It is probable in my view that the claimant was more sensitive than his siblings to atmosphere and to his mother's feelings and that she confided in him to a greater extent than in her other children.

Whatever the reason, it does not seem to me to matter greatly. The important issue is whether the claimant believed that his father was emotionally absent and withdrawn and had failed both him and his mother. On the basis of the available evidence, I have no doubt that, whatever the claimant's current perception may be, that was his belief in adolescence and for most of his adult life and it caused him a good deal of distress.

55. This is another topic in respect of which the claimant's account has changed significantly over time. Again, I do not suggest that the claimant has necessarily made a conscious decision to give dishonest evidence about the matter. I consider it probable that, having considered Professor Zeitlin's evidence, he has thought further about his relationship with his father and his parents' marriage and has persuaded himself (erroneously) that the views he has expressed in the past were all part of the distress and anger from which he was previously suffering and do not represent the family relationships as they really were.

The evidence about the claimant's relationship with his mother

56. At the quantum hearing, there was a considerable amount of evidence about the claimant's relationship with his mother. In 1985, Dr Fry noted (presumably on the bases of what the claimant had told him) that the claimant was his "mother's hero" and a "family hero". In his letter to a psychotherapist, he described the claimant as a "golden boy" and "the apple of his mother's eye". In his Report, Professor Zeitlin advanced the opinion that the claimant had been "idolised" by his mother and that this was one of a number of factors relating to his family background that would have rendered him liable to behavioural and emotional problems even had the abuse not occurred. In response to that suggestion, the claimant, his mother and his siblings gave evidence that Mrs Raggett senior showed no favouritism as between her children and that she did not single the claimant out for special treatment. I accept their evidence on that point.

57. I am satisfied that the claimant's mother had a very high regard for his intellectual and other abilities. It is clear that he was generally regarded as the brightest child of the family. I have no doubt that the claimant was aware of that. As I have said, it is probable that the claimant was more aware than his siblings of the tensions in the household and that his mother confided in him to a greater extent than in her other children. The claimant's diary entries show that, when he was a young adult, his mother discussed with him her worries about his father's depression. I consider it probable that, because of his father's somewhat detached attitude and difficult behaviour, the claimant had a greater than usual feeling of responsibility and protectiveness towards his mother from a young age. Whilst this may have meant that there was a particularly close relationship between the two, it seems to me unlikely that the claimant's mother went as far as to "idolise" or "worship" him.

The claimant at primary school: 1964–1969

58. For most of the period between September 1964 and July 1969, the claimant attended St Gregory's RC Primary School, Preston. (During June and July 1967, for reasons that are not clear, he was at Woodlands School, Harrogate.) During his primary school career, his school reports were generally good. In July 1968, when he was aged ten years, his class teacher observed that he was "… easily distracted when doing

something he is not fond of….". In his final term at primary school, he achieved "A" grades in all his academic subjects and his class teacher observed:

> "Patrick is a diligent and well-behaved pupil. He produces good written work on subjects in which he is interested. His diction is very clear. He gives thoughtful answers in class, and, when he applies himself, is capable of a high standard of work."

59. The evidence was that, whilst at primary school, the claimant was academically bright, produced imaginative written work, took part successfully in music and drama productions and showed an aptitude for sports, especially football. He was witty, outgoing and popular and had a lot of friends. He took a full part in events at the local Catholic Church where the family worshipped, acting as an altar boy and reader on a regular basis. It was evident to his sisters that he was considered by his teachers and by other adults with whom he came into contact as an able child who was likely to achieve great things in the future. This assessment was to some extent confirmed when he became one of only two pupils out of his class of 32 children who passed the 11-plus examination and gained entry to PCC.

The claimant at Preston Catholic College: 1969-1976

The school

60. PCC was a single sex grammar school run by Jesuits. Boys like the claimant who passed the 11-plus examination were admitted free of charge. Boys who did not pass the 11-plus but were able to pass PCC's entrance examination (which was presumably set at a somewhat lower standard than the 11-plus), were admitted on a fee-paying basis. The claimant's younger brother, Christopher, entered PCC by that route. Thus, the pupils at PCC would have been of varying academic abilities and potential. Six boys from the claimant's class at primary school went on to PCC, including the boy who, like the claimant, had passed the 11-plus examination.

The claimant's academic performance at Preston Catholic College

61. The claimant started at PCC in September 1969, when he was aged 11 years and two months. He would have been one of the youngest in his year. The three school reports for his first year suggest that he made a good start. He was initially placed in Form 1B, where he achieved sixth place overall (i.e. in all subjects) during his first term. He was then transferred to Form 1A, where, in the following two terms, he was placed fourth and fifth overall. His strongest subjects at that stage were History, Science and Geography; Mathematics (particularly Algebra) appeared to be his weakest area. He was already proficient at football and was appointed captain of the football team. In about March 1970, Father Spencer took over responsibility for the team and the sexual abuse began shortly after that.

62. In September 1970, at the start of his second year, the claimant was moved into Form 2A and began to study Latin. His two school reports for this year show that he was placed third overall (in the Christmas Term) and sixth overall (in the Summer Term) out of the class of 32 boys. He achieved particularly good results in English, Latin and Geography and was top of the class in Physics/Chemistry at the end of the Summer Term, winning the Science Prize for his year. His conduct was described by

his Form Master as 'quite good', whilst his French teacher described him as "silly at times and needs supervision, but able". The claimant's mother recalled that, at a parents' evening (she thought it was during the claimant's second year at PCC), a teacher had told her that his interest in football was adversely affecting his schoolwork. She thought that, as a result, she and her husband had withdrawn the claimant from the school football team. If she is right about that, (and the claimant did not mention it), it can only have been on a temporary basis.

63. At the beginning of his third year in September 1971, the claimant moved into Form 3R. This was the 'fast stream', comprised of 23 boys who were considered bright enough to take some of their 'O' levels a year in advance of the normal age. Since the claimant was one of the youngest boys in his year in any event, this acceleration meant that he would take his 'O' levels just before his 15th birthday. Father Spencer was the Form Master for Form 3R and also taught Religious Doctrine and French. The two school reports for the year reveal that the claimant was placed ninth overall in the examinations at the end of the Christmas Term and 13th overall in those held in the Summer Term. He performed particularly well in Religious Doctrine, English, French and History.

64. The claimant's reports for the year contained some negative comments. At the end of the Christmas Term 1971, his Chemistry teacher observed that he had not revised his work properly, although in the summer of 1972, the same teacher reported that his work had improved. At the end of the Christmas Term, his Mathematics teacher considered that he had "the makings of a much better mathematician", but that he had "lapses in his logical processes". At the end of the Summer Term, when he had been placed 22 out of 23 boys in his Mathematics examination, his teacher described this as a "somewhat tragic result for an intelligent boy". He observed that the claimant was "inattentive in class" and "lacks concentration". His Latin teacher referred to "some recent frivolity in class" which had "hampered a more encouraging … performance". His German teacher described his examination result (13th out of 15) as "disappointing" and observed that he was "keen during class but perhaps too impetuous, learns quickly, forgets quicker". His Physics teacher suggested that "more time should be spent on learning".

65. The claimant was due to take most of his 'O' levels at the end of his fourth year, in the summer of 1973. He moved into Form 4R and again had Father Spencer as his Form Master. His school report at the end of the Christmas Term 1972 was much more encouraging. Most of his teachers referred to the improvement in the standard of his work, particularly in Latin, German and Physics. He was said to be taking a much more serious approach to his work although his Latin teacher observed that he did so "without impairing his cheerfulness". He was said to "show keen, alert interest" in German. Even in Mathematics, for which he achieved his lowest placing of 15th in the class and a Grade equivalent to 50%), he was said to have "done very well the whole term". His result in the History examination (for which he was given a Grade equivalent to 55%) was said to be "rather unfortunate" because he had misunderstood one of the questions.

66. In the summer of 1973, the claimant sat five 'O' levels, achieving passes in English (Grade I), History (Grade 3) and in French, Mathematics and Latin (all Grade 4). His school report for that Summer Term covered only the four subjects in which he had not sat 'O' levels. His Religious Doctrine was said by Father Spencer to be "very

good". His German teacher observed that his "keenness deserved a more encouraging result" (he had come 12th out of 14 in the examination), but he was "not really strong in the subject." His Physics Grade was equivalent to 20%, and his teacher observed that his examination results were "not too satisfactory" and the subject required "far more attention and hard work". His Chemistry (in which he was bottom of the Form) was described by the teacher as being of a "very poor standard".

67. In September 1973, the claimant moved straight into the first year of the Sixth Form. He studied English Literature, History and Latin for 'A' level. It was during this year that the sexual abuse ended. During this year, he played the part of Maria in a school production of "Twelfth Night".

68. The claimant's end of year report in the summer of 1974 suggested that he was making good progress in English, in which he showed great interest. His Latin teacher reported progress, despite "an uncertain start". There was "much work still to be done" in that subject. (The claimant's mother recalled that the claimant had disliked Latin and, a few days into his 'A' level course, had wanted to drop the subject in favour of French. She had discussed the matter with the Headmaster and had been persuaded that the claimant would settle down and do well in Latin.) The claimant had achieved a "promising result" in British History, but his subject teacher for European History observed that his knowledge was "often defective", urged him to "read widely in order to compensate for his youth" and commented that, in the examination, "what most pulled him down was the essay, where, contrary to warnings, he allowed himself too little time". The claimant took two more 'O' levels in the summer of 1974, gaining a Grade 2 in Physics and a Grade 3 in German. It seems that a decision must have been taken that he would not attempt 'O' level Chemistry.

69. The claimant's last school report was written at Christmas 1974, at the end of his first term in the second year of the Sixth Form, when the claimant was 16 and preparing to take his 'A' levels the following summer. The claimant again received an excellent report for English. By contrast, his Latin teacher wrote:

> "His approach to work has been puzzling, for when I thought he was settling down and changing a silly attitude for a more mature realisation of the difficulties posed by the examination, he suddenly appeared to revert to a careless treatment of work set and so gains only 27%. He must make up his mind that success depends on hard work."

70. In English History, he was reported to be "doing quite well – but as yet not to full capacity". His teacher remained that "If really determined to do so, he could do well." His European History teacher observed that he was rather shaky on basic factual information" and said that there was "clearly much lee-way to be made up in this subject."

71. The claimant sat his 'A' levels in the summer of 1975 just before his 17th birthday. He gained an 'A' Grade in English, a 'D' Grade in History and an 'O' Grade (which did not count as a pass) in Latin. These Grades were not good enough for him to gain a place at University. Instead, he stayed on at PCC for a third year in the Sixth Form in order to re-sit his History and Latin 'A' levels. He was not alone in this. His evidence was that, out of the 22 boys who had been in his Form during the previous

two years, 16 or 17 were in the same position of having to re-sit some or all of their 'A' Levels. The claimant observed in one of his witness statements that the system of "fast streaming" boys so that they took their public examinations a year earlier than usual benefited only a small minority of those boys.

72. In the summer of 1976, the claimant re-took his History and Latin 'A' levels and also took 'A' level General Studies. This time, he gained 'B' Grades in History and General Studies. Once again he got an 'O' Grade in Latin.

Discussion and findings of fact: the claimant's academic performance at Preston Catholic College

73. There is no doubt that the claimant's academic results at PCC fell short of the expectations of his family and of those who had observed his career at primary school. Given the fact that he subsequently achieved an Upper Second Class degree and practised with some success as a City lawyer, it is surprising that he gained 'A' levels at good Grades in only two 'proper' subjects ('A' level General Studies was taken into account for entry purposes by only a few Universities) and that he required two attempts to do that. There are a number of possible reasons for his disappointing results. The claimant's case is that they can be attributed wholly to the sexual abuse which affected his general conduct at school, his attitude to members of staff and his inclination to work.

74. There are, however, other possible explanations. It was suggested by the defendants that the claimant's abilities may well have been strong in subjects such as English and History and weak in the Sciences, Mathematics and Latin. This would have become more evident as he progressed at PCC and the work became more challenging. He may have been disinclined to work hard at his weaker subjects. The defendants pointed out that, even at primary school, remarks in the claimant's school reports had suggested a tendency to make less effort in areas which he did not enjoy. The defendants also relied on the fact that the claimant took his 'A' levels at an unusually young age. They suggested that this may have played a part in his failure to perform to his full potential. They contended that the fact that the majority of boys in the 'fast stream' had to re-take their 'A' levels tended to confirm that age had been a factor. The defendants also relied on the evidence that the claimant's obsession with football had affected his studies and the belief of one of his sisters that his concentration on golf had been responsible for his poor performance in his 'A' levels. I shall consider those contentions later in this judgment.

The claimant's behaviour whilst at Preston Catholic College

75. The claimant's school reports do not record any serious complaints about his behaviour at PCC. There were, as I have mentioned, occasional references to the claimant's "silliness" or "frivolity" and there were complaints of inattention and lack of application to his work. Mrs Brown referred to an occasion when the claimant had been punished at PCC for spitting. The witness statement of Mr O'Neill, a fellow pupil of the claimant both at primary school and PCC, made no mention of any bad behaviour by the claimant at PCC. He described how he and the claimant had been good friends at primary school but, soon after they went to PCC, the claimant became abrupt and cold with him and remained so throughout their time there.

76. The evidence of members of the claimant's family was that, after he went to PCC, he changed from being a happy and gregarious child who enjoyed family life, to a taciturn and moody boy who shunned the company of his family in favour of his friends. The claimant's mother recalled noticing this change during his first year at PCC although she said that, by the time he went to University, his taciturnity had disappeared and he was once again "good company". Mrs Brown remembered that the claimant became obsessed with football which dominated his life. She noticed that the claimant had begun to exclude her and her sisters from his social activities and appeared to have become detached from members of his family. Mrs Molaschi also recalled that, at the age of 11 or 12, the claimant became grumpy and moody and did not seem to enjoy being with his family. Mrs Lobb described how the claimant would push her and her sisters out of the room if he brought friends home and was quite hostile and aggressive. When he was in a certain mood, he would find fault with everyone and would start arguments. Mr Christopher Raggett said that, in his early teens, the claimant spent an increasing amount of time away from his family although, when present at family events, he was a "vibrant figure". Mrs Lobb said that, on occasion, she would find the claimant on his own in a room, having clearly been crying. He would be angry to be 'caught' and would push her aside and storm out.

77. The defendants suggested that the claimant's change of behaviour at home was no more than typical behaviour by an adolescent boy living in a largely female household. However, both Mrs Brown and Mrs Lobb considered that the changes they had observed in the claimant had been more pronounced than would be considered 'normal' for an adolescent boy in a family such as theirs. They contrasted the claimant's behaviour with that of his brother and of other young boys they had known. The claimant's case was that his withdrawal from family life was a direct result of the abuse to which he was being subjected. I shall deal with these competing contentions later in this judgment.

Undergraduate at Liverpool University: 1976-1979

78. The claimant was accepted under the 'clearing system' by Liverpool University to read English Literature. A document in the claimant's GP notes from early 1977 indicates that, even at that stage, he intended to pursue a career in law. He failed one of his exams (Old English) at the end of the first year but re-sat it successfully and eventually achieved an Upper Second Class degree. His view is that this represented an under-achievement and that, given his abilities, he "should have walked a first".

79. The claimant's evidence was that, during his first two years at University, he was shy and had little social life. His diary entries start in 1977 at the end of his first year. At that time, he was in the throes of an infatuation with one of his fellow students who did not appear to reciprocate his admiration. A diary entry from 1978 suggests that their friendship ended as a result of an incident which occurred when the claimant was "out of his head" after a drunken dinner party hosted by the claimant and a number of his friends. In his third year, he began to share a house with others, to play in a football team and to go out drinking regularly with his house and team mates.

80. I heard evidence about the claimant's behaviour at University from his sister, Mrs Lobb, who joined him there at the beginning of his third year, and from two of his friends, Mr Shepherd and Mr Prince. Mr Prince met the claimant at Liverpool University and shared a house with him for two years. He described him as an

"exuberant personality who dominated social occasions". He said that the claimant "spoke obsessively" and without any apparent self-censorship. During the time he shared accommodation with the claimant, he was aware of what he described as the claimant's "obsessions", especially with certain girls, although his relationships always seemed "doomed from the outset". The claimant drank to excess and began to smoke marijuana, although Mr Prince did not regard this behaviour as any different from that of other students. He referred to an occasion when the claimant drove whilst drunk and was involved in a car accident.

81. Mr Prince said that his impression was that, after his University days, the claimant's behaviour became more extreme. At Mr Prince's 30th birthday party at a restaurant in London, the claimant, who was drunk, stood on a table and shouted abuse at a group of other diners. Mr Prince said that he regarded this behaviour as just "Patrick being Patrick".

82. Mr Shepherd referred to the claimant's "difficulties in relating to the broad spectrum of people and the apparent mundane nature of everyday work activities". He regarded the claimant as having "an unusual level of intolerance" which he associated with an "inner tension". He observed that the claimant "relished raising his voice in company". He also described a sense of frustration and anger which the claimant displayed on occasions.

83. Mrs Lobb described how the claimant would behave in an outrageous way, apparently designed to shock. He would act in a provocative way to strangers and to officials such as 'bouncers' or bar staff. At a party shortly after Mrs Lobb's arrival at University, he came up to her and blew cigar smoke in her face which he regarded as funny. He would push in when she was dancing with other people. He would frequently drive when drunk, which caused her great concern. Mrs Lobb said that some, but not all, of the incidents when the claimant behaved "bizarrely", as she termed it, occurred when he was drunk. She said that the claimant's drinking patterns were probably similar to those of his friends but his behaviour when drunk was different.

Discussion and findings about the claimant's undergraduate years at Liverpool

84. The available evidence about the claimant's first two years as an undergraduate at Liverpool University is limited. I accept his evidence that, during his first year and for much of his second year, he led a comparatively quiet life, although he would sometimes drink to excess with friends during University vacations and it appears that he was beginning to do the same during the term by the end of his second year. It is clear from the evidence that, by his third year, he was taking a full part in the social and sporting activities of the University, drinking regularly with his friends and dominating the social occasions which he attended.

Postgraduate at Liverpool University: 1979-1980

85. In August 1979, shortly after leaving University and despite his earlier intention to work as a lawyer, the claimant joined Price Waterhouse Coopers, accountants, as a graduate trainee. However, he rapidly realised that he had no aptitude or liking for accountancy. He had already applied for a postgraduate award in order to take a two-year MPhil course in English Literature at Liverpool University, starting in the

autumn of 1979. When that award was granted, he gave up accountancy and went back to Liverpool University.

86. The claimant's evidence was that, before starting his course, he had come to an agreement with a Professor of English, whose Master of Arts (MA) course was under-subscribed, that the claimant would join his course in Liverpool for one year and would then be allowed to complete the second year of his MPhil at long distance whilst at the same time attending Law College in Guildford. As well as being highly unusual, such an arrangement would have been contrary to the terms of the claimant's grant which required the claimant to undertake full-time postgraduate research at the University. During the first year, the claimant's attendance at the Professor's tutorials was poor and, by December 1979, he had been issued with an ultimatum that, if he missed one more tutorial, he would be thrown off the course. He managed to avoid that and completed the first year. During that year, he took part in a University theatrical production.

87. The claimant's evidence was that, at the end of his first year, the Professor reneged on the agreement they had reached. Whether this was because of the claimant's poor attendance during the first year or for some other reason is not known. It is possible that the claimant was mistaken about the nature of the 'arrangement' he and the Professor had made. In any event, the Professor insisted that, if the claimant was given a postgraduate award for the second year, he must work full-time on his postgraduate studies in Liverpool. There was a row which ended with the claimant abandoning the course and going to Guildford to study law.

The claimant at the College of Law: 1980-1982

88. The claimant began the Common Professional Examination (CPE) course at the College of Law, Guildford, in the autumn of 1980. He failed one of his six CPE papers in the summer of 1981 but re-sat and passed it a few months later. He then began studying for his Law Society Finals (LSF). He took his LSF in the summer of 1982, but failed two of the papers, one so badly that he was told he would have to re-sit all the papers again. The claimant told Dr Shapero that he was very unhappy with the academic work at Guildford and said:

> "It used to enrage me that there were others who did better than me. I felt I was using only a minuscule part of my ability."

However, he made some good friends, including Mr Martyrossian and Mr Pell-Illderton and enjoyed the social life, which involved a good deal of drinking and smoking cannabis.

89. After he left the Law College, the claimant applied to the Law Society for a dispensation from the need to re-sit all his LSF papers, producing in support a letter from his GP, whom he had consulted in connection with an injury he had sustained some weeks before sitting the LSF. His application was rejected. However, a doctor whom he had met socially wrote a further letter to the Law Society on the claimant's behalf, giving his 'medical opinion' that, at the time the claimant took the LSF, he had still been suffering from symptoms arising from the injury and that those effects had had an adverse effect on his performance. The claimant's evidence was that the Law Society accepted that explanation and, as a result, he was permitted to re-sit only the

two papers he had failed. He passed them in the summer of 1983. I have already observed that this episode is an example of the claimant being prepared to act dishonestly when it benefited him to do so.

The claimant's legal career

With Joynson-Hicks: 1982-1984

90. In August 1982, the claimant began employment as an articled clerk with Joynson-Hicks. No documents have survived from this period and I heard no evidence from anyone who worked with the claimant at Joynson-Hicks. The claimant's evidence was that he "hero-worshipped" the Head of the Litigation Department, although he had "crossed swords" with another partner.

91. Mr Martyrossian shared a flat with the claimant for about a year after he started articles with Joynson-Hicks. Mr Martyrossian was a year ahead of the claimant and was serving articles with a different firm. He described how he and the claimant threw themselves into their work, determined to make a success of their careers. Outside work, they both led a hectic social life, which involved a good deal of alcohol and some drug-taking. However, Mr Martyrossian was well aware of the need to behave with moderation when attending social events connected with his work. As he put it in his witness statement, "They *[i.e. senior colleagues]* are looking for future partners, not performing monkeys, however entertaining". His evidence was that he had tried to convey this message to the claimant, but without success. The claimant would drink to excess at work parties, then behave outrageously, in a manner likely to make a poor impression on senior members of the firm. Mr Martyrossian referred to at least one party at Joynson-Hicks when he believed from the claimant's description of events that the claimant had 'overstepped the mark'.

