

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Claim No HQ16P03673

Teesside Combined Court  
Russell Street  
Middlesbrough TS1 2AE

Date: 7<sup>th</sup> December 2018

**Before:**

**HIS HONOUR JUDGE MARK GARGAN**

Sitting as a Judge of the High Court



**Between:**

(1) PVX  
(2) JAX  
(3) JDX  
(4) JRX  
(5) CGX (by his litigation friend CBY)

**Claimants**

- and -

**DOUGLAS MICHAEL SLADE**

**Defendant**

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**Justin Levinson** (instructed by Hugh James) **for the Claimants**

**The Defendant was a Litigant in Person**  
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## **Approved Judgment**

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

## JUDGMENT

### ***(1) Introduction***

1. This is a claim for damages for personal injuries allegedly caused by the defendant sexually abusing the claimants when they were children.
2. An anonymity order was made in favour of the claimants on 24<sup>th</sup> October 2016. As a result, they are named by initials in the title to the action. However, the initials are somewhat confusing-not least because all end in X and three out of five start with J. For the purpose of this judgment I shall refer to the claimants as C1, C2 etc.
3. The claimants' dates of birth and their age at date of trial are as follows:

3.1	C1:	3 <sup>rd</sup> August 1998:	20;
3.2	C2:	11 <sup>th</sup> November 1998:	19 (now 20);
3.3	C3:	11 <sup>th</sup> June 2000:	18;
3.4	C4:	11 <sup>th</sup> April 1999:	19;
3.5	C5:	10 <sup>th</sup> January 2004:	14.
4. The claimants gave their evidence by video link from Manila. Their evidence was given in Tagalog with the assistance of an interpreter, Ms Leighton, who was in court in London. They were represented by Mr Levinson and I am very grateful for the assistance he gave the court.
5. The Defendant is now 77 years of age, having been born on 24<sup>th</sup> February 1941. He is British but lived in the Amsic area of Angeles City for many years before returning to the UK in 2015. On his return the defendant was arrested and prosecuted for certain historic sexual offences. He was convicted of a number of such offences and, on 1<sup>st</sup> July 2016, he was sentenced to a lengthy period of imprisonment.
6. It has been established that the courts of England and Wales have jurisdiction to hear the case and no party has argued against the proposition that the case should be determined in accordance with the law of England and Wales.

### ***(2) Procedure***

7. There were a number of procedural difficulties to overcome which I should record in my judgment.
8. The starting point was determining the extent to which the defendant required and/or was entitled to assistance from the court as a litigant in person.
9. **CPR 3.1A** provides that:
  - (1) This rule applies in any proceedings where at least one party is unrepresented;
  - (2) ...
  - (3) ...
  - (4) At any hearing where the court is taking evidence this may include:
    - a. Ascertaining from an unrepresented party the matters about which the witness may be able to give evidence or on which the witness ought to be cross examined; and
    - b. Putting or causing to be put, to the witness such questions as may appear to the court to be proper.
10. The nature of the allegations was such that any challenge to the claimants' evidence would involve cross examination about the details of the sexual abuse that they claimed to have experienced. There was a real risk that any such direct cross examination by the defendant would itself be abusive (if the allegations were established).

11. I was directed to the observations of Hayden J in the family case of **PS v BP [2018] EWHC 1987**. At §34 of his judgement, Hayden J sets out the approach that should be taken by family courts in such circumstances. There are generally wider welfare considerations in the family court than are present in civil litigation. However, it is plainly sensible for there to be some form of ground rules hearing (GRH) as part of the case management directions of any civil trial where there is a risk of this problem arising. (In my view, it is probably a matter best raised at PTR where the trial judge can be directly involved in determining how the trial is to be conducted).
12. No such GRH had taken place before the trial in this case. I therefore held preliminary discussions with the parties, and particularly the defendant, about the most appropriate course to adopt. Following those discussions, it was agreed that I would put questions to the claimants on behalf of the defendant and that, at the end of my questioning of each claimant, I would ask the defendant whether he considered that I had covered all the areas that he wanted to raise in cross examination. It was further agreed that if the defendant believed that I had failed to deal with any matters that he wanted to raise he would explain the nature of the evidence that he wanted to challenge and that I would then put any relevant questions to the claimants on his behalf.
13. During the trial the defendant accepted that his case had been properly put to each claimant and did not suggest that there were any relevant issues that had not been properly explored.
14. The claimants' witness statements were in the trial bundle. The statements were in English and each had the following declaration at the end:

I certify that I, Alan Leonard Collins a solicitor of the Senior Court, have read over the contents of this document and the declaration of truth to the person signing the document who appeared to understand (a) the document and approved its contents and (b) the declaration of truth and the consequences of making a false declaration and made his mark in my presence.
15. Mr Levinson explained that the solicitor had taken the witness statement with the assistance of a Tagalog interpreter and that the comments that went into the statements were made by the claimants in Tagalog and then translated into English for the purposes of the statement.
16. The claimants' respective ability to speak English varied considerably and none would have been able to give their evidence without an interpreter. Further, the claimants' ability to speak English was not matched by their ability to read it. None of the claimants was in a position to read the English statement bearing their signature and confirm it to be accurate.
17. Paragraph 19.3 of the Chancery Guide provides that:

If a witness is not sufficiently fluent in English to give his or her evidence in English, the witness statement should be in the witness's own language and a translation provided. If a witness is not fluent in English but can make himself or herself understood in broken English but can understand written English, the statement need not be in his or or her own words provided that these matters are indicated in the statement itself. It must however be written so as to express as accurately as possible the substance of his or her evidence.

Paragraphs H1.4 and H1.5 of the Commercial Court Guide are in the same terms. There is no equivalent provision in the QB Guide.

18. CPR PD32 §23.2 contains a similar provision but states that it applies only *where the court has directed that a witness statement in a foreign language is to be filed*. However, at §32.4.5 the **White Book** provides that:

The directions in para.23.2 of Practice Direction 32 apply where the court has directed that a witness statement in a foreign language is to be filed; see also Chancery Guide para.19.13 (Vol. 2 para.1A-140). The purpose of these directions should be borne in mind by advisers of parties who are not sufficiently fluent in English and appropriate applications made accordingly (*Frenkel v Lyampert [2017] EWHC 2223 (Ch)*, 13 September 2017, unrep. (Amanda Tipples QC)).

19. Each of the claimants in this case had “broken English” of varying quality but none was able fully to understand written English. In the circumstances I did not consider that the witness statements properly complied with the CPR or that the claimants could properly adopt the statements simply by confirming them to be true.
20. I therefore directed that:
- 20.1 The claimants’ witness statements should be translated into Tagalog overnight by Ms Leighton;
  - 20.2 Ms Leighton should confirm that she had accurately translated the claimants’ English statements into Tagalog;
  - 20.3 The claimants would then be asked to confirm their Tagalog statements in evidence.
21. With the assistance of Ms Leighton the claimants were able to comply with these provisions.