92. Between 1983 and 1985, the claimant lived with Mr Pell-Illderton. He described the claimant's life during that period as "totally chaotic". He would go out and get drunk most nights, returning in the early hours of the morning, singing football chants in the street and waking up neighbours and the other residents of the house. He had a generally unhappy love life. He appeared to be fixated on a number of women with whom he had had relationships in the past. He would have short relationships with women, and would be elated at first, then despairing when the relationship ended. He would also become infatuated with women who were, for one reason or another, unattainable. Mr Pell-Illderton said that these 'failed' relationships caused the claimant great unhappiness. He believed that the claimant resorted to alcohol in order to relieve that unhappiness. When he drank, he became angry and believed that he was being victimised, even when that clearly was not the case.

93. Mr Martyrossian also gave evidence about the "highly emotional periods" that would follow the failure of one of the claimant's "passionate affairs". He said that these affairs would often end abruptly after the claimant had behaved badly when drunk. The claimant would then be very distressed, often for prolonged periods. Whilst distressed he was liable to provoke violent arguments with his friends and behave aggressively to strangers, thus putting himself at risk of violence.

94. In mid-1984, the claimant was told that he would not be offered a place at Joynson-Hicks. He was the only one of the six articled clerks there who was not kept on. The

lack of evidence makes it impossible to draw any firm conclusions about the reasons for the decision to let him go.

With Turner Kenneth Brown: September 1984 – April 1986

95. On 13 September 1984, the claimant began work in the litigation department of TKB. Again no documentation from this period survives and I heard no evidence from anyone who worked with the claimant at TKB. His evidence was that he had been taken on to do defamation work but was informed on his first day that there had been an "administrative hiccup" and he would be doing employment law instead. He said that he was very unhappy about this, but did not feel able to protest. I note that his diary entry for that day reads merely, "Deep end but not too bad". It is surprising that it does not mention his disappointment at the error that had been made.

96. The claimant conceived a strong dislike for his supervising partner, whom he described as duplicitous, arrogant and smarmy. His evidence was that the partner had eventually told him that he was "letting him go". It seems likely that the claimant's employment with TKB ended as a result of a clash of personalities but, without more evidence, it is impossible to be entirely confident of that.

97. At that stage, the claimant actively explored the possibility of a change of career to advertising or work in the financial sector. Eventually, however, he accepted a place as an assistant solicitor with a City firm, Gouldens.

With Gouldens: April 1986-June 1989

98. The claimant started work at Gouldens on 7 April 1986. Gouldens was a relatively small firm, with only about 25 equity partners. It had two sets of premises, one in Chancery Lane and the other a short distance away in Norwich Street. Gouldens was a desirable firm for an ambitious young lawyer to join since its partners were reputed to receive very high levels of remuneration. The claimant worked in the litigation department which was based at the Norwich Street office. There were two equity partners in the litigation department, CM (the Senior Litigation Partner) and MP, who was initially the claimant's supervising partner. There were between eight and 12 assistant solicitors in the department, of whom two were Mr Micklethwaite and Mr Henderson. The claimant's evidence was that, once at Gouldens, he was given a good deal of responsibility for the handling of major commercial litigation. He formed good personal and working relationships with both MP and CM. There was no evidence from MP, CM or anyone else in Gouldens who had been responsible for making decisions about the claimant's future. Mr Micklethwaite and Mr Henderson gave oral evidence.

99. Both Mr Micklethwaite and Mr Henderson spoke highly of the claimant's work at Gouldens. Mr Micklethwaite described the claimant as a "very able lawyer who got on very well with clients". He worked very hard and was given a lot of responsibility. Mr Micklethwaite said that he was a "very social and colourful person who was easy to get on with". He regarded the claimant as having been on a par professionally with himself and Mr Henderson, with an equal chance of becoming a partner at Gouldens. Mr Henderson considered the claimant to be a capable lawyer who demonstrated "an easy confidence and competence" in his dealings with clients and colleagues. He said that the claimant did some good work on a number of large cases. He understood,

from the claimant and from senior people within the firm, that, if the claimant curbed his behaviour, he might be in the running for a partnership.

100. The social life at Gouldens revolved around a wine bar on Chancery Lane where the firm funded a free champagne bar for members of their staff, barristers, clients and other guests every Friday night and on other occasions when a partner was present to authorise payment of the bill. When the claimant joined Gouldens, he became one of a group of solicitors from the litigation department who drank regularly and heavily at the wine bar and at various other bars near to the Norwich Street office. On Fridays, work in the department would stop for lunch and, according to the claimant, the lunchtime drinking would frequently go on until the early hours of the next morning. The claimant's evidence was that CM and MP participated in – indeed led – the drinking. Other partners in the firm also joined in. Mr Micklethwaite and Mr Henderson worked in the same department as the claimant during his time at Gouldens and were part of the 'hard core' of heavy drinkers.

101. Both Mr Micklethwaite and Mr Henderson described what they considered to be the claimant's somewhat extreme behaviour when he had been drinking. They acknowledged that Gouldens had a more liberal approach to the behaviour expected of their staff than most law firms but considered that the claimant's behaviour sometimes exceeded the boundaries of what was considered acceptable. The most obvious example was an incident which happened on 20 August 1987 which involved what Mr Henderson, who witnessed it, described as "extraordinary behaviour" on the claimant's part. The claimant had been out drinking with a group of solicitors from Gouldens, including CM, Mr Micklethwaite and Mr Henderson. They had returned to the reception area of the Norwich Street office in order to use the telephone there to call taxis to take them home. Whilst they were there, a large plant pot was overturned and a number of the plants were taken out and strewn about the reception area. Newspapers were also torn up and thrown around and beer cans were left all over the reception area. Although there was some inconsistency as between the evidence of Mr Micklethwaite and Mr Henderson about who did what, it was clear that the claimant was at least partially responsible for the damage and that CM also played a part. The claimant accepted that this was the case. He also admitted that, on a previous occasion, he had kicked a hole in a boardroom door near the reception area, after which CM had kicked a larger hole in the same door and had then wedged an empty champagne bottle in the hole.

102. The mess in the reception area was discovered the following morning and the claimant was summoned to see MP. A note of that meeting recorded that the claimant accepted responsibility for the damage, explaining that he had been "very drunk at the time". He was given a formal warning. The note recorded that MP had told the claimant that Gouldens would not tolerate further behaviour of this kind by the claimant and that:

> "… it was particularly astonishing and reprehensible in view of other recent litigation department incidents of this kind, at least one of which involved [the claimant]."

103. It seems that the claimant went away on holiday shortly after the incident of 20 August 1987. However, he obtained a copy of the note on his return and wrote a

memorandum dated 14 October 1987 to MP, referring to the previous incident in which it was suggested he had been involved. He said:

> "… if the incident referred to is the one concerning the large boardroom door I was not involved. The fact that I was in the vicinity putting the list of documents into bundles prior to service later that evening does not constitute, in my view "involvement." "

104. The claimant's version of events, given in evidence, was that the written warning administered to him by MP was part of a political move by MP to oust CM as Senior Litigation Partner. The claimant said that he had been sympathetic with CM about the way MP was treating him. He had resented the fact that he had been singled out for blame for the incident of 20 August 1987. He said that he and CM had decided that, in retaliation, the claimant would write the memorandum to MP, denying involvement in the damage to the boardroom door. He admitted that the denial contained in his memorandum had been untrue but evidently believed that the lie he had told was justified in the circumstances.

105. Mr Henderson said that it was plain from conversations in the office that the claimant's behaviour was frowned upon by some of the more conservative partners in Gouldens. Mr Micklethwaite said that the claimant was not as adept as his peers at maintaining good relationships with the senior members of other departments of the firm. The claimant appeared cynical about those in senior positions and, when drunk, he would voice his opinions without restraint. When he felt "let down" by senior colleagues, he would express his distrust of them freely. Mr Henderson agreed that, particularly when he had been drinking, the claimant would be openly critical of those senior figures at Gouldens for whom he had little respect. This naturally caused offence.

106. Gouldens had a structured appraisal system and the claimant underwent his first appraisal in February 1988. The claimant completed a tick-box self assessment in which he rated himself as 'average' or 'good' in all areas except client relations (in which area he rated himself 'excellent') and client development and financial management matters ('average'). Both MP and CM completed a similar tick-box assessment, rating the claimant as mainly 'average' or borderline 'average/good', with his strengths identified as client relations and commonsense and commercial judgment (one partner rating the claimant as 'good' and one as 'excellent' in each of the two areas).

107. In his written self assessment, the claimant commented that:

> "The bigger the case in terms of importance of client, importance to client and complexity, the better I respond."

He complained that there was a lack of "heavy commercial work" for "more experienced fee earners" like himself. In relation to client development he said:

> "I recognise that the task of building up the substance of litigation work is a responsibility I must share in and I should direct more effort to this."

108. MP set out his appraisal of the claimant in these terms:

> "In recent months appears to be settling into a more controlled but still positive approach whereby he hopefully will realise his undoubted potential and enthusiasm. After very swift initial progress has drifted somewhat, perhaps through lack of direction in the department when others have moved towards specialisation. Fits in easily in most company and should therefore be encouraged to work on client development (which is again connected to specialisation)."

109. CM's assessment was:

> "I think that there has been much improvement in recent months. Clearly you have the potential to develop clients – you get on well with people in general (if you want to!) but you can offend quite needlessly and sometimes based on a belief that you really do know better when you do not. This strong headedness has its charm but can be intensely irritating at times – you have more than your fair share of charm to counterbalance all this. **BUT** if you are to realise your potential you must concentrate on the serious matters in this office and show that you can do an absolutely 1st class job. I believe you can and I have seen real improvements which fill me with hope that you will now go on a steady path upwards. I would like to talk to you very specifically about the areas of work that interest you and how that is to be developed."

CM's summary of objectives for the future were:

> "(1) to handle a wider range of matters involving contact with senior partners within the department. (2) to demonstrate a capability of handling substantial litigation in a consistently first class way. (3) to start considering and put into effect some steps towards client development. (4) to show that you can utilise your personality to your advantage as opposed to your disadvantage. This last factor in my view is the most important."

110. The claimant's evidence was that his 1988 appraisal had taken place against the background of the power struggle going on between CM and MP. By this time, the claimant had become very close to CM who had recently become the claimant's supervising partner. Meanwhile, MP had taken on a new assistant solicitor and was, according to the claimant, switching his allegiance from the claimant to the new recruit. He said in effect that the partners' comments (and, in particular, those of MP) should not be taken at face value. He rejected the suggestion that he had needed to work harder at specialisation and client development. He observed that Gouldens were "obsessed with client development".

111. The claimant underwent a second appraisal in November 1988. On that occasion he completed the self assessment tick-box list by rating himself as "good" in all areas except client development and financial management matters, where he considered himself "average". The partners did not complete the tick-box list on that occasion. In his written self assessment, the claimant said that he felt that he had taken to heart what he described as the "constructive comments" made at his last appraisal. He acknowledged that client development was the area where he needed to improve but

said that he was resistant to being 'categorised' by reference to any particular specialty. He concluded by saying:

> "At my stage of qualification, I should like to know more about my partnership prospects"

By that time, the claimant had been qualified for only four years and had spent two and a half years at Gouldens.

112. MP's assessment of the claimant's progress was on this occasion largely positive. He spoke highly of the claimant's client relations and described him as "far better at administering matters than of old". He concluded by observing:

> "… He sometimes could think around his matters more to assess, & re-assess, precisely what his client (& the other side) want out of the litigation.
>
> Needs to continue his client development and man-management efforts. Has done well to date but now should be looking to consolidate into actual action plan."

113. In his lengthy assessment, CM said that the claimant had had some good work during 1988 which had helped in his development. He went on to observe:

> "…there is no doubt at all that you have settled down (Sorry! That sounds very parental but what else do I say!?) and this aspect was labelled on the last appraisal as something which had to be addressed. Enough said on that."

CM went on to disagree with the claimant's assessment of himself as "good" at organisation. He said that other partners had told him that they had had to 'chase' the claimant to get things done. He had assessed the claimant as 'average' at organisation and said that he had almost assessed him as 'below average' in that area. As to financial management of matters, he acknowledged that the claimant's billing was up to date but said that he (i.e. CM) had had to do quite a bit of 'chasing' to ensure that was the case. He said that, overall, he could not put the claimant as beyond 'average', although 'average' in Gouldens was very high. As to partnership prospects, CM concluded:

> "I have to say that I have a question mark in my mind as to whether I can say to you that you will make the grade in Gouldens because you suffer (if that is the right word) from being surrounded by some very strong people at the present time. We will talk further about this."

114. The claimant was plainly dismayed at the contents of this second appraisal. He requested a further appraisal at which the views of other partners who had not previously been consulted could be sought. He wrote to all the partners asking for their views on his partnership prospects in the future. He also wrote a letter to CM, expressing his view that:

> "… in terms of intellectual ability, industry and affinity with clients I consider that none of my colleagues eclipses me …"

He suggested that he may have been to blame for not "selling" himself as forthrightly as others. He suggested that the "crucial factor" was that there was not sufficient work in the litigation department on a consistent basis. He expressed concern that his partnership prospects had not been discussed "even briefly" at the recent partners' conference and described this as "an eloquent signal". He asked if it meant that the door was now closed to a partnership in the future. Entries in the claimant's diary reveal that, by the time he wrote that letter, he was already looking for a new job. He did not receive the reassurance he had sought and he left Gouldens on 23 June 1989, having obtained a job with NR.

115. The claimant's evidence at the quantum hearing was that, in his second appraisal, CM had understated the claimant's prospects of a partnership for his own political reasons. The claimant did not appear to resent this, describing CM as "an extremely fair and honest guy" and a good friend. He said that, privately, CM had told him that everyone liked him and he could "roll up his sleeves and stick around" if he wished. However, CM's advice had been to look around for a job elsewhere. The claimant said that he had take that advice, although he had subsequently regretted it since all his contemporaries at Gouldens (apart from Mr Micklethwaite) had been made partners within two years of his departure. The claimant said that he had left Gouldens, not because of the disappointing response to his request for information about his partnership prospects, but because he knew that some of the more "strait laced" partners would never forgive him for the behaviour that had led to him receiving a written warning and because of his low self-esteem at the time.

116. Mr Micklethwaite's evidence was that he had felt that the claimant's decision to leave Gouldens was premature. He considered that the claimant could have become a partner if he had "stuck with it". Mr Henderson recalled being told by the claimant that CM had advised the claimant against making an application to become a salaried partner in 1988/1989. He had understood that CM had advised the claimant that he needed to "curb his at times excessive behaviour" before being considered. Mr Henderson considered that the claimant's decision to leave Gouldens was impetuous because his prospects of a partnership there were "still reasonable".

Discussion and findings of fact: the circumstances of the claimant's departure from Gouldens

117. Given the time that has elapsed, the fact that I have not had any evidence from those responsible for making partnership decisions and the fact that I regard the claimant's evidence as generally unreliable, there are obvious difficulties in reaching firm conclusions about the claimant's true prospects of attaining a partnership with Gouldens and the circumstances of his departure from the firm. However, I have the benefit of contemporaneous evidence in the form of the two appraisals undertaken during his time at Gouldens and I shall use those as my starting point.

118. The appraisals confirm the evidence of the witnesses that the claimant possessed many of the qualities needed to make a good commercial solicitor. However, if the appraisals are taken at face value, they indicate that there were some problems. In the first appraisal, there is a reference to the needless offence and intense irritation which

it was said the claimant caused on occasions, often because of a (mistaken) conviction that he knew better than anyone else. CM emphasised the need for the claimant to use his personality to his advantage, rather than his disadvantage. Both CM and MP also stressed that the claimant must work on client development and, to assist in that, should attempt to develop a specialist expertise. The second appraisal revealed an apparent tendency on the claimant's part to 'drag his feet' when a piece of work did not interest him and three partners (including CM) wrote of having to 'chase' him to get things done. CM considered the claimant's work only as 'average' when compared with a strong cohort of colleagues. MP referred again to the need to work on client development.

119. I entirely reject the claimant's evidence that the contents of the two appraisals were governed by a power struggle going on between the litigation partners and should not be treated seriously. Whether or not such a struggle was taking place, I can see no reason at all to believe that the appraisals did not represent the true views of their authors. CM was a friend of the claimant who described him as a fair and honest man. MP was also a friend and the claimant's regard for him was such that, eight years later, he instructed MP to act for him in negotiations with Pinsents. Both partners would have been aware that the appraisals were of considerable importance to the claimant and, potentially, to Gouldens. In the first appraisal, CM appears to have taken great pains to give advice to the claimant in a friendly and encouraging manner. In his contribution to the second appraisal, he set out at length his views about the claimant's performance and the reasons why he considered that the claimant would not necessarily be made a partner. I do not accept that the references to the need for client development appeared because the firm was "obsessed" with the issue or as an 'excuse' to criticise the claimant. I note that, in his comment contained in the second appraisal, the claimant specifically referred to the "constructive comments" made in the earlier appraisal and his efforts to follow the advice he had been given.

120. The claimant also considered that the formal warning given to him by MP after the incident of 20 April 1987 had been a political act. Again, I reject the suggestion. If MP believed, as he plainly did, that the claimant had been the prime mover in causing the damage, it is not surprising that he decided to take disciplinary action. It may be that the claimant felt aggrieved (possibly justifiably) that he was the only person to be punished for the damage but the warning was clearly merited in the circumstances. I note that the claimant told Professor Maden in 2008 that he considered himself lucky to receive a warning since most firms would have sacked him for such behaviour.

121. I am satisfied that the incident of 20 August 1987 and other such behaviour by the claimant when drunk would have caused at least some of the senior members of Gouldens to doubt whether he would make a suitable partner. However, he had been at Gouldens for only about two and a half years and, if he had moderated his behaviour, it might well have been forgiven. It is significant that neither Mr Micklethwaite nor Mr Henderson considered that the claimant's previous behaviour would necessarily have been a bar to him becoming a partner in due course. The contents of his second appraisal suggest that, by February 1988, CM's perception at least was that the claimant's behaviour had "settled down" and it appeared that, when assessing the claimant's partnership prospects, he had put the issue of the claimant's behaviour aside entirely. Nevertheless, he still considered that the claimant was unlikely to 'make the grade' for the reasons he gave in the appraisal.

122. It is clear that the claimant resented the criticisms that had been made of him and was not prepared to wait to see if the position changed. This was despite the fact that he was still relatively junior. He believed that he had been treated unfairly and was angry about it. He considered that he would do better elsewhere where his talents would be recognised. It may that, as Mr Micklethwaite and Mr Henderson believed, the claimant would have had a reasonable chance of achieving a partnership if he had stayed at Gouldens. However, given the contents of the appraisals, I consider it likely that, even without his drunken behaviour, he would not have attained the standard required for an equity partnership.

With Norton Rose: 1989-1994

123. The claimant joined NR, a large and prestigious City firm, on 26 June 1989. He joined the litigation department at NR's London office where he worked under the supervision of the Head of Litigation, ML, for whom he had a high regard. During 1992, the claimant assisted another partner, Mr Jonathan, with a substantial piece of litigation. A team of about 40 people worked on the case and the claimant was one of the senior assistants on the team. Mr Jonathan gave oral evidence. He had been impressed with the claimant's work and regarded him as a good lawyer, who made a significant contribution to the success of the litigation on which they had worked together. There was no evidence from ML or anyone else at NR who had been responsible for making decisions about the claimant's future in the firm.

124. The claimant underwent his first appraisal at NR in March 1990. An unknown appraiser (probably ML) completed a tick-box assessment of the claimant's current strengths and areas for improvement. The assessment indicated that the claimant was "above average" in all areas except written expression (where he was rated "satisfactory/high" [*as opposed to "satisfactory/low"*]) and drive and enthusiasm and self confidence (in which he was said to be "outstanding").

125. In his self assessment written after he had been at Norton Rose for only nine months, the claimant observed:

> "If I do not achieve partner status I shall not have fulfilled my potential. I need to keep developing in consistent approach across my case load, improve technical knowledge and do not more to assist in client development."

The claimant's evidence was that, in making those observations (particularly about the need to work on client development), he was not necessarily expressing his own views but was merely saying what he thought his employers wanted to hear.

126. In his assessment, ML observed that the claimant had been a "reliable assistant", although he still needed supervision. He said that the claimant was enthusiastic about his work but, in his enthusiasm, could "occasionally miss points". He assessed the claimant's partnership potential as somewhere between "possibly" and "no". Plainly, the claimant had not impressed ML to any great extent at that early stage.

127. The claimant's next appraisal was in February 1991. The appraiser's tick-box assessment rated the claimant as "above average" in all areas except written

expression ("satisfactory/high"). There was no material from the claimant himself. ML's summary stated:

> "The claimant is able to work largely unsupervised and is therefore of great assistance to me. He has supervised a trainee over the year and has shown himself capable in that area. He has also been building relationships with clients. A valuable member of the Department but unlikely, I think, to be partner material."

At the appropriate point in the assessment form, ML indicated that the claimant was "possibly" of partnership potential.

128. In oral evidence, the claimant appeared surprised at the contents of this appraisal. He did not recall having seen it at the time. He said that, in 1991, he had felt that his career at NR was going well and he was shocked to see that, even at that stage, ML was saying that he was "unlikely" to be partner material.

129. The claimant's next appraisal was in July 1992. The claimant submitted brief details of his past year's progress, together with a note in which he indicated that he found the lack of any indication as to whether or not partnership was a real possibility for him demotivating. He said that "a general comment, be it positive, negative or 'case not proven' would help to provide a focus for my challenge".

130. On this occasion, the assessments in the appraiser's tick-box list were more varied. The claimant was rated as "outstanding" for drive and enthusiasm, self confidence, sense of humour, accuracy of time recording, submissions of time sheets, time keeping and tidiness of office. He was rated "satisfactory/ high" for discretion, accuracy, written expression, judgment of important issues, oral expression and reliability. For all other aspects, he was assessed as "above average". Overall, his assessment appears to have been on the borderline between "above average" and "satisfactory/high".

131. In his assessment, ML described the claimant as a "hard working, experienced and capable senior assistant" and an asset to his team. He observed that he did not have "quite the confidence in him that [he] should have in an assistant of his length of qualification", although he was not aware of any client complaints and would miss him if he left. He concluded by saying:

> "I would not rule him out of consideration for partnership, but I think it is probably unlikely because I feel he may be overtaken by others in the next couple of years."

Once again, ML ticked the box indicating that the claimant was "possibly" of partnership potential. By this time, ML had been working with the claimant for three years. It is significant that, even then, he did not have full confidence in the claimant's abilities.

132. In oral evidence, the claimant did not accept that ML's words reflected his true view of the claimant's performance. He said that he thought it probable that ML had made the same comment in the appraisals of all the other assistant solicitors because it was in his interests to do so. The fewer partners there were, the greater the share of the

firm's profits that would go to each existing partner. He said that it was to the advantage of the existing partners to keep all the "dogs" (i.e. the more junior members of staff) "chasing the bone" by encouraging them to believe that they might get a partnership if they stayed and worked hard.

133. It appears that the claimant's next appraisal took place in February 1993. The claimant's summary of his past year's work mentioned his involvement with the litigation being handled by Mr Jonathan. He observed that he considered that he functioned best when "in the centre of the action". He had enjoyed giving a talk to the department, saying "I've always known I was good at public speaking, no-one asked me before". The claimant referred to the sustained recession being experienced in early 1993 and the possible effects on partnership prospects within the firm. However, he was anxious to have an "honest assessment" of his potential and posed the question: was he a "worthwhile senior assistant" or an "assistant with real partnership potential"?

134. The appraiser's tick-box assessment on this occasion contained significantly more "outstanding" ratings than previously and no ratings lower than "above average". The overall assessment was "above average". In his written assessment, ML spoke highly of the claimant's contribution to his team but indicated that the claimant had been told that he was unlikely to be made a partner. He went on:

> "My feeling is that in less stringent times [the claimant] would be a partnership contender. He could still be if he were able to develop a practice of his own, perhaps in defamation … I would not rule out his prospects at this stage. Let's wait and see what next year brings."

In the claimant's defence, ML also pointed out that, since he worked in the general commercial litigation field where work tended to be generated internally, it was difficult for him to develop his own practice.

135. The claimant's evidence was that ML's comments should be taken with "a bucket, not a pinch, of salt". He said that the appraisal system was just a Human Resources exercise and that the need for practice development was a "standard fallback" comment for any appraisal. He said that, in fact, he had been generating a considerable amount of work but, because ML was very "hands off", he would not have been aware of that fact.

136. The claimant's appraisal in February 1993 had referred to the "stringent times" caused by the recession. However, the financial situation at NR became much worse in April 1993 when their London office was damaged by an IRA bomb.

137. The claimant's next appraisal took place in February 1994. In his own summary of his past year's work, he detailed the work he had done and the efforts he had made to obtain defamation work from some of the major media companies. He commented, with a degree of cynicism:

> "Presumably, re future prospects, nothing has changed unless/until I bring in Rupert Murdoch."

138. The claimant's overall rating in the appraiser's tick-box assessment was "above average", whilst in some areas (performance under pressure, working with others, organisation/planning of work, self confidence, sense of humour and personal administration) he was rated "outstanding". ML's summary was very positive, speaking of the claimant's "very good work" and describing him as "the mainstay of my team both in terms of billings and being able to help juniors when I have not been around". He spoke of the claimant's "lively personality" and popularity and of the good work he had done in the field of training. He concluded:

> "I would be very sorry indeed if he were to go but, whilst I would not rule out the possibility, I doubt whether he will be a CLD [*commercial litigation department*] candidate for promotion, certainly for [19]95."

This was a significant comment since the system at NR was that, in order to be considered for a partnership, an individual required the support of the partners in his/her department, who would put his/her name forward to the Partnership Committee. That Committee was responsible for making the final decision as to who should be made a partner. Once again, ML indicated at the appropriate point in the appraisal form that the claimant was "possibly" of partnership potential. ML identified as the claimant's objectives for the following year "More of the same and develop a practice."

139. The appraisal form indicated an intention to see the claimant in order to inform him about his future partnership prospects. The claimant's evidence was that he had had a meeting with ML and Mr Jonathan, at which he was told that, whilst the CLD partners would support his partnership application, the corporate department partners would not. If the claimant is right about what was said at the meeting, it would have been entirely inconsistent with what ML had said in his written appraisal. In any event, the claimant said that he knew that, if the CLD partners had wanted him to be a partner, their views would have prevailed. Shortly after this time, a solicitor who was junior to the claimant was made a partner and the claimant began to look for a job elsewhere. He left NR on 5 August 1994, having secured a job with Pinsents.

140. There was evidence that, whilst working at NR, the claimant continued to drink excessively at firm social events and to behave in a loud and boorish manner when drunk. Mr Jonathan described how the claimant would drink too much and then behave badly, often by speaking rudely to colleagues. He cited one example when the claimant had been abusive to the firm's Managing Partner whilst very drunk at a Christmas party. Mr Jonathan found the claimant "very affable" when he was not drinking but said that, when drunk, the claimant could make "bruising and gratuitously rude remarks which could damage relationships". There had been a notorious incident at a departmental party around Christmas 1993 when, whilst drunk, the claimant performed a karaoke song whilst being stripped naked by a number of secretaries.

141. Mr Jonathan said that, following the bomb damage in April 1993, there was a period of uncertainty over the financial viability of NR, which meant that few partners were appointed for a time. He did not specifically recall any discussion about the claimant's partnership prospects but considered that those prospects had been damaged by his unacceptable behaviour when drunk. He judged the claimant's legal skills to be on a par with those of at least two of his contemporaries who later became

partners at NR. However, they both had better 'interpersonal skills' and could be relied on to behave appropriately on social occasions. Mr Jonathan said that he would have been "horrified" if the claimant had been made a partner.

142. The claimant's case was that he was not made a partner at NR because of his behaviour when he had been drinking. He described the karaoke incident as "the straw that broke the camel's back". He remembered ML and Mr Jonathan teasing him about that incident at a subsequent appraisal meeting. (Mr Jonathan was not asked about this but, given his attitude to the claimant's behaviour, I find it unlikely that he would have joked about it at a formal meeting.) The claimant claimed in oral evidence that ML and Mr Jonathan had told him that, after that incident, the corporate partners would not entertain his application for a partnership.

Discussion and findings of fact: the circumstances of the claimant's departure from Norton Rose

143. Once again, the long time that has elapsed and the fact that I have not heard any evidence from those responsible for making partnership decisions at NR make it difficult to reach firm conclusions about the claimant's prospects of gaining a partnership at NR. The contemporaneous appraisal documents must be my starting point. I reject the claimant's suggestion that appraisals at NR were merely Human Resources exercises and that advice to work on practice development (another name for 'client development') and specialisation was merely a "standard fallback" which meant nothing. I reject also the suggestion that ML, who was Head of Litigation, would not have known about work that the claimant had brought into the firm. Quite apart from any other source of such information he may have had, I am confident that the claimant would have told him. I can see no reason at all why the content of the appraisals should not be taken at face value. It is significant in my view that the need for the claimant to pay more attention to client development and to specialise to a greater extent was a theme of the claimant's appraisals at both Gouldens and NR. As both Mr Pell-Illderton and Mr Cooper (a legal recruitment consultant) explained to me, the ability to bring work into the firm is an important – although not the only – consideration for those selecting individuals to join a solicitors' partnership.

144. The claimant may well be right that the partners in other departments at NR would not have countenanced his being made a partner because of his behaviour on social occasions. However, his final appraisal at NR clearly indicated that he was unlikely to be supported as a candidate even by his own department. I am satisfied that that was indeed the case, whatever he was told at his meeting with ML and Mr Jonathan. The appraisal documents do not shed any light on why his department would not support him, although the exhortation by ML the previous year to "develop a practice" suggests that the claimant's perceived failure to do so was still a source of concern. ML had expressed doubts from the first about the claimant's prospects of promotion at Norton Rose and it is plain from the appraisals that there were others in his department who were perceived to be as strong, if not stronger, candidates. In the event, the claimant responded to the promotion of a more junior colleague by seeking other employment.

145. It is possible that the karaoke incident and other drunken episodes also played a part in ML's assessment of the claimant's partnership prospects. The evidence is that there were the other candidates in the claimant's department who could be relied upon

to behave themselves on social occasions and it would not be surprising if they had been thought 'safer' candidates than the claimant at that stage. However, the appraisal documents do not rule out the possibility of the claimant becoming a partner in the future, as they might have done if ML had taken a more serious view of his behaviour. It seems to me probable, on the basis of the appraisal documents, that even without the claimant's drunken exploits, he would still not have made partnership level at NR.

With Pinsents: October 1994-April 1997

146. The claimant registered with a recruitment agency and was interviewed by Pinsents, a prestigious firm with at least one office outside London. His evidence was that, at that stage, he understood that he was being interviewed for a salaried partnership at their Birmingham office. He said that he had considerable difficulty deciding whether he wanted the job. He did not want to move out of London, especially since his wife had a job there. He was reluctant to attend a second interview but did so on the advice of the recruitment agent. He said that, at the second interview, he was told that the position on offer was an associate solicitor, not a salaried partner. That made him even more undecided about what to do. He was then asked to a barbecue at the home of one of the partners, who offered him a salaried partnership. That represented a 'step up' from his previous jobs and carried with it a real prospect of equity partnership in the future. The claimant accepted the offer then and there. That was in July 1994 and he began work at Pinsents' Birmingham office on 3 October 1994.

147. There was no evidence from anyone from Pinsents who had been involved in making decisions about the claimant's future or his eventual departure from the firm. It does not appear that the claimant underwent a formal appraisal during the period of his employment although some other employment documents are available. I heard evidence from four witnesses who had known him during time at Pinsents. They were Mr Downing, Mr Claydon, Mr Weeks and Mr Flavell.

148. The claimant described the period of his employment with Pinsents as a "miserable time". At first, he was in Birmingham whilst his wife stayed in London although, in February 1995, she moved to Birmingham to join him. In June or July 1995, the claimant met Mr Downing, who was the Managing Partner of Pinsents' London office, and told him that his wife was very unhappy in Birmingham and that they wanted to return to London. Mr Downing arranged for the claimant to be transferred to the commercial litigation department at Pinsents' London office. The Head of the Department was KP. The claimant moved back to London at the end of July 1995, leaving his wife in Birmingham. She had to stay there for three months to work out her notice period, after which she rejoined the claimant in London in October or November 1995. The couple separated in early March 1996. It is clear that the last year or so of his employment at Pinsents was a time of personal difficulty for the claimant.

149. In March 1996, Mr Downing was offered a prestigious position with Price Waterhouse Cooper. He left Pinsents to take up that post in the summer of 1996. During the period for which he overlapped with the claimant at Pinsents' London office, Mr Downing had no personal experience of the quality of the claimant's work, although he was not aware of any problems with it. He had introduced the claimant to a new client, a company of which he was a director, and had received a favourable report

about the way the claimant had handled the legal dispute in which the company had been involved.

150. Mr Downing formed a close personal relationship with the claimant and noticed that the claimant also became close friends with other colleagues and with some clients, such as Mr Weeks. However, Mr Downing was concerned that the claimant did not appear to be getting on with KP. He found this puzzling because KP was well-liked by his other colleagues. It seemed to Mr Downing that the claimant found it difficult to accept KP's authority. He was concerned about this because he regarded the claimant as someone who should, all things being equal, become an equity partner in due course. Mr Downing's evidence was that he had felt instinctively that there was "an element of self-destruction" in the claimant's character, which might jeopardise his progression. Mr Downing said that, apart from the deterioration of the claimant's relationship with KP, he was not aware of any other problems with the claimant's behaviour whilst he was Pinsents. In particular, he was not aware that there were any problems with excessive drinking.

151. Mr Claydon worked in the corporate department at Pinsents' London office and had been made a salaried partner in May 1997. He got to know the claimant when the claimant moved there in July 1995. He did not work regularly with the claimant but the claimant did some work for a few of Mr Claydon's clients. Mr Claydon was not aware of any problems with the claimant's work and had no reason to believe that he was anything but competent.

152. Mr Claydon described how, on occasion, the claimant's behaviour could be erratic and unpredictable. He referred to one incident when a number of partners, solicitors, secretaries and members of the administrative staff from the London office were drinking outside a public house. The claimant appeared to have been drinking for some hours before the event began and he began to behave inappropriately, doing an imitation of John Cleese's 'funny walk' and shouting at one of the equity partners. Mr Claydon was shocked and concerned at the claimant's behaviour, particularly since the incident happened in public and in front of a large number of members of staff.

153. The second incident described by Mr Claydon occurred in March 1997 on the morning after a partners' conference in Bradford. During the train journey back to London with other partners, the claimant drank seven or eight cans of lager and became quite drunk and very loud. He appeared to be trying deliberately to provoke his colleagues into arguing with him and was openly critical of the firm and its management. Mr Claydon added that there were also occasions when the claimant would express his views at partners' meetings in a forceful and abrasive manner that had the effect of alienating some of his senior colleagues.

154. In 1995/1996, Mr Jonathan Weeks was working as an in-house lawyer for GKN Plc, the company which had recently acquired Westland Helicopters (Westland). At the time, Westland were involved in a long-running legal dispute and GKN instructed Pinsents to represent them. The claimant worked with Mr Weeks on the Westland case and the two men became friends and have remained in contact ever since.

155. Mr Weeks was impressed with the claimant's abilities as a lawyer. However, he recalled an occasion when the claimant attended a meeting with Westland's senior

management at their offices in Yeovil. He described the claimant as being clearly "under the weather" and under-prepared. (The claimant later told Mr Weeks that he had been suffering from a hangover after a heavy night's drinking.) Mr Weeks' evidence was that, after an unpromising start, the claimant managed to turn the meeting round in what he considered was quite an impressive fashion. Fortunately for the claimant, Mr Weeks was prepared to overlook his conduct which did not recur during their professional dealings.

156. Mr Weeks regularly met the claimant socially (including spending weekends away with the claimant and other friends), both whilst the claimant was working at Pinsents and subsequently. He said that, on most of those occasions, the claimant had "got very drunk very quickly". When drunk, the claimant would behave badly. In 2002 (well after the claimant had left Pinsents), a group of which the claimant and Mr Weeks were members were told to leave a nightclub after the claimant had been caught taking drugs in the lavatories. Mr Weeks spoke of another occasion, in 2007, when the claimant was using foul language very loudly in a restaurant, causing complaints from other diners. As a result, the group were informed that, if the claimant did not keep his voice down, they would have to leave. Mr Weeks said that, when the claimant was drunk, he would become very loud and confrontational and would make extensive use of offensive language. Indeed, the claimant's behaviour was such that, when Mr Weeks was planning a weekend away, some of his friends would threaten not to come if the claimant was to be one of the group.

157. Mr Flavell was a salaried partner in the corporate department of Pinsents' London office during the claimant's time there. He did not work with the claimant but got to know him as a colleague. He warmed to him immediately. However, he considered that the claimant was too much of a "maverick" to progress within the firm. He got the impression that some of the partners in the litigation department regarded the claimant as "trouble". Mr Flavell described an occasion at a partners' meeting in Birmingham in July 1995, when the claimant was taking no part in the discussions and appeared to be sleeping. One partner then began to talk about redundancies that were planned whereupon the claimant suddenly jumped to his feet and made an impassioned and eloquent speech (described by Mr Flavell as "a bit of a rant"), opposing the redundancies. Mr Flavell said that it had not been politic for the claimant to raise his concerns in that fashion and in that forum and thus to cause embarrassment to senior management figures in Pinsents. He said that it was incidents like that which had led the claimant to be regarded by some of his colleagues in the firm as a controversial figure. He would speak of senior figures in the firm in a particularly derogatory way. Mr Weeks said that he had shared some of the claimant's negative views about the way Pinsents was run and the behaviour of some of the partners. However, unlike the claimant, he had kept his views to himself, realising that, if he were to progress, it was important to "play the game".

158. The claimant himself described a number of occasions when he had become drunk in front of senior colleagues at Pinsents. He referred to the partners' conference at Bradford mentioned by Mr Claydon. He recalled that he had got very drunk on that occasion and had been warned by one of the litigation partners based in Birmingham that, if he did not "sort himself out", he would be out of the firm.

159. The claimant also described an occasion when, after a long lunch with a friend and potential client, he walked back towards Pinsents' London office chanting football

songs loudly. Whilst doing so, he came across a group of office colleagues gathered outside a bar. He continued drinking with them and then progressed to a nightclub where he startled one of the litigation partners by grabbing him round the throat from behind. The following day, another partner came into the claimant's office and asked him whether he thought he had a drink problem. The claimant said that he apologised for his behaviour and explained that his wife had left him recently. In oral evidence, he said that he had merely used his wife's departure as an excuse for his behaviour in an attempt to recover the situation.

160. The claimant went on to refer to an office party held around Christmas 1996 when he drank excessively, danced wildly (causing a colleague to observe that he danced "like he's on drugs") and ended up going home with his secretary. The following day he was off work with a hangover. The claimant considered that all these episodes taken cumulatively had caused the feelings of those in senior positions within the firm to turn against him.

161. On 9 April 1997, he claimant was called to a meeting with the Senior Partner of Pinsents and the Managing Partner of the London office. He was told that he would not be made an equity partner at the conclusion of his first three years as a salaried partner and that the partners would like him to leave nine days later on 18 April 1997.

162. The claimant's account of the reasons he was given for the termination of his employment were summarised in a letter dated 14 April 1997 written to Pinsents on his behalf by MP of Gouldens, whom the claimant had instructed to represent him to negotiate a financial package with Pinsents. The claimant said that he had been given three reasons. First, he had been told that he had breached the policy of a major client, GKN, by contacting a Main Board Director direct, rather than through the Company Secretary or GKN's in-house Legal Department. Second, he was told that he had been unsuccessful in bringing new litigation work into the London office. Third, the partners had made a "passing comment" about his behaviour but, according to him, had said that this had contributed "only about 5%" to their decision to terminate his employment.

163. The claimant did not accept that the first two reasons given by Pinsents for the termination of his employment were genuine. He said that neither he nor anyone else at Pinsents had been aware of GKN's policy about contacting Directors. In any event, he knew the Director concerned and had been in contact with him before without any problem. He said that this complaint was wholly spurious, as was the suggestion that he had failed to bring in new litigation work. He said that, for most of his time at the London office, he had been working on the Westland litigation, which had left him little time to go out and seek new work. He said that, in any event, he had brought in some new clients. As to the reference to his behaviour, the claimant said that the partners had mentioned "incidents", which he took to be the occasions when he had behaved badly whilst drunk.

164. The claimant's evidence was that he was given a further possible reason for the sudden termination of his employment through unofficial channels. In April 1997, he was having an affair with one of the female partners of Pinsents. He said that she told him that a partner in the Birmingham office had told her that the claimant was being required to leave immediately because he had been dealing cocaine to the staff of one of Pinsents' best clients. The claimant's evidence was that this allegation had not

been mentioned to him at his meeting with the partners and in any event was wholly untrue. He said that Pinsents had never confirmed whether the information he had been given was correct, although MP had requested and obtained from them an agreement in writing that the 'story' about the claimant would not be disclosed. No copy of that agreement has survived.

165. In his letter to Pinsents of 14 April 1997, MP pointed out that, if the claimant were required to leave Pinsents immediately, this would provoke speculation about the reasons for his departure and would jeopardise his prospects of obtaining alternative employment. He sought Pinsents' agreement to an arrangement that would enable the claimant to stay on at their London office for a further two months. Pinsents responded by faxed letter on 15 April 1997. Their letter specifically declined to comment on whether MP's summary of the reasons given for the termination of the claimant's employment was accurate. They indicated that they would be prepared for the claimant to take two months' 'gardening leave', with facilities for his secretary to pass telephone calls to him at home, in order to maximise his prospects of obtaining alternative employment. MP replied by suggesting that, during the two months' 'gardening leave', the claimant should be described by Pinsents as "working on an assignment". Following that exchange, there were plainly some further negotiations, including efforts to agree a reference for the claimant in terms that were mutually acceptable. On 21 April 1997, the claimant faxed the Senior Partner of Pinsents direct, seeking a better financial package than that which was then being offered.

166. On 24 April 1997, the claimant's diary recorded:

> "Left [Pinsents] – just walked out like it was nothing, which it was."

It is not clear whether the claimant was still working at Pinsents when he walked out or whether he walked out of negotiations that were ongoing. In any event, a settlement was eventually reached which included a financial package that was acceptable to him. The claimant did not return to Pinsents and his employment with them ceased formally on 18 June 1997.

167. None of the witnesses who gave evidence about the claimant's time at Pinsents had any personal knowledge of the reasons for the termination of his employment. Mr Claydon thought that "his behaviour certainly had something to do with it", although he agreed that that was just his own speculation. Mr Flavell believed, from the comments he had heard, that senior people in the firm had "had it in" for the claimant. He had heard a rumour, which had been circulating at a firm party in the summer of 1995 or 1996, that the claimant took drugs. He did not know whether there was any truth in the rumour. Mr Weeks said that he had had no discussions with anyone at GKN or Pinsents about the reasons for the claimant's abrupt departure.

168. Mr Downing's evidence was that, after his own departure from Pinsents in 1996, he had kept in touch with the claimant. In due course, he became aware that the claimant had been dismissed from Pinsents but did not discuss the reasons with anyone at the firm. He assumed that the claimant's relationship with KP (and possibly with his own successor as Managing Partner of the firm) had broken down.

Discussion and findings of fact: the circumstances of the claimant's departure from Pinsents

169. I have very little information about the claimant's professional performance at Pinsents. No appraisal took place during his time there. Few contemporaneous documents have survived. What is clear is that there was a personality clash between the claimant and his supervising partner which caused Mr Downing considerable concern before he left and which Mr Downing plainly considered would, of itself, make it unlikely that the claimant would be offered an equity partnership.

170. The claimant's evidence was that, whilst he was based in Birmingham, he led a relatively quiet life during the working week and did not drink excessively. His diary entries tend to confirm this. I consider it probable that his drinking increased after his return to London and, in particular, after his wife left him in March 1996. There were occasions when the claimant made a spectacle of himself in front of other partners at the firm, both by his conduct when sober (for example at the partners' meeting described by Mr Flavell) and when drunk (on the occasions described by Mr Claydon and Mr Flavell and by the claimant himself). Towards the end of his time at Pinsents, there was plainly increasing concern within the firm about the level of his drinking I am satisfied that, if he had continued to drink at the same level, that factor also would have militated against him being made an equity partner.

171. One of the reasons given for the termination of the claimant's employment was his perceived failure in the field of client development. Whilst I appreciate that a good deal of the claimant's time with Pinsents would, as he said, have been taken up with the Westland litigation, it is in my view no coincidence that, at Gouldens, NR and Pinsents, there was the same complaint about his failure to bring in work. I am satisfied that this was a real weakness in his skills and would have been significant in the context of his chances of gaining an equity partnership at Pinsents.

172. I am satisfied, however, on a balance of probabilities, that the immediate cause of the termination of the claimant's employment with Pinsents was a story which had been reported to them of the claimant's involvement with drugs and a client. That would be entirely consistent with their requirement that he should leave the office within such a short period. None of the other reasons that were advanced at the time would have justified such a requirement. I am unable to reach a firm view as to whether the story was of alleged drug *dealing* with a client by the claimant, as he has said he was told, or drug *taking*, as Mr Martyrossian recalled the claimant having told him. As Mr Martyrossian said in evidence, Pinsents' reaction is likely to have been similar, whichever activity was involved.