### **(3) Witnesses**

22. The defendant was the only witness to give evidence for the defence.
23. I heard oral evidence from each of the claimants.
24. I also heard oral evidence on behalf of the claimants from:
- 24.1 **Paul Melton**, a Detective Sergeant with the Avon and Somerset police. DS Melton had been responsible for arresting the defendant for historic sex offences when the defendant landed at Heathrow on his return from the Philippines in 2015. His evidence was not challenged by the defendant;
  - 24.2 **Fr. Shay Cullen** an Irish Roman Catholic priest now aged 75. He has worked in the Philippines since 1969 as a member of a missionary order. In 1974 Fr Cullen founded an organisation known as PREDA (the People’s Recovery, Empowerment and Development Assistance Foundation) with a view to helping shelter, protect and assist with the recovery of victims of sex abuse. Fr Cullen has been nominated for the Nobel Peace Prize on four occasions and, in 2017, was given the Martin Buber Award and the AK Shalom Award for Human Rights by the Netherlands and Germany respectively;
  - 24.3 **Marilyn Capio-Richter**, a para-legal and social worker employed by PREDA. She provided counselling to C1-C4 and arranged for each of the claimants to undergo psychological examination. She also prepared a chronology setting out the history of the criminal proceedings brought against the defendant in the Philippines. In oral evidence she explained that the costs incurred in providing counselling/psychological help for the claimants was paid by PREDA and that the claimants had no obligation to repay the charity.
25. I had the benefit of medical reports from (i) Dr Reyes-Laureano, a Clinical Psychologist; and (ii) Dr Calma-Balderrama, an Adult and Child Forensic Psychiatrist.

26. C5's mother, **Jocelyn Garcia**, was unable to travel to Manila to give evidence by video link. Her statement was tendered as hearsay. The statement contains a slightly different declaration to that attached to the statements from the claimants themselves which stated:

I certify that I, Samuel Barker a solicitor of the Supreme Court of Victoria, have read over the contents of this document and the declaration of truth to the person signing the document who appeared to understand (a) the document and approved its contents and (b) the declaration of truth and the consequences of making a false declaration and made his mark in the presence of a translator in the Philippines who was aware of the requirements noted at (a) and (b) above.

In the circumstances I consider that I should be extremely cautious about attaching any value to the contents of this statement unless it is supported by other evidence.

#### ***(4) The central issue***

27. The defendant denies that he was involved with the claimants sexually in any way. There is no suggestion that the claimants were able to give lawful consent to any of the alleged sexual contact.
28. Therefore, the central issue is the credibility of the parties, in terms of honesty and reliability.

#### ***(5) The defendant's lies in previous proceedings***

29. I look first at the defendant.
30. In August 2014 the defendant was facing criminal charges in the Philippines based on the allegations made by C2 to C4. On 28<sup>th</sup> August 2014, the defendant swore a Counter Affidavit to rebut the charges. In paragraph 4 of that Counter Affidavit the defendant stated:

What is frustrating is that this is malicious complaint is suggesting that I am homosexual. For the information of this Honourable Office, I am a retired Lt. Commander of the British Naval Forces and have weathered the hardships of the training of being a naval officer. I can never imagine myself being gay. I am a widower when my wife died on August 12, 1999. I have three children which are all adults now. My eldest is in Mauritius working as a cartographer; my second child is working in Belgium as interpreter of cerelic (? Cyrillic) languages; and my youngest son is a veterinarian doctor in Kenya.

31. At the start of the defendant's evidence I asked him whether he wished to rely on this document as part of his defence to these proceedings. The defendant said that he did want to rely on it and that the document was true save that he had never been a naval officer, having only achieved the rank of Petty Officer.
32. However, in cross examination, the defendant accepted that there were a number of other assertions in this paragraph which are not true:
- 32.1 he has no children;
  - 32.2 he has never been married;
  - 32.3 It was his mother who died on 12<sup>th</sup> August 1999 not his wife.
33. Further, the defendant accepted that he had had homosexual partners and "gay experiences".
34. Therefore paragraph 4 of the defendant's Counter-Affidavit was wholly untrue. The defendant accepted that the passage set out above was an elaborate potted biography deliberately designed to suggest that he would not have been involved in sexual offences against children. Whilst the defendant suggested that it was written by his lawyer, it is plain that the defendant knew that it was false and was prepared to lie and swear that it was true

in order to escape conviction in the Philippines. Somewhat remarkably, the defendant had also confirmed the bulk of those assertions as true in these proceedings before going on to accept that they were not in cross examination.