The claimant's search for work as a lawyer after leaving Pinsents: April-November 1997

173. By 17 April 1997, the claimant was in contact with recruitment consultants with a view to seeking a partnership position at another City law firm. Despite his extensive litigation experience, he had no success in obtaining a partnership or even a less senior position in such a firm. His evidence was that a number of firms offered him interviews which appeared to go well, but these were not followed up. In his evidence given at the trial of limitation and liability in October 2009, the claimant attributed his failure to secure another legal position to the fact that the story that he

had been dealing cocaine with a client had been "put about" by Pinsents and became general knowledge in the City. In his witness statement dated 1 July 2008, the claimant said, "I found it hard to forgive Pinsents for that". The claimant's evidence at the limitation and liability trial echoed what he had told Dr Shapero in December 2005 and Professor Maden in March 2008.

174. At the limitation and liability trial in October 2009, the claimant was asked about the matter in cross examination by the defendants' counsel:

> "Q. So you say that he, that is, one of your old bosses *[i.e. MP]*, obtained an undertaking that the story would not be put about by the parties. So clearly this story was identified and an undertaking was sought that this would not be put about by either of you?
>
> A. Absolutely. I mean I did not appreciate at the time but of course it was worth nothing because the City is such a small place and it got out anyway."

The cross-examination continued:

> "Q. …What I was saying to you was whatever reason was given to you initially, by the time you came to leave there was an undertaking that the story would not be put about by either party. As you say, that information did in fact get out into the legal world.
>
> A. Again, I am assuming it did. I have got no evidence for that whatever.
>
> Q. You say, in terms – that is why I asked you the question in this way – you say, "In reality it was" namely that the story did get out. "This prevented me from returning to legal practice in effect".
>
> A. Actually, yes sorry.
>
> Q. That was the question I was asking you.
>
> A. I am sorry, I did hear – a friend of mine who was a recruitment agent – I cannot remember at all when it was – but he did want to say to me that some other recruitment agent had said to him, "Oh, there are some rumours about drugs around Patrick Raggett" because my CV had then gone into DLA Piper. It was one of a number of terms, as I recall, of the settlement that this undertaking was given that the story would not be put out by either party.
>
> Q. You said you had been prevented from returning to legal practice. That is the way you put it in your statement?
>
> A. Amongst a whole host of other reasons I imagine."

175. By the time the claimant made his second witness statement dated 15 June 2011 for the quantum hearing, his evidence about the reason why he could not secure another job as a lawyer had changed. He described his previous belief that the allegation

about drug dealing must have leaked out as "groundless" and "paranoid". He attributed his belief to his "generally disordered mental state". He said that, if the allegation had leaked out, no recruitment agency would have accepted him onto their books and he would not have been offered interviews by any law firms. By June 2011, he was attributing his failure to secure a position in another law firm to the fact that Pinsents did not permit him to work his notice period so that prospective employers were aware that he was out of work at the time of his application.

176. At the quantum hearing the claimant was asked about his assertion at the limitation and liability trial that a friend who was a recruitment consultant had told him of a rumour that was circulating about his involvement with drugs. His evidence was that he was told about that rumour a long time after his departure from Pinsents, probably in 1999 or 2000. He said that he had got the impression that his friend was 'humouring' him, by suggesting that it had been a rumour (rather than any question mark about his abilities) that had prevented him from obtaining a legal position.

Discussion and finding; the claimant's failure to secure an alternative job in the law

177. Until recently, the claimant appeared to be convinced that his inability to obtain employment as a lawyer after his departure from Pinsents was attributable to the fact that the story of his involvement with drugs had got out. He no longer believes that was the case. This is another example of a significant change in the claimant's evidence. It is impossible to say with certainty now whether or not a rumour about his involvement with drugs was in circulation and was the reason for his lack of success in obtaining a post or, if it was, whether that rumour was of *dealing* or *taking* drugs. On balance, however, I take the view that it is unlikely that a rumour that the claimant had been *dealing* drugs, with clients or otherwise, was ever current. If Pinsents had received information to that effect, it would not have been in their interests to share it with others and there would have been obvious risks (e.g. of defamation proceedings) if they had done so. Furthermore, if such a rumour were circulating, it seems highly unlikely that the claimant would have received offers of interviews from City solicitors' firms or that he would eventually have been employed (albeit not as a lawyer) by DLA and Eversheds. I think it probable that, when he failed to secure alternative employment, the claimant persuaded himself that his lack of success was attributable to Pinsents having spread the rumour despite the agreement into which they had entered. When it became clear that such an explanation for his inability to gain a legal post would not be helpful to his damages claim, he re-considered the matter and concluded that he must have been wrong to believe that the rumour had got out. As I have said, I consider that his revised view is probably correct. Nevertheless, this is a further example of the claimant's general unreliability as a witness.

178. The news of the claimant's abrupt departure from Pinsents would inevitably have been the subject of gossip amongst City lawyers and would have provoked much speculation. I have little doubt that tales of his previous indiscretions whilst working for Pinsents and other firms would have been circulated. The claimant himself would not have been able to give any credible or satisfactory reason to prospective employers for his departure or for the fact that he was not still working at Pinsents whilst looking for an alternative position.

179. It may be that the gossip about the claimant's position would have included rumours about his drug *taking* and speculation that it might have been the reason for the termination of his employment. The claimant admitted that he took cocaine from time to time during the period of his employment with Pinsents. I accept that he would not have done so when he was with work colleagues but he may not always have been discreet about his drug taking (as in 2002 when he was with Mr Weeks in a nightclub) and it may have become known to others. The claimant himself related how, when drunk at an office party at Pinsents, he had told one of the partners' secretaries that Ecstasy was "great" and this had got back to the other partners. As I have said, Mr Flavell had heard a rumour circulating within Pinsents in 1995 or 1996 that the claimant *took* drugs. It is entirely plausible that a story about the claimant *taking* drugs could have been circulating in the city in 1997 and that would explain the remark made to the claimant by a recruitment consultant subsequently. I find it difficult to credit the claimant's suggestion that his friend would have said such a thing merely to 'humour' him.

180. I consider it probable that the claimant's inability to obtain a job as a lawyer was due to a number of factors, in particular the unusual circumstances of his departure from Pinsents and his inability satisfactorily to account for it, coupled with his somewhat fragmented previous work history. That conclusion derives considerable support from the events related in the next paragraph of this judgment.

Work with Longbridge: November 1997 – July 1998

181. Seeing that the claimant was having no success in obtaining a position in a law firm, Mr Downing introduced him to the Managing Director of Longbridge Consultancy Ltd (Longbridge), a recruitment agency in the legal and banking sectors. The claimant was interviewed by Mr Cooper, another Director of Longbridge, who gave oral evidence at the quantum hearing. Mr Cooper said that he asked the claimant about his various moves between law firms and his departure from Pinsents and legal practice. His evidence was that the claimant was "not able to give credible answers" to his questions. He regarded this as a "red flag" and implied that, had it been his sole decision, he would not have offered the claimant a job. However, the Directors took a collective decision to recruit the claimant to work as a legal executive search consultant in Hong Kong.

182. The claimant underwent a few weeks' training in London in late 1997 and moved to Hong Kong in January 1998. He reported to Mr Cooper, who was based in the London office, Mr Cooper's evidence was that, whilst the claimant appeared happy to approach people in the legal world who were known to him, he was reluctant to 'cold call' people who he did not know. Mr Cooper was surprised at this as he had assumed that, as a senior litigation lawyer, the claimant would have been used to approaching potential new clients on a 'cold' basis. This reluctance to make new contacts meant that the claimant did not generate sufficient new business for Longbridge. Mr Cooper said that a further problem was the claimant's apparent inability to close on a deal. Having completed the preliminary tasks involved in getting a prospective employee and employer to the point of negotiating terms, the claimant appeared to "shut down" and to lack the drive to see the deal to its conclusion. Mr Cooper said that the claimant did not appear to be able to empathise with the concerns of the parties and to assist them to reach a mutually satisfactory resolution. He found this very surprising given the claimant's previous experience and friendly personality. Mr Cooper said

that he and his colleagues tried to help the claimant to acquire the skills he lacked, but to no avail. Mr Cooper's evidence was that, eventually, the claimant informed him that he was going to leave Longbridge and try a career as a legal journalist.

183. The claimant did not accept that he had failed to close on deals whilst working for Longbridge or that he had failed to generate sufficient business. This was despite the fact that, in 2008, he had told Professor Maden that he had been sacked because he did virtually no work and just went out drinking and said that, in his time there, he had made only one successful recruitment. The claimant was critical of the way the Hong Kong office of Longbridge was run and of the conduct of the Managing Director. An entry in the claimant's diary for 30 July 1998 records that the Managing Director had telephoned him to suggest they "call it a day". The claimant's comment in his diary was "not surprised". He finally returned to the UK in early October 1998.

184. I heard evidence from a number of witnesses who were in Hong Kong during the claimant's time there. Mrs Stacey Raggett, the claimant's second wife, was living in Hong Kong at the time with her then husband and had a relationship with the claimant which lasted for a few months in 1998. She said that he had "an infinite capacity" to party which generally involved drinking too much. She formed the impression that he treated his employment at Longbridge as "a bit of a joke". He was living on his own and appeared to have a chaotic existence. He was plainly still very distressed at the breakdown of his marriage. Mr Martyrossian, who was living in Hong Kong at the time, referred to the claimant's "rather forlorn stay" in Hong Kong. He described the claimant's behaviour as showing "all the old destructive tendencies with drunkenness to the fore". The claimant's diary entries for this period disclose a busy social life, a number of romantic entanglements and a good deal of distress about the breakdown of his first marriage. There is little mention of his work but he was plainly searching for an alternative career in some other field.

185. I do not accept the claimant's evidence about his performance whilst employed at Longbridge. I consider that the account he gave to Professor Maden was correct. The claimant's criticisms of Longbridge and of its Managing Director may or may not have been justified but they appeared to have no bearing at all on the reasons for his dismissal.

186. Mr Cooper's complaint about the claimant's failure to generate business whilst at Longbridge was similar to the criticisms made about his performance at Gouldens, Norton Rose and Pinsents. Mr Cooper suggested there might have been some extrinsic factor resulting from the abuse that prevented the claimant from approaching senior figures who were not known to him. However, I consider that a more probable explanation is that the claimant had no real aptitude for approaching potential new clients and, in the case of his work at Longbridge, lacked the interest to pursue this area of his work. I also consider it probable that, once he had introduced a prospective employer to a prospective employee, he failed to maintain sufficient interest to ensure that the deal was closed. An inability to empathise with the parties might also have been a factor, as Mr Cooper suggested.

After the claimant's return from Hong Kong: August 1998 – September 2000

187. The claimant's evidence was that, after his return from Hong Kong, he tried his hand at freelance writing for legal publications and wrote a short story which was

published, but not successful. He did not have regular employment again until he joined DLA Management Services Ltd (the services arm of DLA) in September 2000.

188. In cross-examination, the claimant was asked about a CV which he had prepared some time in 2000. In it, he had stated that, since August 1999, he had been employed by Tiburon Partners Ltd (Tiburon) as a legal and marketing consultant. Tiburon is an asset management firm run by the claimant's friends, Mr Martyrossian and Mr Pell-Illderton. The claimant's CV stated that his role was to "advise on contentious and non-contentious matters relating to capitalisation, compliance, regulatory issues, sales and marketing of venture capital fund and general management". Both Mr Martyrossian and Mr Pell-Illderton were asked about the claimant's work for Tiburon. They said that, apart from some coaching which the claimant did for them in 2007, he had never worked for Tiburon. Before the quantum hearing, the defendants' solicitors asked the claimant (through his solicitors) whether he had worked for Tiburon for a period of time from August 1999. The claimant denied that he had. He denied it again when he was asked about it in cross-examination. Subsequently, however, he said that he had helped Mr Pell-Illderton to prepare Tiburon's application for the Investment Management Regulatory Organisation in 1999 when the firm was being started up. He said that he was not paid for the work and it had previously slipped his mind.

189. I consider that it is quite possible that the claimant did give the sort of assistance to Mr Pell-Illderton that he described. However, I regard it as improbable that he would have worked for several months, as his CV suggested, without reward and without Mr Martyrossian or Mr Pell-Illderton remembering the fact. In any event, the assistance he described in evidence would hardly have justified the description of work contained in his CV. I note that, in a later version of the CV, no reference was made to the work with Tiburon. I am satisfied that the description constituted an exaggerated account of the claimant's involvement with Tiburon which was designed to conceal a gap in his employment history. I consider that this is another example of the claimant's willingness to act dishonestly when it benefits him to do so.

With DLA: 2000-2005

190. By 2000, Mr Micklethwaite (with whom the claimant had previously worked at Gouldens) was Head of Litigation at DLA. He became Chief Operations Officer of DLA in late 2003 and left the firm in November 2004. He introduced the claimant to the Senior Partner, NK, who in turn put him in contact with the Business Development Director, PC. In September 2000, the claimant was recruited to work for DLA. At first, he was employed as a Web Editor but, in 2004, he assumed a more active business development role. I heard evidence from Mr Micklethwaite about the claimant's time at DLA.

191. Mr Micklethwaite was not aware of any incidents of heavy drinking or unacceptable behaviour whilst the claimant was at DLA. He gained the impression that the claimant had "mellowed" considerably by that time. He said that, initially, the claimant had a good relationship with PC and his work went well. The claimant's role brought him into contact with the lawyers at DLA, with whom he built up a good relationship. However, over time, his relationship with PC deteriorated. Mr Micklethwaite's perception was that PC resented the claimant's good standing with some of the senior lawyers in the firm. He said that the claimant became frustrated

because he felt that his ideas were not being followed through. The claimant would tell PC this and Mr Micklethwaite said that PC resented that and appeared to believe that the claimant had acted disloyally in some way, a suggestion that Mr Micklethwaite found surprising. The claimant had spoken to Mr Micklethwaite about the problems he was encountering and Mr Micklethwaite formed the view that the claimant was not being treated fairly. Mr Micklethwaite spoke to NK about the problem but NK did not feel that there was anything to be done. Mr Micklethwaite said that, once the problem arose, the claimant did not assist himself. He did not rant about PC's behaviour in the way he might have done when he was at Gouldens, but he clearly felt disappointed and let down and consequently became demotivated.

192. In February 2005, the claimant had an appraisal at DLA, which was conducted by his line manager, GP. The written record of the appraisal meeting between the claimant and GP disclosed serious criticisms about the claimant's performance, his general attitude to his work and his poor relationship with certain senior members of the firm. The claimant wrote a lengthy and combative written response to GP, disputing many of the complaints made against him, in particular the primary criticism that he was not making an identifiable contribution to DLA's business development. Following the appraisal, DLA held a capability hearing and the claimant was then given a formal warning on the grounds that some of his recent actions had seriously damaged his reputation amongst a significant number of the London partners. The claimant indicated his intention to appeal against the warning but, in the event, he instructed solicitors to act on his behalf and they negotiated a severance agreement, including what the claimant considered to be a satisfactory financial settlement. His employment with DLA was terminated finally on 31 May 2005.

193. The claimant described his appraisal and formal warning as a "farcical sequence of events". In oral evidence, he said that, as at Gouldens, the appraisal was a political process, the reality of which bore no relation to what appeared in the relevant documents. He confirmed that he felt that PC had treated him unfairly and said that some of the partners at DLA "really had their knives out for me".

Discussion and findings about the termination of the claimant's employment with DLA

194. It is not possible to determine with any certainty whether or not the claimant and Mr Micklethwaite are right in their belief that the claimant was treated unfairly by PC and/or other senior figures at DLA. However, it is clear from the claimant's own evidence that he had clashed with a number of senior individuals in the firm. I consider it probable that his disagreement with PC resulted in him becoming disgruntled and, in some respects, unco-operative. One small example of such behaviour was his absolute refusal, even when specifically requested to do so by his line manager, to complete the appraisal form designated for a 'team member' in preparation for his appraisal meeting. Instead, he insisted on using the form designated for a 'Senior Executive'. That sort of behaviour would not have assisted his cause.

195. The appraisal meeting was conducted by GP. During the appraisal meeting, the claimant told GP that he felt that the two of them had a good "rapport" and that he "really liked" the way that GP led the team. If they were on good terms, there seems no reason why GP should have made a series of false and unjustified accusations about the claimant's conduct. I do not accept the claimant's allegation that the

appraisal process was entirely political and that the record of the meeting bore no relation to the truth. I note that, yet again, he was said to be failing to bring business into the firm. If true, that would have been a matter of great concern since it was the whole purpose of his role. I can see no reason why the criticism should have been made by GP if there was no substance in it.

With Eversheds LLP: 2005-2007

196. On 25 July 2005, the claimant started work at Eversheds as a Business Development Manager. His evidence was that he obtained that job through a former partner of DLA who had moved to Eversheds and recommended him for the post. He was appointed Senior Marketing Manager in Eversheds' corporate department in November 2005 but returned to his previous role as a Business Development Manager in May 2006.

197. In June 2006, the claimant underwent a '360 degree feedback' process. This involved an assessment of the claimant's competence in various areas of performance completed by the claimant himself and by five junior colleagues, seven senior colleagues and five of his peers. In the 'Comments' section of the assessment there were a number of positive observations. For example:

> "He brings a unique background in the law to the practice of Business Development. He has genuine flair in the development of opportunities."

and:

> "Is our best marketing person in the team, always proactive, enthusiastic and a pleasure to work with."

The claimant also produced a number of emails sent by colleagues during his time at Eversheds, expressing gratitude and praise for assistance he had given and work he had done for them.

198. The criticisms contained in the 360 degree assessment related mainly to the claimant's relationships with colleagues, in particular junior colleagues. One contributor wrote:

> "Patrick should consider the impact of his actions/behaviour upon others both in London office and nationally. It is possibly the case that his communication style alienates colleagues and does not encourage positive responses. The valuable contributions that he could make are occasionally lost as a result."

He was said by others to appear at times "unfriendly", "patronising" and "arrogant". There was also a suggestion that, on occasion, he appeared to be under-prepared for meetings and discussions and then became defensive when challenged. One individual said that the claimant had a habit of "glossing over detail and concentrating on the bigger picture" and added:

> "Detail is not beneath you and a failure to master it ruins the product you provide".

Another commented:

> "Seems better at big picture stuff – query commitment to follow through on what does not really fire him up".

Several contributors suggested that the claimant should work more closely with colleagues and senior members of the firm.

199. In April 2006, at the instigation of a partner in Eversheds, KD, the claimant applied for and obtained the renewal of his practising certificate. In November 2006, he made an application for a fixed share partnership at Eversheds, which was unsuccessful. In March 2007, he was informed that his job was potentially at risk of redundancy. His response was to email all the partners, seeking their support, which was apparently not forthcoming. His redundancy was confirmed in May 2007 and he lodged an appeal, which was unsuccessful. It was not possible to identify an alternative role in the firm that was suitable for him and his employment was terminated on 17 August 2007. He made an application to the Employment Appeal Tribunal which was settled by a written agreement dated 11 April 2008.

200. The claimant's evidence was that his redundancy was a 'political' move against him by his line manager, the Head of Marketing, whose strategy was to get rid of any potential competitors. He said that many of the partners, in particular KD, viewed it as an "extraordinary decision" but no one intervened and the redundancy went ahead.

201. Mr Henderson was by that time Head of Commercial Disputes at Watson Burton LLP (Watson Burton), the firm that represented the claimant in negotiating settlement terms following the terminations of his employment at both DLA and Eversheds. Mr Henderson said that he got the impression that, whilst the claimant had initially impressed his colleagues at both firms and had secured some strong allies and supporters, his confident and somewhat abrasive manner also made enemies. He would question the views of the senior management within the firm in a manner which caused resentment and, when he had little or no respect for an individual, he was unable to conceal the fact.

Discussion and findings about the termination of the claimant's employment at Eversheds

202. It is impossible to determine the precise reasons for the decision to make the claimant redundant from Eversheds. Once again, however, it appears that there had been personality clashes between the claimant and some members of the firm which made an eventual breach inevitable. Mr Henderson's impressions accord with the evidence about the claimant's behaviour at other times in his career given by a number of other witnesses. The critical remarks contained in his 360 degree appraisal reveal weaknesses in his approach perceived by some of his colleagues and echo some of the criticisms made during the appraisal meeting at DLA.

The claimant's career: 2007 to date

Consultancy

203. Following his departure from Eversheds, the claimant set up a professional services and general business consultancy, PJR Consulting, which he has continued to operate to a varying extent ever since. Mr Henderson gave evidence about work which the claimant had undertaken for Watson Burton after leaving Eversheds. The claimant

was retained for six months to advise the firm on business development. He interviewed all 43 partners in the firm, then outlined his preliminary views in an email sent to all the partners. Mr Henderson said that the email contained trenchant criticisms of some aspects of the firm's management which reflected badly on a few of the most senior partners in the firm. Mr Henderson accepted that it was part of a consultant's role to point out weaknesses where he observed them, but he considered that it should be done in a considered and tactful manner, not by way of blunt comments in an email sent to a large number of people. As it was, the senior partners of Watson Burton were deeply offended by the claimant's conduct and his retainer was terminated in what Mr Henderson described as an atmosphere of acrimony. Mr Henderson's evidence about this incident provided an interesting insight into the claimant's style of working and his tendency to alienate senior colleagues. I heard no other evidence about the claimant's consultancy work.

Counselling and psychotherapy

204. In September 2010 the claimant started a three-year part-time Master of Science course in counselling and psychotherapy at Roehampton University, with a view to qualifying and practising as an accredited psychotherapist. As part of his training, he has undertaken various types of counselling and, shortly before the trial, he had completed 300 hours of counselling. This work plainly gives him a good deal of satisfaction.

The claimant's personal life

205. In 2008, the claimant told Professor Maden that he had had about 70 different sexual partners. His diaries abound with references to sexual relationships, ranging from casual 'one-night stands' to affairs lasting for several months or even years. In his early years, there were references to women with whom he was infatuated but who were for some reason unattainable. There are many references to regretful yearnings for women with whom he had had relationships that had ended or failed for some reason. Those who know the claimant have described his frequent distress at the end of a relationship.

206. The claimant met his first wife when she joined Gouldens, first as an intern in 1989 and later as an articled clerk. They rapidly formed a relationship which was at first very happy. The couple began to live together and, in 1991, they married. A number of witnesses gave evidence about the couple's relationship. Mr Collins, who had been a friend of the claimant's first wife before she met the claimant and had served a four-week internship at Gouldens at the same time as her, saw the couple regularly on social occasions between 1989 (when he returned from working in New York) and 1993 (when he went to work in Hong Kong). He had been very impressed by the claimant's ability and personality during his short time at Gouldens. However, he was extremely unimpressed by the claimant's behaviour on social occasions. He said that, when he entertained the couple to dinner, the claimant would often arrive drunk and would behave "abominably", whilst his wife would be unhappy and strained. His impression was that the relationship was difficult even in the early years of their relationship.

207. Mr Micklethwaite and his wife were friendly with the claimant and his first wife. He recalled a number of embarrassing incidents at social occasions when the claimant

had been drinking. At a birthday party in a restaurant, the claimant went around the tables wearing a balaclava, pretending to assassinate other diners and causing annoyance and embarrassment. On another occasion, he arrived late to a dinner, clearly drunk. He picked up his wife's vegetarian meal and threw it onto the table, exclaiming "Filth". As their relationship deteriorated, the claimant would go out socialising without his wife and Mr and Mrs Micklethwaite would often keep her company on those occasions. Mr Martyrossian also referred to frequent incidents during the claimant's relationship with his first wife when the claimant became drunk and his behaviour caused tension between the couple. Mr Henderson kept in touch with the claimant after the claimant's departure from Gouldens in 1989. He recalled a dinner party in late 1994/or early 1995 when the claimant was working in Birmingham. He arrived drunk, was extremely rude to his wife and shortly afterwards retired to his host's bedroom to sleep.

208. In his witness statement of November 2008, the claimant said that he believed that the marriage had been happy until he went to work in Birmingham in October 1994. However, he admitted that he had had several affairs and 'one night stands' during his marriage and that, in June 1994, he had started a three-month relationship with a woman with whom he believed he was in love. He did not think his wife had been aware of these episodes.

209. It is clear from the claimant's evidence and diary entries that, by late 1995, the marriage was in serious difficulty. Shortly afterwards, the claimant discovered that his wife was having a relationship with another man and, on 2 March 1996, she left him to live with her new partner. The claimant's evidence was that, during the second half of 1996, there was a *rapprochement* between the two of them to the extent that they went on holiday with her parents in October 1996. However, in early February 1997, the claimant learned that his wife was expecting a baby by her new partner. After that, their relationship ended completely. The couple were divorced in 1998 and the claimant's first wife married her partner shortly afterwards.

210. In September 1996, about six months after his first wife left him, the claimant referred himself to Dr Fry. Dr Fry referred him for psychotherapy which was not successful. The claimant continued to see Dr Fry during 1997. On 25 February 1997, shortly after he became aware of his wife's pregnancy, the claimant consulted his GP who noted:

> "Depression for a [?] year since wife departed. Little energy, easily emotional, panic at thought of life, eating little and self neglecting."

The GP prescribed medication and the claimant did not return for any further treatment. This was the only occasion when the claimant consulted his GP in connection with psychological symptoms.

211. It is clear that the breakdown of the claimant's marriage caused him prolonged anguish. His friends gave evidence about his distress at the loss of his first wife. Mr Martyrossian observed that the claimant was devastated and at a loss to know why it had happened. There are numerous diary entries reflecting his distress. In May 2007, more than ten years after his first wife left, he was still writing of the "terrible, terrible sadness of her loss".

212. A number of reasons were advanced for the failure of the claimant's first marriage. In 1996, Dr Fry recorded that the claimant's first wife had left him because "she was absolutely fed up with his preoccupation with his own development and identity". In his evidence at the limitation and liability trial, the claimant disagreed with Dr Fry's interpretation of what he had said, but acknowledged that he had told Dr Fry that he had always put himself first and had never taken account of his wife's needs. In 2005, the claimant told Dr Shapero that his binge drinking had become more and more extreme and "drove her away". He said:

> "I took her for granted and thought that nothing I did would drive her away."

He told Professor Maden that his wife had got sick of his behaviour, particularly his "drunken loutishness". In his witness statement of November 2008, the claimant attributed the failure of his relationship with his first wife to his drunken behaviour, his outbursts of anger and self-loathing and his inability to express his feelings for his wife, especially in public. He considered that all those problems resulted from the abuse.

213. It is impossible to know precisely why the claimant's relationship with his first wife failed, not least because I have heard no evidence from her. In any event, the breakdown is likely to have been caused by a complex combination of factors. What is clear is that the claimant was not correct in suggesting in his first witness statement (and also in his diaries) that the marital problems started only when he went to work in Birmingham. He was for a long time convinced that it was the couple's physical separation, rather than any fault on his part, that had caused the breakdown of the relationship. However, the witness evidence shows that there were serious tensions in the relationship even before the couple were married in 1991 as a result of the claimant's behaviour when drunk. The claimant may not have recognised it until relatively recently, but his friends were well aware of the distress and embarrassment that his wife suffered on many social occasions and the damage that was being done to the couple's relationship.

214. After the failure of his first marriage, the claimant continued to have relationships with a succession of women. One of those relationships, with K, lasted for more than three years. In late 2008, the claimant resumed his relationship with Ms George, after a gap of about ten years. The relationship rapidly became serious and the couple moved in together, with Ms George's three children, in early 2009. They were married in June 2011 and have a baby daughter.

The claimant's strengths

215. The claimant's family and friends spoke eloquently of his good qualities. It is evident that, when at his best, he can be a charming, witty, entertaining and engaging companion. Many of the witnesses spoke with admiration of his intellectual abilities, communication skills and creative talents. He clearly has the ability to make and retain strong friendships. It is a testament to the claimant's good qualities that, despite the problematic behaviour which I have described, he has managed to retain the affection of so many loyal friends. He is also capable of acts of kindness and generosity. A childhood friend, Mr Morgan, spoke of the claimant's kindness and support to members of his own family in times of adversity. Mr Martyrossian

described the claimant's generosity in spending time with his children. There was evidence that, whilst in Hong Kong, the claimant had worked in a local orphanage and of his assistance to homeless people and his involvement in other charitable activities. I have borne these matters very much in mind when reaching my conclusions.

Changes in the claimant's behaviour

216. The lay witnesses spoke of a marked change in the claimant's behaviour over the last few years. Mr Martyrossian's evidence was that the claimant is much calmer and is getting satisfaction and fulfilment again. He said that the claimant is "more at one with himself than ever since I've known him". He attributed the change in part to the claimant's relationship with his second wife and to the arrival of his baby daughter. Mr Pell-Illderton described the claimant as "completely transformed". He said that, previously, the claimant appeared "completely at sea". Since he had had counselling and had been working with other abused people, he seemed "much, much more grounded". He found the change "very impressive" and, as he spoke of it, he became quite emotional. Mr Micklethwaite's evidence was that, since the claimant had been with his second wife, he seemed a much calmer individual.

217. Mrs Raggett junior had seen little of the claimant between 1998 and 2008. When their relationship began again, she found him much calmer and happier and prepared to live a 'normal' domesticated life with her and her children. His drinking had reduced markedly. He was still taking drugs at the start of their renewed relationship but, by 2011, this had "tailed off". Her evidence was that the claimant still drinks to excess occasionally but, instead of behaving badly, he tends to become extremely emotional. He has episodes of anger, emotional behaviour and introspection which can be difficult to deal with. However, he is committed to his new career and hopeful that he will succeed in it.

218. The claimant's case is that the improvement in his mental state is due to the therapy he underwent with Dr Sharon Leicht, Consultant Clinical and Forensic Psychologist, between February 2006 and the end of 2010. He had a total of 93 therapy sessions which included 16 sessions of EMDR, together with cognitive behavioural therapy (CBT). The claimant commenced therapy with Dr Leicht having been advised by Dr Shapero that therapy would be beneficial. He was still attending for therapy with her at the time of the limitation and liability trial in March 2009 and continued to do so thereafter. His sessions with Dr Leicht ceased only because the requirements of his counselling and psychotherapy course meant that he had to engage in an individual therapy programme specified by his course tutors. He is now receiving therapy from Ms Julia Forde, a Jungian Analyst. The claimant's contention is that, since the therapy has been directed at the effects of childhood sexual abuse, the only explanation for the improvement in the claimant's mental state can be that the problems from which he suffered were attributable to the abuse.

THE PSYCHIATRIC EVIDENCE

The evidence of the adult psychiatrists

219. At the trial of limitation and liability, I heard evidence from Dr Shapero, who was instructed on behalf of the claimant, and from Professor Anthony Maden who, until his retirement in February 2012, was Professor of Forensic Psychiatry at Imperial

College, London, and Honorary Consultant at West London Mental Health Trust, and was instructed by the defendants. Dr Shapero interviewed the claimant on two occasions, in December 2005 and February 2006, for the purposes of his first Report dated 23 January 2007. He had a further interview with the claimant on 27 June 2007 before writing his second Report of 11 October 2007. Both those Reports were available at the limitation and liability hearing. Dr Shapero produced a third Report dated 31 October 2011 following two further interviews with the claimant on 2 March 2010 and 4 July 2010, together with an Update Report, dealing with additional witness statements, dated 3 May 2012.

220. Professor Maden produced a first Report dated 4 November 2008 for the limitation and liability hearing. That Report was based on an interview with the claimant in March 2008. He provided two Supplementary Reports dealing with the evidence of the child psychiatrist instructed by the claimant, to which I shall refer later in this judgment. After a further interview with the claimant on 19 April 2011, Professor Maden provided a further Report dated 31 October 2011. He produced two more Supplementary Reports dated 3 November 2011 and 11 June 2012, commenting on additional documentation. The handwritten notes taken by both psychiatrists at their early interviews with the claimant were available and some of the observations he made to them assumed considerable significance at the quantum hearing.

221. Dr Shapero and Professor Maden produced a Joint Statement in the course of the limitation and liability hearing. After further discussions, they provided a second Joint Statement dated 16 December 2011, setting out the areas of agreement and disagreement between them.

222. In my judgment on the issues of limitation and liability, I summarised the views of the two psychiatrists:

> "76. Dr Shapero and Professor Maden gave evidence about the effects of the abuse on the claimant. Dr Shapero's opinion was that he has some of the features of an enduring personality change consequent upon a traumatic *[sic]* experience (classified in the Tenth Edition of the International Classification of Diseases (ICD-10) as F62.0) and that this condition has caused, or materially contributed to, many of the difficulties in his life, including his excessive use of alcohol which has in turn caused or exacerbated problems with forming relationships and succeeding in his legal career. Professor Maden disagreed with the diagnosis of enduring personality change. His opinion was that many of the features in the claimant's life that Dr Shapero attributed to that condition could equally well be explained by the claimant's harmful use of alcohol.
>
> 77. The psychiatrists agreed that the claimant has an extrovert personality and narcissistic tendencies, features which would account for some of his difficulties, e.g. in maintaining his various employments. Dr Shapero considered that the claimant's personality traits represent enduring personality change as a result of the abusive experiences. Professor Maden's opinion was that his personal traits could satisfactorily be accounted for by hereditary and constitutional factors and that his drinking stemmed from his temperament, his decision to pursue a career

> to which he was unsuited and other social factors. In other words, he considered that the claimant's personality would have been the same even had the abuse not occurred.
>
> 78. The psychiatrists agreed that the evidence suggested that the claimant is a binge drinker who suffers from a mental and behavioural disorder due to harmful use of alcohol (classified in ICD-10 as F10.1). Dr Shapero believed that the claimant's drinking was probably caused by or exacerbated by the abuse. His view was that the claimant started using alcohol to excess (and illicit drugs) as an escape from the emotional impact and memories of the abuse. Professor Maden acknowledged that it was possible that the abuse had contributed to the claimant's excessive alcohol use but he did not accept that this was probable. His view was that the claimant would probably have used alcohol to excess even had the abuse not occurred.
>
> 79. The psychiatrists agreed that, since the episode of 17 April 2005, the claimant had become pre-occupied by the abuse and that he had experienced ruminations on the abuse, together with feelings of anger and low mood. They agreed that his symptoms did not justify a diagnosis of post-traumatic stress disorder or a depressive episode, although he had displayed some symptoms of these conditions. Dr Shapero considered that the episode on 17 April 2005 had constituted a "cathartic realisation" on the part of the claimant of the abuse that had occurred and that it had given rise to the symptoms from which he had suffered since. Professor Maden considered that the episode was no more than a disclosure by the claimant made during a drunken debate. His view was that the claimant's symptoms since April 2005 had been attributable in part to the abuse and in part to the fact that his life had, in many respects, gone wrong. He accepted that he was suffering a degree of distress as a result of the abuse, but took the view that he was mistakenly fixated on the events of his childhood because, like many men of his age, he was searching for a reason for his past failures."

At the quantum hearing, the opinions of Dr Shapero and Professor Maden remained essentially the same as they had been in 2009. If anything the additional material which had become available since that time had tended to strengthen their previously held views.

223. ICD-10 is a World Health Organisation publication and is the diagnostic manual of choice in European clinical psychiatry. The adult psychiatrists agreed that the claimant's behaviour had never been such as to bring him within the ICD criteria for a personality disorder. However, Dr Shapero considered that he had suffered from a less serious (but nevertheless significant) condition known as an "enduring personality change". F62 of ICD-10 sets out the diagnostic criteria for enduring personality change. Such change can result from brain damage or disease. ICD-10 F62 defines two types of change which have other causes, those causes being "catastrophic experience" (F62.0) and "psychiatric illness" (F62.1). In this case, I am concerned solely with enduring change after catastrophic experience (F62.0).

224. The preamble to ICD-10 F62 states:

> "This group *[i.e. F62.0 and F62.1]* includes disorders of adult personality and behaviour which develop following catastrophic or excessive prolonged stress, or following a severe psychiatric illness, in people with no previous personality disorder. These diagnoses should be made only when there is evidence of a definite and enduring change in a person's pattern of perceiving, relating to, or thinking about the environment and the self. The personality change should be significant and associated with inflexible and maladaptive behaviour which was not present before the pathogenic experience. The change should not be a manifestation of another mental disorder, or a residual symptom of any antecedent mental disorder. Such enduring personality change is most often seen following devastating traumatic experience but may also develop in the aftermath of a severe, recurrent, or prolonged mental disorder. … Enduring personality change should be diagnosed only when the change represents a permanent and different way of being, which can be etiologically traced back to a profound, existentially extreme experience."

225. Enduring personality change is a condition diagnosed in adults. It is an accepted principle in psychiatry that, until the age of 18, an individual's personality is not sufficiently developed to enable a reliable diagnosis of personality disorder or personality change to be made. However, a child might be diagnosed with a 'conduct disorder', which is a condition of childhood and adolescence. It is known that a significant proportion of children who develop a conduct disorder or post-traumatic stress disorder (PTSD) go on to develop dissocial personality disorder. However, progression from one disorder to another is not inevitable.

226. The ICD-10 defines F62.0 as:

> "**Enduring personality change after catastrophic experience**
>
> Enduring personality change may follow the experience of catastrophic stress. The stress must be so extreme that it is unnecessary to consider personal vulnerability in order to explain its profound effect on the personality. Examples include concentration camp experiences, torture, disasters, prolonged exposure to life-threatening circumstances (e.g. hostage situations – prolonged captivity with an imminent possibility of being killed). Post-traumatic stress disorder (F43.1) may precede this type of personality change, which may then be seen as chronic, irreversible sequel of stress disorder. In other instances, however, enduring personality change meeting the description given below may develop without an interim phase of a manifest post-traumatic stress disorder. However, long-term change in personality following short-term exposure to a life-threatening experience such as a car accident should *not* be included in this category, since recent research indicates that such a development depends on a pre-existing psychological vulnerability.
>
> ***Diagnostic guidelines***

> The personality change should be enduring and manifest as inflexible and maladaptive features leading to an impairment in interpersonal, social, and occupational functioning. Usually the personality change has to be confirmed by a key informant. In order to make the diagnosis, it is essential to establish the presence of features not previously seen such as:
>
> (a) a hostile or mistrustful attitude towards the world;
> (b) social withdrawal;
> (c) feelings of emptiness or hopelessness;
> (d) a chronic feeling of being "on edge", as if constantly threatened;
> (e) estrangement.
>
> This personality change must have been present for at least two years, and should not be attributable to a pre-existing personality disorder (F43.1). The presence of brain damage or disease which may cause similar clinical features should be ruled out.
>
> *Includes*: personality change after concentration camp experiences, disasters, prolonged captivity with imminent possibility of being killed, prolonged exposure to life-threatening situation such as being a victim of terrorism or torture
> *Excludes*: post-traumatic stress disorder (F43.1)"

227. Dr Shapero identified the features of F62.0 exhibited by the claimant as:

> "…difficulty forming trusting relationships, nightmares, feelings of anger, excessive use of alcohol, mood changes, feelings of estrangement (being different from everyone else), and an inability to be 'normal' and hypervigilance."

He referred also to what he perceived to be the claimant's persisting distrust of authority figures, together with a propensity for risk taking and self destructive behaviour, frequently associated with abuse of alcohol and/or drugs. Dr Shapero considered that many of the features he identified had been present throughout the claimant's adult life, although he believed they had been ameliorated by the therapy the claimant had received over the last four years. He said that it was necessary to look for behavioural changes in childhood and adolescence which might indicate that the experience of being sexually abused had had a lasting effect on the claimant. In the claimant's case, Dr Shapero considered that the contents of the claimant's school reports and the evidence of members of his family and friends who had known him during his early years provided plenty of evidence that the claimant's behaviour had changed during his adolescence.

228. Dr Shapero was adamant that the nature and level of sexual abuse to which the claimant had been subjected could be regarded as the type of "catastrophic experience" that would cause an enduring personality change. He explained that, in the early 1970s, priests were considered "God-like" and for a young Catholic boy to be abused by a priest would be "totally beyond his ability to understand or deal with". He said that the abuse, which lasted for about four years, would have engendered feelings of terror, isolation and powerlessness that would have caused the claimant

"excessive prolonged stress" such as to bring the experience within the criteria identified in ICD-10 F62.0.

229. Professor Maden accepted that the abuse to which the claimant was subjected had caused him distress and a sense of stigma or difference from other boys during the period for which the abuse lasted and in the years immediately afterwards. He also accepted on balance that the deterioration in the claimant's performance at school, together with some alienation from his peers at school and from his family were attributable to the abuse. However, he considered that the evidence showed that the claimant had recovered from these problems by his third year of University, at which time he was fully engaged in playing sport and socialising with friends. He accepted that there had been a period after 17 April 2005 when the claimant had experienced renewed distress, anger and low mood as a result of the re-awakening of memories of the abuse.

230. Professor Maden did not accept that the claimant had suffered the continuing effects of the abuse identified by Dr Shapero. In particular, he did not consider that the evidence demonstrated that the claimant had any distrust of authority figures in general. His view was that, on the occasions when the claimant had experienced difficulties in dealing with authority figures, those difficulties were caused by his extrovert and narcissistic personality traits. As to the somewhat extreme behaviour exhibited by the claimant on occasion, Professor Maden observed that such behaviour appeared to be associated with drinking and/or with social influences. He considered that the other problems from which the claimant had suffered resulted from a combination of his excessive drinking and the emotional disturbance associated with it, together with his constitutional personality traits, his distress at the breakdown of his first marriage and other adverse life events.

231. Professor Maden did not accept that the sexual abuse had led to the development of an enduring personality change. His primary point was that, for a diagnosis of F62.0 to be made, the experience undergone by the individual must be of a catastrophic nature when viewed objectively and should not merely be perceived as such by the individual. He did not consider that the nature or extent of the sexual abuse in this case was such as could objectively warrant the term "catastrophic".

232. Professor Maden went on to say that, even if one accepted as a possibility that, when viewed subjectively, the abuse might have been a "catastrophic" experience for this claimant, the evidence did not support that hypothesis. There was no evidence that the claimant had exhibited any acute symptoms of stress at the time. He did not show reluctance to go to school or truant. He did not run away from home. His behaviour at school did not result in complaints to his parents. His parents were not sufficiently concerned about his state to initiate any medical or other investigation. The changes in his behaviour and educational achievements were relatively subtle. Indeed, if the abuse had not occurred, those changes would in all probability have been attributed to the effects of adolescence. Professor Maden considered that to describe the effects on the claimant as "catastrophic" would be to over-state the position.

Alcohol abuse

233. Dr Shapero and Professor Maden agreed that the claimant "suffered from the (social) effects of the harmful use of alcohol" although he had never been dependent on alcohol. Harmful use of a substance such as alcohol is defined in ICD-10 at F10.1 as:

> "A pattern of psychoactive substance use that is causing damage to health. The damage may be physical … or mental …
>
> ***Diagnostic guidelines***
>
> The diagnosis requires that actual damage should have been caused to the mental or physical health of the user."

They agreed that, by the time of the quantum hearing, the claimant's alcohol intake had reduced to the extent that he was no longer suffering from the disorder.

234. Dr Shapero and Professor Maden agreed that the claimant's early drinking was unremarkable in that he had consumed alcohol in social situations with friends who drank a similar amount. They agreed that, over time, his drinking became less controlled but considered that he remained a binge drinker and had never developed a dependence on alcohol. Nor had he developed any physical damage referable to alcohol consumption. The damage caused by his drinking had been essentially social in nature, i.e. the effects which his alcohol consumption had had on his behaviour and, according to the claimant, on his career as a lawyer and his relationships.

235. Dr Shapero's evidence was that the claimant's harmful use of alcohol was caused or exacerbated by the sexual abuse he had suffered. He considered that the claimant had drunk excessively and had taken illegal drugs as part of a pattern of risk taking behaviour resulting from his persistent subconscious feelings of anger about the abuse. He also believed that the claimant had "played hard" socially in an effort to bury his memories of and feelings about the abuse. He observed that there is a very high incidence of alcohol and/or drug use amongst adults who have been the victims of sexual abuse. Dr Shapero's evidence was that the claimant's drinking appeared to have become problematic at or about the time of his move to Birmingham in October 1994, and had increased after his first wife had left him in March 1996. Dr Shapero considered that the claimant had then taken refuge in drinking and drugs in order to anaesthetise himself from the emotional effects of the breakdown of his marriage.

236. In his first Report, written in November 2008, Professor Maden described the causes of the claimant's alcohol disorder as "multi-factorial". He accepted that it was reasonable to suggest that the sexual abuse had made a "minor contribution" to his drinking but observed that "other factors were far more important". The first Joint Statement of Dr Shapero and Professor Maden stated:

> "Professor Maden believes that the claimant's personality would have been the same and he would probably have developed harmful use of alcohol even if there had been no abuse … Professor Maden … believes … his drinking stemmed from his temperament; his decision to pursue a career to which his temperament was unsuitable; and social factors."