35. The Counter Affidavit of 28<sup>th</sup> August 2014 was not the first time the defendant had relied on this false biography. When giving evidence in the criminal proceedings brought against him relating to C1 the defendant stated that he was:

... a widower, his wife died on August 12, 1999. All of his three (3) children are adults. His youngest son is married and works in Kenya. He has a daughter working in Belgium. His eldest child is in Mauritius.

Therefore, the defendant also knowingly lied in the criminal proceedings brought in relation to C1.

36. A further example of such lying comes in paragraph 4 of the Counter Affidavit where the defendant stated:

I never met the complainants in my entire life. I do not even know them. There was never a time that I allowed anybody, for that matter, to enter my home. Careful perusal of the affidavits of the complainants [C4] and [C2] indicated that they lived in Brgy. Annunas which is several kilometres away from my residence. This being the case, how could they possibly know me, my personality and my residence. More so, the affidavit of [C3] though he lives in Brgy. Amsic does not discount that he might be related to complainant [C2] thus strengthens that the complaints are fabricated ...

37. In evidence before me the defendant accepted that:

37.1 He had allowed C1 to enter his home whenever he wanted between 2009 and 2013 when he made a criminal complaint. The defendant accepted that C1 would be at his house every other day and would often let himself in when the defendant was not there. Therefore, although C1 was not a complainant in the case for which the Counter Affidavit was sworn, the defendant must have known that his assertion that there was never a time he had allowed anybody to enter his home was untrue;

37.2 He knew C2, C3 and C4. He said that:

- .1 he knew C2 because he used to play basketball. In the defendant's view C2 was a horrible person who was homophobic and used to shout over the wall that he was gay;
- .2 he knew C4-although under an assumed name of Mario-and that C4 came to his house on 2 or 3 occasions to have snacks after games of basketball;
- .3 he knew C3, albeit not by name, but that he played basketball and that he was not welcome at his house.

38. Further still, in his defence to the criminal charges brought by C1, the defendant asserted in December 2013 that he *saw [C1] for the first time in court*. He now accepts that C1 had been visiting his house every other day between about 2009 and early 2013.

39. On or about 1<sup>st</sup> July 2016, the defendant was convicted at Bristol Crown Court of 13 sexual offences committed between 1965 and 1980 against 5 different boys ranging in age from 10 to 15 including buggery without consent (which would now be described as a rape). At this stage, it is sufficient to note that the defendant accepted in evidence in the trial before me that (i) he gave evidence at the criminal trial during which he denied the offences and that (ii) he had committed at least some of the offences for which he had been tried. Therefore, the defendant accepted that he had lied during his criminal trial in this country.

40. I must remind myself that the fact that the defendant has lied in relation to other matters does not automatically mean that he is lying in relation to these claimants. Further, the fact that the defendant has been shown to have lied in the Filipino proceedings in relation to C1-C4 does not of itself mean that the defendant has carried out the alleged abuse as even innocent people may lie in order to bolster their defence. I must look at the evidence as a whole. However, the defendant's extensive lies significantly undermine his credibility and I can attach little weight to his evidence in the absence of some independent support.

#### ***(6) Propensity***

41. I find that the defendant was (and is) homosexual. The defendant admitted this during his interview in the English criminal proceedings: see [817].

42. I emphasise that being gay does not suggest that the defendant had a sexual interest in underage boys or that he was a paedophile. However, the defendant's sexual interest in boys between the ages of 10 and 16, the age of the claimants at the time of the alleged abuse, is demonstrated by the offences for which he was convicted before the Crown Court in Bristol.

43. Further, the defendant accepted that he had been involved in the organisation Paedophile Action Liberation Group in the 1970s. This was an organisation which campaigned to legalise sex with children. The defendant accepted that he had acted as secretary at a meeting but said that this was a "one-off" when the usual minute taker was absent and that his role was limited to campaigning for the reduction in the age of homosexual consent from 21 to 16 (its current level). He said he did not know what paedophile meant and had been appalled at some of the ideas supported by other members of the group. I am quite satisfied that the defendant knew exactly what the group's aims were and that he supported them. The idea that he believed only that the age of consent should be reduced to 16 is wholly inconsistent with the behaviour which led to his convictions.