Professor Maden confirmed the views he expressed in that Joint Statement in his second substantive Report of October 2011.

237. In oral evidence, Professor Maden said that, at the time he wrote his first Report, he was under the impression that the claimant had started to drink alcohol at the age of 15 or 16. Given the fact that the abuse would have been ongoing at that time, he had recognised the possibility that there may have been a relationship between the abuse and the comparatively early onset of the claimant's drinking. However, he said that, since it now appeared that the claimant had not started drinking seriously until the age of about 18 or 19 years, the connection between the abuse and the onset of his drinking was weaker than he had previously believed.

238. Furthermore, Professor Maden did not consider that the claimant's drinking, which took place entirely in a social context, was typical of that of an individual seeking to blot out painful memories. He pointed out that, despite his extremely high level of alcohol consumption, the claimant had never lost control of his drinking to the extent that he had to drink every day. He did not accept that the claimant's excessive drinking was an example of risk taking behaviour in the sense that the claimant was "deliberately toying with the possibility that heavy drinking would destroy his life." On the contrary, it was clear from his diaries that he enjoyed his bouts of heavy drinking. His drinking increased after his wife left him which, as Professor Maden observed, is a common occurrence. He concluded that, whilst he still could not rule out the possibility that the abuse had made a contribution to the claimant's drinking, his view was that the main causative factors were social.

239. Professor Maden attributed the claimant's at times extreme behaviour when drunk to the fact that he reacted badly to alcohol, which often caused him to become very unpleasant when he had been drinking. He said that this is a common phenomenon. He observed that victims of domestic violence frequently report that their partners, although well-behaved when sober, become abusive and violent after drinking to excess. In the claimant's case, it was evident from the early days of his drinking that an excessive amount of alcohol was liable to cause him to act in an unacceptable fashion and many examples of such behaviour had been described in the evidence. Professor Maden did not accept that the claimant's extreme behaviour resulted from any underlying mental disorder apart from excessive use of alcohol.

240. By the time the claimant saw Professor Maden in March 2008, he had cut down his alcohol intake significantly on the advice of Dr Leicht and was reportedly going out for 'binges' only twice a month. Professor Maden reported that the claimant told him that one reason for his reduced alcohol consumption was that "he sees less people now and drinking has always been a very social activity for him". In his Report of November 2008, Professor Maden expressed the view that the most important factor in the claimant's prognosis was that he should refrain from excessive drinking. Professor Maden considered that, if he did so, the prognosis would be good.

Narcissistic personality traits

241. The word "narcissistic" was first used in connection with the claimant by Dr Fry, whom the claimant consulted in 1996, shortly after the breakdown of his first marriage and well before the events of 17 April 2005 and the start of these proceedings. As I said in my previous judgment, Dr Shapero and Professor Maden

agreed in their Joint Statement for the limitation and liability hearing that the claimant had some unusual personality traits and, in particular, that he was an extrovert and exhibited narcissistic traits, although those traits were not sufficient to justify a diagnosis of a full blown narcissistic personality disorder. At that stage, Dr Shapero appeared to be suggesting that the personality traits resulted from the abuse, whilst Professor Maden considered that they were attributable to hereditary and constitutional factors and would have been features of the claimant's personality even if he had not suffered the sexual abuse. Professor Maden said that there is no evidence that sexual abuse is capable of giving rise to the development of narcissistic personality disorder or narcissistic personality traits. Dr Shapero produced no medical literature in support of such a causal link.

242. The ICD does not contain a definition of narcissistic personality disorder. However, the Fourth Edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), published by the American Psychiatric Association, provides authoritative and widely accepted criteria for the diagnosis and classification of mental disorders. DSM-IV 301-81 sets out the diagnostic criteria for narcissistic personality disorder:

> "A pervasive pattern of grandiosity (in fantasy or behaviour), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:
>
> (1) has a grandiose sense of self-importance (e.g. exaggerates achievements and talents, expects to be recognized as a superior without commensurate achievements);
> (2) is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love;
> (3) believes that he or she is "special" and unique and can only be understood by, or should associate with, other special or high-status people (or institutions);
> (4) requires excessive admiration;
> (5) has a sense of entitlement, i.e. unreasonable expectations of especially favourable treatment or automatic compliance with his or her expectations
> (6) is interpersonally exploitative, i.e. takes advantage of others to achieve his or her own ends;
> (7) lacks empathy: is unwilling to recognize or identify with the feelings and needs of others;
> (8) is often envious of others or believes that others are envious of him or her;
> (9) shows arrogant, haughty behaviours or attitudes."

243. In his Report of October 2011, Dr Shapero appeared to have changed his position in that he said that he did not consider that the claimant met any of the criteria listed in DSM-IV 301.81, save possibly a lack of empathy. He observed that his experience suggested that narcissistic personalities seek to remain in control of their environment and therefore do not generally drink excessively. He also considered that the fact that the claimant's behaviour had improved following therapy was not consistent with that behaviour having been narcissistic in origin.

244. In oral evidence, Dr Shapero said that, in addition to lack of empathy, he considered that there was some tendency on the claimant's part to form friendships and romantic relationships in order to enhance his own self-esteem, although that might be linked to a low self-esteem resulting from enduring personality change. He did not consider that the claimant met the other diagnostic criteria for narcissistic personality disorder.

245. Professor Maden considered that the claimant displayed "very strong" narcissistic personality traits, so marked that some psychiatrists would diagnose the claimant as suffering from a narcissistic personality disorder. He said that his own threshold for diagnosing narcissistic personality disorder was high and he would not go as far as to make that diagnosis in the claimant's case. However, in his view, the claimant's characteristics tended towards the extreme end of the normal spectrum. He said that, having read and heard the evidence in the case (in particular the claimant's oral evidence), he now considered that the claimant's narcissistic personality traits were more significant in the overall picture than he had previously realised.

246. Professor Maden did not agree with Dr Shapero that narcissistic personalities were less likely than other individuals to drink excessively and lose control. His experience was that the presence of narcissistic personality traits was no barrier to substance abuse. He pointed out that a need to maintain control, whilst fundamental to some types of personality disorder, does not appear in the diagnostic criteria identified in DSM-IV 301.81. Indeed those criteria specifically refer to an association between narcissistic personality disorder and substance-related disorders, especially related to cocaine. Professor Maden's experience was that narcissistic personality disorder can cause an individual to rationalise excessive drinking or drug taking on the grounds that he/she is "special", so that the normal rules governing society do not apply to him/her.

247. The psychiatrists agreed that the extent to which the claimant exhibited the traits identified in the diagnostic criteria for narcissistic personality disorder was a question of fact for me.

The claimant's relationship with his father

248. In their Joint Statement prepared at the time of the hearing of the issue of limitation and liability, Dr Shapero and Professor Maden agreed that the claimant's family background:

> "… was remarkable only for his father's chronic mental health problems which meant that for much of his later childhood [the claimant] lacked a prominent paternal presence in his life. Professor Maden believes this is, and Dr Shapero believes it could have been a vulnerability factor for the development of psychological problems but in and of itself was not predictive of such problems."

The reference to a "lack of a prominent paternal presence" in the claimant's life was based on Dr Fry's notes of the claimant's consultation with him, together with the claimant's descriptions to both psychiatrists of his father as an "absent" father from an emotional point of view, by reason of his severe depression.

249. By the time of the quantum hearing, Dr Shapero had changed his views about the role played by the claimant's father. He accepted the claimant's account that, when he discussed his family with Dr Fry in 1996, he was suffering from the emotional effects of his recently failed marriage and was not on good terms with his father. Dr Shapero suggested that this had in effect been a 'passing phase' and that he had been mistaken in accepting at face value the description of the claimant's relationship with his father given by the claimant to Dr Fry in 1996 and himself in 2005. Having read the further evidence of the claimant and that of his mother and siblings, he concluded in his Report of 3 May 2012 that:

> "… there were no environmental problems within [the claimant's] family as a child and adolescent which may have contributed to the development of any psychiatric disorder from the evidence available to me."

250. Dr Shapero acknowledged that the claimant's father suffered from physical illness and depressive episodes but considered that they had not caused dysfunction within the family or affected the claimant adversely to the extent that they had caused any psychiatric disorder. As to disharmony in the claimant's parents' marriage, Dr Shapero considered that the documents showed that any problems that might have arisen manifested themselves after the claimant and his siblings had left home. He suggested that references in the claimant's father's medical notes implying that there had been longstanding problems (such as the note made in 1988 that Mrs Raggett had said he had "always been a rather distant husband and father" and that he had found it "difficult to engage in emotionally close relationships") may well have resulted from a misinterpretation by the doctor who made the note or from a fault of memory or exaggeration on the part of Mrs Raggett.

251. Professor Maden adhered to his view that, if there had been a lack of paternal presence in the claimant's early life, this would have given rise to a vulnerability to developmental and psychological problems.

The improvement in the claimant's condition

252. The claimant's case was that the evident improvement in his psychological condition over the last few years, as reported by members of his family, his friends and the two adult psychiatrists, was attributable to the lengthy course of therapy with Dr Leicht. It is argued on behalf of the claimant that if, as Professor Maden suggested, his problems had been caused by constitutional personality traits, they would not have been improved by therapy directed at addressing the effects of childhood sexual abuse.

253. In his Report of October 2011, Dr Shapero related that the claimant had told him that, as a result of the therapy, he had ceased his heavy drinking, was happier in himself and had formed a loving relationship with his second wife. He reported some continuing problems with emotional instability and lability, although these were less severe than previously. In his witness statement of 15 June 2011, the claimant reported that he was now able to better appreciate the different viewpoints of others and to focus on others, whilst putting his own issues to one side. He attributed these improvements to the effects of his therapy, an analysis which was accepted by Dr Shapero.

254. At the time of the trial of limitation and liability, Professor Maden had expressed some concern about the possible effects of further psychotherapy on the claimant. That concern related primarily to the "additional memories" of penetrative abuse which had apparently been triggered by the EMDR therapy that he had been undergoing. By that time, the claimant had already undergone a great deal of therapy and Professor Maden believed that he had reached a point where the potential risks of therapy outweighed the benefits. He considered that there was a risk that further therapy might encourage the claimant to continue to focus on past events, rather than moving on with his life. In the event, the claimant continued to undergo therapy with Dr Leicht for a further 18 months after the limitation and liability trial.

255. At the quantum hearing, Professor Maden's evidence was that there could be no therapeutic justification for the amount of therapy that the claimant had undergone. He said that the maximum amount of therapy that would usually be recommended in a case such as that of the claimant would be about 12 sessions of CBT. He suggested that his attendance at therapy for such a long period was an example of the claimant's narcissistic preoccupation with himself.

256. Professor Maden agreed that, by 2011, the claimant's state of mind and behaviour had improved from what it had been when he saw the claimant in 2008 and at the limitation and liability trial in 2009. When he saw the claimant in April 2011, he had been struck by the fact that the claimant was more subdued and thoughtful, and less "brash" than he had appeared three years earlier. He seemed to be leading a quieter, more ordered, life. However Professor Maden did not consider that these improvements had been caused (or, at least, caused directly) by the therapy the claimant had undergone. He considered that the decrease in his alcohol consumption was the most important factor in producing the positive changes which had occurred in the claimant's mood and presentation. Professor Maden observed that the claimant believed that the therapy had assisted him to reduce his drinking. He said that, if that was right, the therapy had had a very positive result. Nevertheless, the fact that it had done so did not support the claimant's contention that he had been suffering from an enduring personality change or any other psychiatric condition attributable to the abuse which had been successfully treated.

257. Dr Leicht provided a number of Reports for the purpose of these proceedings. In those Reports, she identified what she considered to be the claimant's problems and the therapy she had administered to address those problems. The problems she identified included depressive mood state, PTSD and an inability to establish long term intimate sexual partnerships. Professor Maden's view was that the claimant had never suffered from many of the problems identified by Dr Leicht. For example, he pointed out that neither he nor Dr Shapero had identified the claimant as having ever suffered from, or having a particular vulnerability to, a depressive mood state. He accepted that the claimant had on occasions been very unhappy and had suffered mood swings. However, even when his wife left him, he did not lapse into frank depression although he had some depressive symptoms following the events of 17 April 2005. Professor Maden said that the claimant's diary entries showed that he could move from utter despair to enthusiasm and happiness within a very short time. The entries did not portray a man who was suffering from a consistently depressed state. Professor Maden also said that, although the claimant had displayed some of the symptoms of PTSD in the period after 17 April 2005, neither he nor Dr Shapero

had considered that he had developed the full blown condition. Professor Maden said that one would expect the symptoms from which the claimant suffered after 17 April 2005 to have settled with time, particularly if he had treatment by means of CBT and/or medication.

258. Professor Maden also did not accept Dr Leicht's view that the claimant had demonstrated an ability to establish long term intimate relationships. He said that, on the contrary, the claimant had formed long term relationships with his first wife and with several other sexual partners, including K. Professor Maden considered that the claimant's problems with relationships (sexual and otherwise) had largely been attributable to his drinking. The claimant did not in his view experience the kind of difficulties with intimacy which are observed in many survivors of sexual abuse.

259. Since Professor Maden did not accept that the claimant had ever suffered from many of the problems that Dr Leicht had purported to treat, he did not accept either that her treatment had cured or ameliorated those problems, other than by encouraging him to drink less alcohol. Professor Maden's view was that, since April 2005, the claimant had come to believe that all the failures and vicissitudes of his adult life had been caused by the sexual abuse. He said that the therapy the claimant had undergone had been structured around his beliefs and had had the effect of validating them. That validation may well have been of benefit to the claimant's state of mind, in particular in assisting him to come to terms with his grief at the breakdown of his first marriage. Professor Maden considered that the acceptance of the claimant's evidence about the abuse at the trial of the issues of limitation and liability would also have had a positive and beneficial effect on his mental state. In April 2011, the claimant had told him that, although he had found the trial of limitation and liability stressful, he considered that he now had "vindication for [his] unruly behaviour". The claimant had also remarked that "it *[i.e. his case]* has now become a Law Report".

Sexual dysfunction

260. The claimant first complained of sexual dysfunction to Dr Shapero in December 2005. He told Dr Shapero that he found it hard to achieve orgasm during full sexual intercourse. At the same time, he spoke of the "fantastic sex life" he had enjoyed with K, with whom he had had a relationship for several years after the breakdown of his first marriage. When he was interviewed by Dr Shapero in 2007, the claimant told him that he found it "impossible" to have an orgasm. He said that he had sought to avoid sexual contact with his first wife. He does not appear to have discussed his sexual problems with Professor Maden in 2008.

261. In his witness statement of 28 November 2008, the claimant said:

> "…apart from with [his first wife] I have always felt in relationships with women that I cannot rid myself of a kind of outside voice which is always commenting and analysing everything. This often made it different for me to achieve orgasm during sexual intercourse."

262. In July 2009, the claimant told Dr Benians that he had suffered from "delayed ejaculation" during his marriage to his first wife and was continuing to do so with his then partner, now his second wife.

263. The claimant told Dr Shapero in March 2010 that he had been in love with only four of the many women with whom he had had a sexual relationship. He said that it was only in those four committed relationships that he had suffered problems with achieving orgasm and ejaculation during full sexual intercourse. Plainly, one of those relationships was with his first wife. On the same occasion, he told Dr Shapero that he had not been aware of any problems with his ejaculatory function before 2005. His relationship with his first wife ended in 1997.

264. In April 2011, the claimant told Professor Maden that he had always had a problem with sexual intercourse because it was difficult for him to live "in the moment" and not to get distracted. He told Professor Maden that he had "occasional flashbacks" to the abuse, which "spoil the mood" for sexual intercourse. He reported that he was "sometimes" unable to achieve orgasm. He does not appear to have mentioned the problem to Dr Zeitlin who interviewed him in July and August 2011.

265. In his witness statement made in June 2011, the claimant said:

> "… one area which shows no real improvement is my sexual dysfunction – the failure to achieve orgasm during sexual intercourse with my partner. I find it difficult to 'switch off' and enjoy intimacy in a straightforward manner. There are times during sex when I experience flashbacks and see Father Spencer in his black track suit. This is extremely disturbing. My partner is very understanding even though the dysfunction is a cause of sadness. The several sessions with Dr Sharon Leicht were to try and overcome this problem but largely without success. In three years I have managed to achieve orgasm during intercourse five times."

In July 2011, the claimant and his second wife had a baby daughter whom the claimant described as a "miracle baby" because of the limited number of times in their relationship that the claimant had succeeded in ejaculating during intercourse.

266. Mrs Stacey Raggett addressed the issue of the claimant's sexual dysfunction in her witness statement. During her previous relationship with the claimant in 1998, the claimant had experienced no problem with ejaculation. However, the problem was present when their relationship resumed in 2008. She said that the claimant and Dr Leicht related the problem to the claimant's "awareness of fear of losing control in an intimate situation". The couple had undergone therapy sessions with Dr Leicht in an attempt to cure the problem but these had not been effective.

267. Dr Shapero accepted the plausibility of the claimant's theory that his problems in achieving orgasm were caused by anxiety associated with the efforts he had made to avoid having an erection when being abused by Father Spencer. He noted that the claimant reported no sexual problems when having intercourse with women with whom he had only a 'one night stand' or a casual relationship. He suggested that the reason was that the claimant would have been drinking before having intercourse on those occasions and the alcohol would have relieved his anxiety. Thus, his problems had manifested themselves only in the context of a long lasting relationship when intercourse occurred whilst he was sober. Dr Shapero accepted the claimant's assertion that he had been ambivalent about performing sexual acts with his first wife as a result of the conflicting feelings about sex arising from the previous abuse.

268. In his first Report, Dr Shapero had reported that the claimant had told him, "I can only really love and lust after women I can't have". He went on:

> "[The claimant] also admitted that sometimes he can find it hard to achieve orgasm (although such problems may also be attributable to alcohol)."

In oral evidence, Dr Shapero denied that alcohol caused ejaculatory failure. He could not explain what he had meant by the comment in his Report.

269. Professor Maden said that the most common cause of ejaculatory dysfunction is a chemical agent; in psychiatric patients, it can be caused by the administration of psychotropic medication. In the claimant's case, he considered that it was likely to be associated with the claimant's history of alcohol abuse. He said that, having read about the claimant's numerous sexual exploits in his diary, it was impossible to regard him as an individual who was suffering from persistent sexual dysfunction caused by sexual abuse. He had plainly had no anxiety about embarking on a variety of sexual activities, whether in the context of 'one night stands' or longer-lasting relationships. Professor Maden accepted that, after the events of 17 April 2005, when the abuse was very much on the claimant's mind, there may have been occasions when he suffered dysfunction as he has described. He also accepted that, if it is right that the claimant is suffering sexual dysfunction with his second wife, alcohol could not be the full explanation for his problems. He was unable to identify the other factor(s) that were playing a part other than to suggest that the ongoing therapy might have contributed to the problem.

Future prognosis

270. Dr Shapero's opinion was that the prognosis for the future was now quite optimistic although he observed that the claimant had lost the opportunity to develop a professional career of the type he would have had if the abuse had not occurred.

271. Professor Maden considered that, when he saw the claimant in 2008, the claimant had largely recovered from the symptoms he had been suffering since the events of 17 April 2005. He considered that, after the conclusion of the quantum trial, the claimant should be able to proceed with his chosen career without the assistance of further therapy. His view was that, provided that the claimant refrains from heavy drinking in the future, the prognosis is good. He did not consider that the claimant had any continuing mental health problems that would prevent him from pursuing whatever career he chooses.

The evidence of the child psychiatrists

272. There was evidence also from two consultant child and adolescent psychiatrists, Dr Robin Benians, instructed on behalf of the claimant, and Professor Zeitlin, who was instructed by the defendants. Until his retirement from full time employment in 1989, Dr Benians was Consultant Psychiatrist to the North West Thames Regional Health Authority. Since then, he has practised intermittently as a Locum Consultant Child Psychiatrist in various areas and has undertaken medico-legal work. Professor Zeitlin was a Consultant in Child and Adolescent Psychiatry at the North Essex Mental

Health Foundation Trust until March 2011, since when he has continued in part time private practice and has undertaken medico-legal work.

273. There was some dispute between the parties as to whether the evidence of child psychiatrists would assist in resolving the causation issues. Acting on the advice of Dr Shapero, the claimant's advisers took the view that, in order to understand the effects of sexual abuse that occurred in childhood, the evidence of a child psychiatrist was necessary and they obtained a Report from Dr Benians, dated 27 January 2011. However, the defendants contended that the court would derive no real assistance from the evidence of child psychiatrists. They maintained that adult psychiatrists routinely advise on the origin and causes of conditions diagnosed in adulthood. They produced a Supplementary Report from Professor Maden which was highly critical of Dr Benians' Report, in particular his assertion that it is "only" child and adolescent psychiatrists who can assist adults in understanding what happened to them in childhood. Professor Maden also disagreed strongly with Dr Benians' reference to the fact that the claimant suffered from a "personality disorder".

274. Dr Benians subsequently withdrew the word "only" from the statement quoted in the previous paragraph, stating instead that child and adolescent psychiatrists are "best placed" to assist. He conceded that the references in his Report to "personality disorder" had been made in error and should have been references to "personality change". The defendants did not alter their view about the need for evidence from child psychiatrists but nevertheless instructed Professor Zeitlin. He prepared a lengthy Report dated 15 November 2011, together with Supplementary Reports dated 28 November 2011 and 25 January and 14 June 2012. Dr Benians and Professor Zeitlin prepared a Joint Statement and gave oral evidence.

275. Dr Benians and Professor Zeitlin agreed that the diagnosis of any disorder from which the claimant may have suffered as an adult was a matter for the adult psychiatrists. They concentrated on what they believed to have been the effects of the sexual abuse, together with other factors which might have had an impact on the claimant's behaviour in childhood. That approach, if faithfully adhered to, was plainly right.

276. Dr Benians' evidence was that, as a result of the sexual abuse, and the element of 'grooming' that preceded and accompanied it, the claimant had developed a mild conduct disorder. Conduct disorders are defined in ICD-10 F91 as follows:

> "**F91 Conduct Disorders**
>
> Conduct disorders are characterized by a repetitive and persistent pattern of dissocial, aggressive, or defiant conduct. Such behaviour, when at its most extreme for the individual, should amount to major violations of age-appropriate social expectations, and is therefore more severe than ordinary childish mischief or adolescent rebelliousness. Isolated dissocial or criminal acts are not in themselves grounds for the diagnosis, which implies an enduring pattern of behaviour. ..
>
> Disorders of conduct may in some cases proceed to dissocial personality disorder (F60.2). Conduct disorder is frequently associated with adverse psychosocial environments, including unsatisfactory family relationships and failure at school, and is more commonly noted in boys. Its distinction

> from emotional disorder is well validated; its separation from hyperactivity is less clear and there is often overlap.
>
> *Diagnostic Guidelines*
>
> Judgements concerning the presence of conduct disorder should take into account the child's developmental level. Temper tantrums, for example, are a normal part of a 3-year-old's development and their mere presence would not be grounds for diagnosis. Equally, the violation of other people's civic rights (as by violent crime) is not within the capacity of most 7-year-olds and so is not a necessary diagnostic criterion for that age group."

277. Examples of the types of behaviour on which a diagnosis of conduct disorder may be based are said to include:

> "… excessive levels of fighting or bullying; cruelty to animals or other people; severe destructiveness to property; firesetting; stealing; repeated lying; truancy from school and running away from home; unusually frequent and severe temper tantrums; defiant provocative behaviour; and persistent severe disobedience. Any one of these categories, if marked, is sufficient for the diagnosis, but isolated dissocial acts are not.
>
> Exclusion criteria include uncommon but serious underlying conditions such as schizophrenia, mania, pervasive developmental disorder, hyperkinetic disorder, and depression.
>
> This diagnosis is not recommended unless the duration of the behaviour described above has been 6 months or longer."

278. Dr Benians based his diagnosis of a conduct disorder on three factors: the change in the claimant's attitude to his school work and his teachers, his "compulsive gambling" whilst in the Sixth Form and his "heavy drinking" during the same period.

279. In oral evidence, Dr Benians was asked to identify the evidence of the change in the claimant's attitude at school upon which he had relied when making his diagnosis. He referred to references in the claimant's school reports to "frivolity" and to a "silly attitude". He pointed to references to a failure by the claimant to revise properly and to take proper care to understand examination questions. He described an incident when the claimant had been rebuked for not standing up when an adult entered the classroom. The claimant had told Dr Benians about that incident and about his teacher's observation that the claimant's manners had deteriorated since he joined PCC. Dr Benians told me that this indicated a change in the claimant's attitude towards "authority figures" at a time when he was coming under the influence of Father Spencer. He had exhibited disrespect for an authority figure by not standing up.

280. In concluding that the claimant became a compulsive gambler whilst in the Sixth Form, Dr Benians relied on a passage in one of the claimant's witness statements where he described how, for one school year, he and two friends played cards for money during every break period. The claimant said that, often, he had lost all the

money he had earned from his Saturday job by the end of the first break period on Monday. In his witness statement, the claimant stated that he had been "addicted to gambling" and Dr Benians appears to have accepted this assertion at face value. In his oral evidence, Dr Benians acknowledged that, since the claimant did not continue gambling on a regular basis after the end of that school year, he may not in fact have been "addicted". Nevertheless, Dr Benians claimed that the gambling was one of the manifestations of the claimant's conduct disorder. He observed that it showed a lack of respect for himself.

281. When Dr Benians referred to the claimant's 'heavy drinking' whilst he was in the Sixth Form, he was apparently relying on assertions made to him by the claimant that he had started drinking to excess at the local Golf Club when he was in his teens. The claimant had given a similar account to Dr Shapero and Professor Maden. In a later witness statement, however, and in his oral evidence, the claimant sought to clarify his drinking history. He said that he had begun to have the odd beer at the Golf Club from the age of about 17 and a half. However, his drinking began in earnest (to the extent that he would get drunk) either in the summer of 1976 (before he went to University) or when he was at home for the first University vacation (which would have been at Christmas 1976). In either case, he would have been 18 years old. Dr Benians conceded that, if the claimant began drinking excessively only at that age, it could not have played a part in the diagnosis of a conduct disorder, which is a diagnosis of childhood and adolescence.

282. Dr Benians was adamant that the types of behaviour he had identified (even without the heavy drinking) were sufficient to warrant a diagnosis of mild conduct disorder. He referred also to the change in the claimant's behaviour towards his family and his tendency to spend time with his friends rather than family members. He said that, even if I were to find that he claimant had not suffered from a conduct disorder, he had nevertheless suffered lasting effects as a result of the sexual abuse. In particular, his trust in adults had been completely destroyed and he had exhibited very self destructive and risk taking behaviour as a consequence, right up to the time of his therapy with Dr Leicht.

283. Dr Benians considered that, despite the fact that the sexual abuse to which the claimant was subjected was non-penetrative and was not painful, it would have been sufficient, when combined with the 'grooming' of him by Father Spencer, to cause major and lasting psychological effects. Dr Benians accepted that narcissistic personality traits may have made a contribution to the claimant's problems. He considered that the claimant showed a mixture of personality traits, not least some of the traits evident in people of a hysterical personality type, i.e. a tendency to 'show off'.

284. In their Joint Statement, Dr Benians and Professor Zeitlin agreed that there had been adverse factors within the claimant's family that "would be contributory to later problems". Professor Zeitlin expressed the view that those factors - in particular, his father's illness and isolated position within the family and what he considered was the idealisation of the claimant by his mother - would have had a major effect on the claimant's future behaviour. Dr Benians' view, as recorded in the Joint Statement, was that family factors would have had a relatively minor effect compared with the effects of the 'grooming' and sexual abuse. At the trial, having read witness evidence from the claimant's siblings, describing a happy family life, Dr Benians said that he

no longer considered that family factors had played any part. His view was that, since none of the claimant's siblings appeared to have suffered any ill effects as a result of tensions within the family, there was no reason to believe that the claimant had done so.

285. Professor Zeitlin expressed the view that the frequency and duration of the abuse to which the claim was subjected would have been sufficient to have had an effect on the claimant's developing personality. In his Report, he stated his view that the "greatest effects (of the abuse) will have been on his own self-image and confidence and on his perception of his relationship to father figures, older men in authority."

286. However, Professor Zeitlin considered that the nature of the abusive behaviour, when coupled with the severity and the duration of the problems suffered by the claimant, suggested that other factors might also have played a part. His thesis was that there were six factors in the claimant's family situation that were of special significance, namely the fact that Mr Raggett senior was in the RAF; the claimant's position as oldest son; the fact that his mother idolised him; his father's illness and the fact that he had (as Professor Zeitlin apparently believed) bipolar disorder; and family disharmony. He considered that those factors had been relevant to the development of the claimant's personality and his subsequent behavioural difficulties.

287. Professor Zeitlin considered that there was ample evidence that the claimant's father was emotionally distant from the family during the claimant's childhood and of serious marital disharmony, probably extending back over the same period. He suggested that, if the claimant had been closer to his father, it is likely that he would have told him about the abuse. As it was, he is liable to have been rendered more vulnerable to Father Spencer's attention as a result of his lack of a close relationship with his father. Professor Zeitlin suggested also that the claimant did not have a 'normal' relationship with his mother. He considered that there was evidence that his mother idealised him and 'put him on a pedestal' and, if that were so, the claimant would not have wished to tell her about the abuse.

288. Professor Zeitlin referred also to the fact that, until the claimant was four years old, his father was serving in the RAF. He suggested that the claimant would have been aware that his father was a fighter pilot and that that knowledge, coupled with the fact that the family had moved house at least four times by the time the claimant reached the age of five, might well have had an adverse impact on the development of the claimant's personality. He cited literature in support of such an association. He also referred to the claimant's position as the oldest son (though not the oldest child) of the family and as the most able of the five children. He suggested that he acted on occasion as his father's substitute, e.g. by assisting his mother to close the curtains at night. He suggested that this was a further factor which may well have affected the claimant's self-perception as he developed.

289. Professor Zeitlin considered that there would have been a 'strong possibility' (in oral evidence, he changed this to a 'strong probability', saying that the word 'possibility' had been included in his Report in error), that these various factors, separately or in combination, even without the abuse, would have given rise to a risk of behavioural problems and a decrease in academic performance. He considered that they had given rise to the origins of the narcissistic personality traits which had been described by the adult psychiatrists. However, he accepted that the abuse would have made a

significant contribution to his problems in adulthood, although that contribution would have been much less than the effect of the factors in his family background. He considered that the claimant's problems with alcohol might well have occurred irrespective of the abuse.

290. Professor Zeitlin also suggested that the claimant might have suffered from a genetically determined mood disorder inherited from his father.

DISCUSSION AND CONCLUSIONS

The immediate effects of the abuse

291. There can be no doubt that the claimant was the victim of an insidious form of sexual abuse. Father Spencer was an important figure at the claimant's school, who insinuated himself into the claimant's family life and turned to his own advantage the claimant's passionate enthusiasm for playing and watching football. At the limitation and liability trial, I accepted that, as a result of the abuse, the claimant suffered intense feelings of violation, dread, isolation, shame and humiliation during the years for which the abuse continued. Members of his family referred to the claimant appearing taciturn, moody and sometimes distressed during his adolescent years. I am satisfied that this behaviour was attributable to the abuse which he was suffering.

292. I accept also that the effects of the abuse caused the claimant difficulties in relating to some of his fellow pupils at PCC. Mr O'Neill's evidence provided an illustration of that. I am further satisfied that they caused him to become more withdrawn from his family than he would otherwise have been. He clearly did not feel able to confide in them and it would therefore have been easier for him to cope with his 'guilty secret' by withdrawing from intimacy with them. I consider that his poor relationship with his father would also have been a factor. Apart from his much younger brother, the rest of the family were all female and it would not have been surprising, even in the absence of abuse, if the claimant had wished to seek male company outside the home. It is significant that, once Father Spencer relinquished his hold on the claimant, the claimant chose to spend most of his leisure time mixing with male companions at the local Golf Club. I am satisfied also that the claimant's lack of closeness to his father made him more vulnerable to the attentions of a man who actively sought out his company and shared his passion for football. Had his relationship with his father been stronger, he may well have been able to withstand Father Spencer's advances or at least to put a stop to them much earlier.

293. I am not persuaded that the claimant's behaviour either at school or at home deteriorated markedly as a result of the abuse. There may have been the odd incident at school (such as that recalled by Mrs Brown) for which he was punished. However, there is no suggestion in his school reports that his behaviour was giving cause for concern (other than the odd reference to 'silliness' or 'frivolity' – hardly unusual for a lively adolescent boy) and his mother made no mention of serious behavioural issues being raised with her at parents' meetings or on other occasions. At home, I was told that the claimant could be hostile and aggressive to his sisters on occasion when he felt they were intruding on his male friendships, but no serious behavioural problems were described.

294. I accept however that the abuse had an effect on the claimant's attitude to his school work and, therefore, on his examination results. I consider that, had it not been for the abuse, he would probably have devoted more time and effort to his studies and that he would have achieved better results in his public examinations. Whether or not he would have succeeded in obtaining good 'A' levels at the first sitting is less clear. He was very young when he sat the examinations and only a small minority of his classmates were successful first time round. However, I consider that he would have had a better chance of being one of the minority if the abuse had not occurred. In the event, however, the fact that the claimant did not achieve his full academic potential at school made no quantifiable difference to his subsequent career. He secured a place at a reputable University to study the subject of his choice and was awarded a good degree, albeit not the first class degree of which he considered he was capable. He was accepted at the College of Law and subsequently gained employment at a number of high quality law firms.

The long term effects of the abuse

The child psychiatrists

295. Dr Benians expressed the view that, as a result of the sexual abuse, the claimant suffered from a conduct disorder, albeit in a mild form. I found his evidence on this point wholly unconvincing. I do not consider that the evidence goes anywhere near establishing that the claimant exhibited the sort of "repetitive and persistent pattern of dissocial, aggressive or defiant" behaviour that would characterise a conduct disorder, even a mild one. He exhibited no serious behavioural disorders. The notion that a failure by an adolescent boy to stand up when an adult entered the room provides evidence of a conduct disorder seems to me far-fetched in the extreme. The deterioration in the claimant's school work was not dramatic. It was of a relatively subtle type such that, if the abuse had not occurred, it could without difficulty have been ascribed to adolescent laziness and/or the adverse effect on the claimant of PCC's system of accelerated promotion for promising pupils.

296. I do not accept that the "compulsive gambling" which Dr Benians also relied upon as one of the manifestations of a conduct disorder afforded any real support for his diagnosis. The claimant was one of a group of teenage boys who played cards for money at break time. He did not go on to be a gambler, although he has from time to time indulged in risky money-making ventures. I can see no obvious link between the abuse and the card games. As to "heavy drinking", the third factor on which Dr Benians relied for his diagnosis, I accept the claimant's most recent evidence that he did not start to drink 'in earnest' until the age of 18. The idea that the adult members of the local Golf Club would have allowed a boy of 15 or 16 to drink to excess in the Golf Club bar always seemed somewhat unlikely. It is now clear therefore that the claimant did not drink heavily during his childhood or adolescence. Consequently, that factor can no longer be relied upon.

297. I did not consider that Dr Benians' persistence in maintaining his diagnosis of conduct disorder, even after the evidence of heavy drinking during adolescence had evaporated, did him any credit. I formed the view that he was an extremely partial witness. He appeared to accept the claimant's evidence unquestioningly, e.g. the claimant's assertion that he was "addicted" to gambling. He indulged in speculation which favoured the claimant. For example, he persistently asserted that the fact that

the claimant's first wife had not become pregnant during their marriage provided support for the claimant's assertion that he had experienced difficulty achieving orgasm. This was despite the fact that he had no information as to whether she had been trying to conceive during her marriage to the claimant and/or whether she was using contraception. When it was suggested to Dr Benians that he had inadequate information on which to reach a view on those points, he responded that, after leaving the claimant, his wife had immediately become pregnant by another man, which made it unlikely that she had been using contraception previously. That sort of speculation in the claimant's favour caused me to have little confidence in Dr Benians' evidence.

298. I regret to say that I found Professor Zeitlin's evidence even more unsatisfactory. I considered that his emphasis on the effects of family factors on the claimant's adult behaviour was grossly overstated. I accept that, as he said, there is evidence that children of members of the Armed Forces are at risk of developing psychological problems as a result of the dangers to which their parents are exposed and their families' peripatetic lives. However, to suggest that the claimant might have suffered lasting psychological damage by reason of the fact that, until the age of four, he had a father in the RAF stationed in the UK and had moved house four times seems to me wholly unrealistic. Similarly, I am wholly unconvinced that the claimant's position as the oldest boy in the family who occasionally assisted his mother with simple tasks could of itself have caused psychological harm.

299. In his first Report, Professor Zeitlin stated that it appeared to have been "accepted diagnostically" that the claimant's father had suffered from bipolar disorder. He pointed out that, in those circumstances, the claimant would have been at high risk of developing the same disorder. He expressed the view that this might have been an additional factor in the claimant's case. In oral evidence, Professor Zeitlin was reluctant to concede (as was the case) that there was no authoritative evidence within the medical records that the claimant's father had suffered from bipolar disorder. He maintained, despite the contrary views of the adult psychiatrists, that the claimant might be suffering from a mood disorder inherited from his father.

300. Professor Zeitlin was extremely reluctant to concede that Father Spencer's sexual abuse had at any time amounted to an assault. On that topic, as on many others, he had difficulty in answering the question being put and instead went off at a tangent or posed another question. For example:

> "Q. Would you not regard that [*i.e. Father Spencer's regular massaging of the claimant's groin under the pretence of 'treating' him for an injury*] as an assault?
>
> A. Is it in his action inappropriate behaviour by the teacher towards the child; yes. Is it comparable with raping a screaming child – *[at that point, I interrupted to observe that he was not being asked that question]*."

Such responses from an independent expert witness were wholly inappropriate.

301. I was very concerned also about Professor Zeitlin's assertion, made late in his oral evidence, that, whereas in his Report had stated that there was a "strong possibility" that the family factors had made a significant contribution to the risk of behavioural

problems in adulthood, he had in fact meant that there was a "strong probability" that that was so. I found his explanation that this had been an error - coupled with his assertion that there was no difference between the two terms - highly unsatisfactory. I have concluded that I can place no reliance at all on Professor Zeitlin's evidence.

302. I do not overlook the fact that Professor Zeitlin accepted that the abuse suffered by the claimant in childhood would have made a significant contribution to his subsequent behavioural problems in adulthood. It is contended on behalf of the claimant that, given the fact that Professor Zeitlin appeared determined to give evidence that was favourable to the defendants and adverse to the claimant, his evidence that the abuse did indeed cause lasting damage must be regarded as particularly significant and worthy of acceptance. I cannot accept that contention. I am not satisfied that Professor Zeitlin undertook any proper analysis of the features that would have enabled him to assess precisely what effects, if any, the sexual abuse had on the claimant's behaviour in adulthood. I found his evidence confusing and unconvincing. It seems to me that, since I have derived no assistance from the child psychiatrists, I must look to the adult psychiatrists for such an analysis.

The adult psychiatrists

303. I come now to the evidence of the adult psychiatrists. I did not find Dr Shapero an impressive witness. He seemed to me far too ready to accept the claimant's own interpretations and views about events. An example of this was his readiness to say that he should not have accepted at face value the claimant's previous description of his relationship with his father and his willingness to espouse the claimant's latest evidence about this topic. Dr Shapero was reluctant also to accept the contents of the various medical records which suggested that there had been long standing problems between the claimant's mother and father, observing that their contents might have resulted from a misinterpretation by the relevant doctor or exaggeration on the part of the claimant's mother. In making these speculations, I did not consider that Dr Shapero demonstrated the degree of independence that is to be expected of an expert witness.

304. By contrast, I found Professor Maden a thoughtful, measured and fair witness. He was ready to make concessions where appropriate, e.g. by acknowledging that the sexual abuse might have played some part in the claimant's excessive drinking and by accepting that the level of abuse to which the claimant had been subjected was capable of causing "catastrophic" stress, albeit he did not consider that it had done so in the claimant's case. He was also prepared to consider the possibility that the abuse might have had a catastrophic effect on this claimant. Where he disagreed with the defendants' other expert witness, Professor Zeitlin, he was prepared to say so. I make it clear that, where their evidence differed, I accept that of Professor Maden in preference to that of Professor Zeitlin.

305. Professor Maden was criticised by the claimant for changing his position in oral evidence so as to place more emphasis on the narcissistic traits which he contended were present in the claimant's personality. Professor Maden had referred to those traits in his original Report but, having heard the claimant's evidence at the quantum hearing, said in his oral evidence that they were more significant than he had previously believed. It seems to me entirely understandable and appropriate that, having observed the claimant giving evidence for more than two days, a consultant

psychiatrist should incorporate into his professional view that which he has seen and heard. I did not consider Professor Maden to be changing his evidence, merely to some extent changing its emphasis.

306. Professor Maden was also criticised for his observation in his first Report that the claimant's relationship with Father Spencer had had "many positive aspects". In cross-examination, Professor Maden explained that an unusual feature of the case had been the claimant's evident admiration for the fact that Father Spencer had been something of a 'maverick' at PCC and had encouraged his interest in football, which has been a lifelong passion for him. He pointed out that, far from employing the techniques for avoiding contact with his abuser adopted by most abused individuals, the claimant had actively sought Father Spencer out in order to officiate at his wedding and had kept in touch with him on an occasional basis until shortly before his death. Professor Maden said that, in referring to the "positive aspects" of the relationship, he was merely reflecting what the claimant had told him, not indicating his own view about the relationship. He emphasised that the way in which the claimant had spoken to him about Father Spencer and his subsequent willingness to have contact with him was unusual in his experience.

307. On reading Professor Maden's first Report, I was somewhat initially surprised at his comment about the "positive aspects" of the claimant's relationship with Father Spencer. However, having heard his explanation, I understood what he had intended to convey. It may be that his meaning could have been more felicitously expressed. I accept his evidence that the claimant's attitude to Father Spencer was not characteristic of the usual reaction of an abused individual to his abuser.

Enduring personality change

308. The claimant's case was that the sexual abuse caused the type of "catastrophic stress" which can - and in the claimant's case did - produce an enduring personality change. The ICD-10 definition of F62.0 gives examples of the extreme types of event that might cause the condition. The definition states that the stress must be "so extreme that it is unnecessary to consider personal vulnerability to explain its profound effect on the personality". It states that the condition should be diagnosed only when "the change represents a permanent and different way of being, which can be etiologically traced back to a profound, existentially extreme experience". It does not seem to me that, viewed objectively, the type of non-penetrative non-painful abuse which the claimant experienced could properly be categorised as "catastrophic" stress for the purposes of ICD-10. I reject Dr Shapero's evidence about this matter as unrealistic. It is significant in my view that, in his first Report, he referred to enduring personality change following "traumatic" – rather than "catastrophic" – experience. I consider it probable that, in making his initial diagnosis, Dr Shapero failed to focus on the need to establish the occurrence of a "catastrophic" experience.

309. Nevertheless, I have considered carefully whether the frequency and duration of the abuse, together with the fact that it occurred during the claimant's childhood and was perpetrated by a Catholic priest and teacher, might have made the abuse a "catastrophic" experience for the claimant when viewed subjectively. I accept Professor Maden's evidence that, if that were the case, one would expect there to have been some contemporaneous evidence of this. Such evidence is, however, wholly lacking. His parents were not sufficiently concerned about him to initiate any medical

or other investigation or to seek the assistance of his school. Instead, the claimant appeared to function relatively normally and to derive considerable pleasure from his chosen sports of football and golf, as well as from his circle of friends. Thus, whilst I fully accept that the abuse was having the unfortunate effects I have described previously, I cannot accept Dr Shapero's assertion that the abuse resulted in the claimant suffering stress that was "catastrophic" in nature and thereby sufficiently serious to cause him to develop an enduring personality change. I accept Professor Maden's evidence on this matter.

Behavioural changes

310. The ICD-10 definition states that, in order to make a diagnosis of enduring personality change, it is essential to establish the presence of features in the subject's personality that were not observed prior to the relevant stress. The problem with an individual who has or may have suffered such a stress in childhood is that, since a child's personality is not regarded as fixed, it is impossible to make any true comparison between the individual's pre-stress and post-stress personalities. Nevertheless, it is possible to compare features of the claimant's adult personality with the reported diagnostic features of the condition of enduring personality change. Examples of those features are set out at paragraph 226 of this judgment. Dr Shapero relied for his diagnosis on two facets of the claimant's behaviour in particular, namely a persisting distrust of authority figures and a propensity for risk taking behaviour, frequently associated with his abuse of alcohol and/or drugs.

311. I do not consider that the evidence demonstrates that the claimant has any innate distrust of or other particular difficulties with authority figures *per se*. On the contrary, he has formed very close personal relationships with a number of the senior figures with whom he has worked. His problems have arisen as a result of his apparent inability to conceal his dislike and contempt for those whose abilities and/or views he does not respect. This is characterised by his tendency, particularly when drunk, to be outspoken in his criticism of others. The evidence shows that the claimant's criticisms have not been confined to people in senior positions in an employment context. They have extended to people he has met socially, including complete strangers. He has caused offence to many people at all levels. However, it is the offence which he caused to his senior colleagues that would have adversely influenced his career. I shall return to the claimant's relationships with authority figures later in this judgment.

312. I do not accept that the claimant has exhibited risk taking behaviour, other than in the context of his alcohol and/or drug abuse. The episodes when he provoked fights with strangers and caused injuries to himself generally occurred when he was drunk. Dr Benians suggested that the claimant's many sporting injuries constituted evidence of abnormal risk taking behaviour. I do not accept this analysis. The evidence – in particular his diary entries – showed that he played football competitively and on occasion aggressively. Winning really mattered to him. In those circumstances, it is not surprising that he sustained injuries from time to time.

313. In the light of my findings, I do not accept that there is evidence of the type of behaviour on which Dr Shapero relied for his diagnosis of enduring personality change. I accept Professor Maden's evidence about these matters.

314. I do not consider that the claimant has suffered from the other signs of enduring personality change. I can see no evidence that he exhibits a hostile or mistrustful attitude towards the world and it would be fanciful to suggest that he had ever shown signs of social withdrawal or of estrangement in its general sense. Whilst he may on occasion have experienced feelings of emptiness, hopelessness or being on edge, there is no evidence that those feelings have persisted for long. The evidence suggests that, when they have occurred, it has been in the context of generally low mood arising from other causes.

Drinking

315. I am not persuaded by Dr Shapero's assertion that the claimant's harmful drinking and his drug taking were part of a pattern of risk taking behaviour which was caused (or at least exacerbated by) the sexual abuse. I accept that alcohol and/or drug abuse is very common amongst adults who have been the victims of sexual abuse and are trying to suppress distressing memories. However, the pattern of the claimant's drinking does not suggest that he drank in order to forget his past experiences or as part of a pattern of risk taking behaviour. It occurred in a social and/or sporting context at University and at the College of Law. Once in London, this pattern of social drinking continued and extended, to heavy drinking sessions with colleagues and others connected with his work, as well as with friends and fellow members of the football teams in which he played.

316. During this period and over the years that followed, the claimant's diaries were peppered with enthusiastic references to his drinking and drug taking sessions, e.g. "wild night"; "superb hair of the dog session"; "stoned … amusing night!"; "Lamb and Flag. Absolutely blasted"; "great impromptu session … I got home 6.00 am!"; "A brilliant 10 hr lunch!" These comments do not suggest that the claimant was drinking or taking drugs in order to achieve oblivion, rather that he thoroughly enjoyed the social occasions at which he drank to excess or took drugs. It is significant that he never drank alone and never became dependent on alcohol or drugs.

317. Many witnesses remarked that the claimant always appeared to be more affected by drink than his companions. This does not generally seem to have occurred because he drank more than other people, although he may have done on some occasions. I accept Professor Maden's evidence that the real problem was that alcohol had a particularly bad effect on the claimant, rendering him unpleasant, aggressive and liable to act in an unpredictable and boorish fashion. It had the effect also of increasing and exaggerating certain of the personality traits which I shall discuss later in this judgment.

318. The timing of the onset of the claimant's drinking also militates against a connection between his excessive drinking and the sexual abuse. He did not begin to drink in earnest until the age of 18 (and then only in University vacations), some time after the abuse had stopped. Thus, I do not consider that, on a balance of probabilities, his drinking was associated with the abuse. I accept Professor Maden's evidence that he would probably have developed the disorder defined in ICD-10 even had the abuse not occurred.

319. I consider it probable that the claimant's drinking increased and became less controlled following his separation from his first wife in early 1996. It is significant that his alcohol consumption attracted comment from some of his work colleagues at that time and it probably led to some of the drunken episodes (including one on a working morning) that marked his final months at Pinsents. However, I am satisfied that any increase in his drinking in 1996 and thereafter was caused by the claimant's distress at his first wife's departure, not by the effects of the abuse. As I have said, this distress persisted for many years and it is clear from the claimant's diary entries that he continued to drink heavily for at least a decade after his first wife left him. In 2008, he told Professor Maden that he had cut down his alcohol intake, largely because he was leading a less social life. However, he was still having regular binges. By 2010, he had reduced his drinking markedly.

320. The timing of the onset of the claimant's drug taking and the fact that he took drugs intermittently and only in a social context with friends also make it highly unlikely that it was in any way linked with the sexual abuse he had suffered.

Narcissistic and other personality traits

321. Having heard the claimant give evidence on two occasions and having read his diaries, his witness statements and the information that he gave to Dr Fry and the therapists involved in treating him and to the psychiatrists instructed in his claim, I am quite satisfied that the claimant displays many of the traits identified in the diagnostic criteria for narcissistic personality disorder.

322. The claimant has an exceedingly high opinion of his intellectual and other abilities. This was evident from his written and oral evidence and his diaries. He is plainly of well above average intelligence, widely read and articulate. There is no objective evidence that his intellect is exceptional although he obviously believes this to be the case. He believes that the law used very little of his "true talent" and that most of the lawyers with whom he worked were far less intellectually able than himself. He would have preferred to work with people whom he considered to be at his own intellectual level. In a diary entry for November 1985, the claimant observed, "It is only really with people of my intellect that my wit can really sparkle." He considered from a very early stage in his career that his talents warranted an equity partnership in a leading City solicitors' firm and became increasingly disenchanted when no partnership was offered to him. He constantly spoke of his progress being frustrated by others and of his talents not being recognised. The fact that the claimant held himself in such high esteem generally meant that, when he suffered a setback in his employment, he reacted very badly by becoming angry and resentful. On occasion, that reaction was followed by a period of self doubt and low self esteem before he recovered his equilibrium.

323. The evidence also shows a striking inability by the claimant to accept any personal criticism. This is exemplified by his angry reaction to appraisals containing negative comments at the time they were conducted and his belief that all such comments could be explained by personal dislike, office politics, self-interest or ignorance on the part of the appraiser. He seemed utterly unable to accept that those conducting the appraisals might have been expressing their personal views in good faith and might genuinely have been attempting to help him to improve his performance and thus his prospects of securing a partnership. His inability to accept criticism or suggestions as

to how he might improve meant that he was unable to use the appraisals in a positive way to develop his professional skills.

324. In contrast with the claimant's high opinion of himself, he was frequently contemptuous and dismissive of others. His sisters, Mrs Brown and Mrs Molaschi, gave evidence about his tendency as a teenager to deride the views of family members and belittle them and their friends. His diaries contain many references to individuals and categories of individuals whom he holds in contempt. I have already mentioned his dismissive attitude towards many of his senior colleagues. CM warned him about this problem in his first appraisal at Gouldens when he observed that the claimant could "offend quite needlessly … sometimes based on a belief that you really do know better when you do not." Even those colleagues with whom he had enjoyed a good relationship were sometimes the subject of criticism; for example, the claimant told Professor Maden that MP of Gouldens (whom he instructed to negotiate severance terms with Pinsents on his behalf), was a good friend, but was "useless at litigation". It is clear from the evidence that the claimant did not hesitate to speak in a derogatory way to and about senior colleagues with whom he disagreed. His 360 degree assessments at Eversheds suggest that, on occasion, he could appear "patronising" and "arrogant" to those more junior than himself. The claimant's tendency to outspoken criticism became much more marked when he had been drinking and clearly made him very unpopular with many people. It was this aspect of his personality that some of the witnesses termed "self-destructive". The claimant told Professor Maden, "I have a knack of exciting [?] animus against me".

325. One of the diagnostic features for a narcissistic personality disorder is a lack of empathy and an unwillingness to recognise or identify with the feelings and needs of others. There is evidence that the claimant does on occasion show empathy with others. I have already mentioned his acts of kindness and charity and the loyalty and affection that he displays to his friends and their families. The evidence demonstrated that, when he chooses to employ it, he possesses great personal charm.

326. However, there were striking examples in the evidence of the claimant's lack of empathy. His boorish behaviour when drunk must have caused repeated embarrassment and annoyance to his friends and acquaintances and real distress and humiliation to his first wife. Yet, despite the fact that he must have been told by his wife and his friends of the effect his behaviour had on them and other people, he does not appear to have made any effort to change that behaviour. So far as his first wife was concerned, he seems to have believed that, whatever he said or did, she would stay with him. Presumably he expected the same of his friends. He seems to have been under the impression that, because of his outstanding abilities and other good qualities, any bad behaviour at work functions or when socialising with colleagues would be overlooked and would not affect his colleagues' opinion of him or his prospects of promotion.

327. It is evident also that the claimant wholly misjudged the effects of his outspoken criticism on others. The most striking example of this was the incident which occurred when he was employed as a consultant by Watson Burton. Most people with the claimant's professional experience would have foreseen the effect that a highly critical email sent in the circumstances related by Mr Henderson would produce. It seems that the claimant was oblivious to its potential effect and gave no consideration to the presentation of the information in an appropriately diplomatic and palatable

manner. This suggests a complete failure to understand the feelings of the recipients of the email. I consider it probable that it was in large part this failure to empathise with others that gave rise to the clashes of personality that repeatedly occurred between the claimant and work colleagues. It is to be noted that these clashes of personality continue. In a Report dated 28 November 2011, Ms Forde, the claimant's current therapist, reported that:

> "[The claimant] has experienced some difficulties and conflicts regarding his tutors and his position in his tutorial group … He has felt a need to protect others in the group and has at times had difficulty in recognising boundary breaking behaviour in others."

Ms Forde attributed the "difficulties and conflicts" to the abuse to which the claimant had been subjected. It seems to me far more probable that they represent a continuation of the pattern of personality clashes that has characterised the claimant's working life from his postgraduate course in Liverpool onwards.

328. There was evidence also that the claimant feels that he is 'special' and should be treated as such. An early example was his expectation that he should be awarded a postgraduate grant to pursue an MPhil in Liverpool, whilst actually studying law in Guildford. It is clear that, when that expectation was thwarted, he was very angry. He is still angry about it more than 30 years later. His attitude to the subterfuge that prevented him from having to re-sit all his LSF was another example. He appeared to consider that the usual rules of behaviour did not apply to him. That state of mind is also demonstrated by his attitude to driving when drunk. The evidence shows that he has done this on many occasions over the years and has been convicted of the offence of driving with excess alcohol on at least two occasions, the latest in 2007. In one of his diary entries, he refers to driving in 1985 whilst "well pissed", observing "I really enjoyed doing something lawless again."

329. I consider that the claimant's feeling that he was entitled to some form of 'special' treatment caused problems in the context of his friendships with senior colleagues. He appeared to believe that, once he had formed such a friendship, this should confer on him some form of special protection and/or advantage. He failed to understand that his friends might have a wider responsibility than just the claimant's interests. When the expected protection or advantage did not materialise, he became resentful and disenchanted. The incident with the Professor at Liverpool University provides an example of this, as does his relationship with CM and MP at Gouldens. He appears to have expected that his friendship with them would protect him against the consequences of his more extreme behaviour.

330. Mr Shepherd described the claimant as having "an unusual level of intolerance" to "the apparent mundane nature of everyday activities", a characteristic which is exemplified by his obvious disinclination to tackle the more routine tasks associated with his work. The appraisals from Gouldens and his 360 degree assessments at Eversheds highlighted his reluctance to apply himself to the less exciting aspects of the job. The claimant himself observed in appraisal documents that he excelled in the bigger cases and when he was "in the centre of the action." I consider that this is another illustration of the claimant's feeling that, with his gifts, he should receive 'special' treatment, by not being required to undertake the more mundane tasks of life.

331. The claimant has described himself as a "romantic idealist" and the accuracy of that description is supported by lyrical passages in his diaries about women with whom he was having a relationship (or wanting to have a relationship) as well as women with whom he had been involved in the past. He has an idealistic view of what his life would have been like had the abuse not occurred. In 2006, he told Dr Shapero that, had it not been for the abuse, he would have had a "golden life" with his first wife. His diary entries contain dreams of being a writer or an actor and the satisfaction that he would have gained from such a career.

332. I am satisfied that the various behaviours I have described above fall within the diagnostic criteria for DSM-IV 301-81 and constitute narcissistic personality traits, albeit not, I accept, evidence of a complete narcissistic personality disorder. I accept Professor Maden's evidence that there is no evidence that individuals with narcissistic traits do not indulge in excessive drinking or drug taking. I also accept his evidence that there is no evidence linking narcissistic personality traits with sexual abuse. I am satisfied that the traits would have been a feature of the claimant's personality even had the abuse not occurred.

333. In addition, I agree with Dr Benians that the claimant also exhibited a tendency to 'show off' and relished being the centre of attention. This was so when he was sober (e.g. when he blew tobacco smoke in his sister's face at a University party) and even more so when drunk. Clearly, the effect of drink was to exacerbate the element of the 'show off' in his personality. Mr Prince described how the claimant "dominated" social occasions and he was elsewhere described as being "leader of the pack" and the "life and soul of the party". Mr Shepherd described how the claimant "relished raising his voice in company". Many of his drunken exploits (e.g. abusing or otherwise directing his unwanted attentions to strangers in restaurants and elsewhere, allowing himself to be stripped naked whilst singing karaoke, and chanting football slogans in the street) had the effect of ensuring that he was the centre of attention, however unfavourable that attention may have been. This kind of behaviour began early in the claimant's drinking career. His sister, Mrs Lobb, recalled a friend's 18th birthday party where the claimant and a group of his friends appeared on the dance floor wearing only their underpants.

334. In the claimant's diaries and elsewhere in the evidence, there are references to the claimant suffering at various times from low mood, anxiety and feelings of unease, dread, self-loathing and other negative emotions. It is contended on his behalf that these emotions represented the continuing effects of the abuse. I do not accept that contention. The claimant has in the past been very preoccupied with his own feelings. I am confident that many individuals experience the types of feelings described by him from time to time but do not dwell on them, let alone record them in writing. It is evident from the claimant's diary entries that the low moods he described often occurred in the aftermath of a bout of drinking or when he was in a state of despair over his dissatisfaction with his work, about one of his relationships or in connection with some other adverse event in his life. The incidence of low mood increased after the breakdown of his first marriage and it was at that time that he consulted Dr Fry and his GP. At that time also, his poor relationship with his father was still troubling him. As Professor Maden pointed out, however, his low mood rarely persisted for long and the psychiatrists are agreed that he never suffered from a depressive disorder.

The improvement in the claimant's condition

335. I have already mentioned that, when the claimant gave evidence at the quantum hearing, his mood was not as low as at the limitation and liability hearing in 2009 and he was more composed. Other than that, however, I did not see a great deal of change in him. The personality traits which I have mentioned were just as evident as previously - probably more so, although I attribute that to the fact that the focus of his evidence was different on the second occasion.

336. There is no doubt that, in other respects, the claimant has undergone positive change. I accept Professor Maden's evidence that, to a large extent, that change is the result of the significant reduction in his drinking. As a result, he no longer exhibits the frequent extremes of behaviour, emotional disturbance and self-disgust that characterised his drinking bouts in the past and he no longer lives a chaotic life centred round partying and casual sexual relationships. Another important factor must be his relationship with his second wife and the pleasure and satisfaction he derives from his life with her, his step children and the couple's young daughter. He is also clearly experiencing considerable fulfilment from his counselling work, in contrast to his evident dissatisfaction when he was working as a solicitor and in other capacities. I am satisfied also that the acceptance of his evidence about the abuse he had undergone and the resolution of the issue of liability in his favour have played a part in the improvement that has taken place.

337. I accept also that the therapy that the claimant has undergone has contributed to the change in the claimant to some extent. I am satisfied that it assisted him in dealing with the aftermath of the events of 17 April 2005. I consider it likely that Dr Leicht's support and encouragement were of great assistance to the claimant in tackling his drinking and, as I have said, that has been the major factor in his improvement. I also accept that therapy may have assisted the claimant in coming to terms with the breakdown of his first marriage and the misfortunes of his professional life. It may also have assisted the claimant to some extent to 'manage' his personality traits, for example so as to take more account of the feelings of others. Given the claimant's preoccupation with himself and his emotions, I have no doubt also that he has found it satisfying to have a ready outlet for voicing his thoughts, feelings and anxieties about his life.

338. However, the fact that there has been a positive change in the claimant's mood and behaviour during the period for which he has been undergoing therapy does not mean that he was previously suffering from an enduring personality change or any of the other conditions identified by Dr Leicht or that the therapy has 'cured' those conditions. I accept Professor Maden's evidence that the claimant has never suffered from many of the conditions described by Dr Leicht. I am satisfied that the change in him has been caused by a combination of the factors that I have identified.

339. I am satisfied also that Professor Maden is correct in saying that the claimant has undergone far more therapy than was necessary for dealing with the effects of the abuse. I accept his evidence that, in normal circumstances, a maximum of 12 sessions of therapy would have been necessary. I share his concern that the therapy may well have been counter-productive to some extent in that it has encouraged the claimant constantly to refer back to and ruminate on the abuse and to dwell on the effects

which he perceives it has had on his life and relationships, rather than to concentrate on moving on with all aspects of his life.

Sexual dysfunction

340. The claimant has given various accounts of his sexual dysfunction and of when and with whom it has manifested itself. His witness statement of November 2008 strongly suggested that he had not suffered from any such problems with his first wife and, in March 2010, he apparently told Dr Shapero that he had not been aware of any problem until 2005. His evidence at trial was that the problem affected his sexual relationship with only four of his many sexual partners, including both his wives. Since he first mentioned the problem to Dr Shapero in 2005, the claimant's descriptions of it have become more florid. At that time, he denied experiencing 'flashbacks'. By 2011, however, he was reporting 'flashbacks' involving Father Spencer dressed in a black tracksuit which he linked to his sexual dysfunction.

341. I accept that the claimant now suffers from intermittent problems in achieving orgasm and ejaculation. However, I do not accept that this was a significant problem with his first wife or indeed at any time before 17 April 2005. The claimant's diary entries for the early period of his relationship with his first wife do not suggest that their sexual relationship was anything but satisfactory. If there were any problems, it is probable that they resulted from the claimant's drinking habits at the time. It may also be that there were problems with their sexual relationship towards the end of their marriage when both of them were having relationships with third parties. That would not be surprising. However, I am satisfied that any problems which might have occurred were not caused by the abuse. I accept Professor Maden's evidence that the claimant's numerous sexual affairs and the enthusiasm with which he pursued them, as evidenced by his diaries, were inconsistent with the type of anxiety and avoidance of intimate situations that are commonly observed in persons who have been sexually abused.

342. I find it entirely plausible that sexual dysfunction was one of the symptoms of distress that the claimant experienced following the events of 17 April 2005. I accept also that he is still having a problem, although I note that it has not prevented him and his wife having a child. Quite why the problem is still persisting, despite the improvement in the claimant's mental state, is unclear. There may be some physical cause, although Professor Maden regarded that as unlikely. It may be that the claimant is on some form of medication which is producing the dysfunction; I have no information about that. It may be, as Professor Maden suggested, that the constant references back to the abuse in the course of the therapy that the claimant is still undergoing are having an effect. That might account for the increasingly florid accounts of the circumstances in which the dysfunction occurs. There is insufficient evidence on which I can come to a firm conclusion as to the probable cause.

Final conclusions

343. It follows from what has gone before that I consider that the psychological effects of the sexual abuse were confined to a period of about eight years from the start of the abuse until the beginning of the claimant's third year at University. They would have been most acute during the period of four years or so when the abuse was continuing. Thereafter, I find that the claimant's problems were caused mainly by his harmful use

of alcohol, coupled with his abnormal personality traits. I do not consider that the abuse played any significant role in the claimant's performance at work, the loss of his legal career, his excessive drinking, his drug taking or his difficulties with relationships.

344. I accept that the events of 17 April 2005 brought the abuse back to the forefront of the claimant's mind and for a while caused him symptoms of distress and low mood, together with repeated ruminations about the abuse. I accept that those symptoms persisted until after the trial of limitation and liability. By the end of 2009, however, the claimant had begun to make the improvements I have described. By that time, he was involved in a serious relationship with his second wife and I am satisfied that the effects of the re-awakening of memories of the abuse had abated. To the extent that they may have persisted, I find that they have been perpetuated by the therapy which he has continued to undergo and which has caused him to focus on the abuse.

345. In assessing the appropriate level of damages for pain, suffering and loss of amenity, I bear in mind the frequency and duration of the sexual abuse and its effects on the claimant at the time. I also take account of the real distress that he suffered after the events of 17 April 2005 and of the difficulties he has had, particularly in the light of his personality traits, in coming to terms with the full realisation of the abuse. In the circumstances, I consider that the appropriate award of damages is in the sum of £40,000. The interest on that sum will be £4,344.

346. So far as special damages are concerned, I consider that the claimant is entitled to the costs of therapy (together with associated travel) with Ms Diane Griffiths and with Dr Leicht up to the end of 2009. That is considerably more than 12 sessions of therapy that someone in his position would ordinarily have required. Given the claimant's personality and the distressing effects of the trial on limitation and liability on him, I consider it reasonable to award the costs of the therapy until that time. That therapy post-dated the events of 17 April 2005. The costs associated with the claimant's consultations with Dr Fry and Ms Clay are not recoverable. They related mainly to the claimant's distress on the breakdown of his first marriage. The total award of special damages and interest will be £10,579.03.

347. In the light of my findings, there will be no award for past or future loss of earnings, for handicap on the open labour market or for pension loss.

348. The total damages, inclusive of interest, are therefore £54,923.03.

349. I am well aware that the conclusions I have reached in this judgment will be disappointing to the claimant and that its contents may cause him some distress. This is particularly unfortunate and regrettable since there is no doubt that he was the victim of an insidious form of abuse involving a grave breach of trust and that he has suffered significantly as a result. As such, he is deserving of sympathy. Over recent years, he has come to believe that all the adverse events that have occurred in his life are attributable to the abuse and that belief, which I do not doubt is sincerely held, has clearly brought him a great deal of comfort.

350. Having heard all the evidence, including expert psychiatric evidence, I have come to a different conclusion from that held by the claimant. In setting out my reasons for doing so, I have had to make observations and findings about aspects of the

claimant's personality and behaviour which may appear critical of him. However, in concluding that the claimant has certain personality traits which have caused difficulties in his personal, social and employment life, I do not intend to suggest that he is to blame for that. We all have different personalities and some are more difficult to manage than others. Most of us do not have our actions and behaviour subjected to the type of detailed analysis that I have undertaken in this case. I doubt that it would be a pleasant experience for anyone. However, since the claimant has brought this claim, it has been my duty to conduct that analysis and to set out my conclusions in this judgment.