44. In the 1990s the defendant allowed young boys to use his swimming pool. I accept that, in part, the motivation was altruistic as the defendant was providing an outlet to boys living in desperate poverty. Similarly, I accept that the defendant did, in loose terms, provide sponsorship for the Amsic School basketball team and that in part his motivation was altruistic. However, the defendant's motivation in each case was not wholly altruistic. He liked watching boys take part in sport. However, in my judgment, this was because he had a clear sexual interest in watching young boys. This is further confirmed by the photographs of naked boys the defendant had brought back with him from the Philippines which were found in his possession when he was arrested by DS Melton.

45. In my judgment the defendant had a clear propensity to commit sexual acts against boys of the type described by the complainant.

46. However, I remind myself that I should not jump to the conclusion that the defendant has abused the complainants in this case simply because he has abused young boys in the past. Propensity simply forms part of the evidence and I must consider whether each claimant has made out the allegation of abuse on balance of probability.

#### ***(7) The defendant's explanation for the complaints: PREDA and the Press***

47. The defendant has not served a document which lawyers would recognise as a statement of case. However, the defendant has sent two letters to the court in response to the claim which are at [7-8] and [9-10] and these have, together, been treated as his defence to the claim.

48. In the first letter [7-8] the defendant asserted that:

It is my intention to vigorously defend my position as this is a total fabrication by the PREDA Foundation and entirely supported by Media and Social Network, Google etc.

PREDA Foundation has over many years made me a topic of interest, rehashing a 1975 tabloid piece which was inaccurate and after police investigation was found to have no basis for any action.

This action is brought by PREDA while feeding allegations and untruths to the reporters of Mail Online. These young men did not attend local schools and lived over a mile away

49. The defendant repeated his assertions against PREDA and Father Cullen in his second letter to the court at [9-10] stating:

Fr Shay Cullen has been dogging me for 20 years. Feeding press releases and claiming time and again claims against me.

In 1995 PREDA (Cullen) accused me of molesting a 13-year-old JXV. My attorney called him as a hostile witness and the boy told the judge nothing happened, and the Father had promised money and schooling in exchange for evidence. The case collapsed but Cullen has been dogging me ever since

50. The defendant also asserted that C2-C4 had only come forward after a *media blast by Mail Online*. Further, the defendant maintained that he was incapable of achieving an erection and *certainly not* (a sufficient erection for) *an attempt at anal intercourse*: see [9].
51. At trial, the defendant asserted (correctly) that C2-C4 had only come forward after the details of his arrest in July 2014 had been broadcast on Filipino television. The defendant said that during the broadcast the police had asked for people to contact the police if they knew the defendant. It is useful to record at this stage that C2-C4 all accept that the news broadcast was the trigger for their complaints. Their evidence was that their parents had seen or heard of the broadcast and, because they knew that the boys had visited the defendant, had asked the claimants about the defendant's conduct towards them. When the boys had claimed to have been sexually abused the parents encouraged their children to go to the police. I must determine, on all the evidence, whether the broadcast prompted these claimants to bring forward genuine claims or whether the broadcast encouraged them to invent false claims against a known paedophile.
52. At trial, the defendant no longer appeared to regard the Mail Online as having played any role in prompting the claimants to come forward-although it may have publicised the complaints once they were made.
53. Further, the defendant stepped away from some of his criticism of Fr Cullen. In particular, when cross-examining him, the defendant accepted that Fr Cullen had not directly influenced the evidence of JXV, a 13-year-old boy who had made a complaint against him in 1995.
54. However, the defendant continued to assert that Fr Cullen and/or PREDA had *fermented* or *fomented* the complaints brought by the claimants generally.
55. It was not entirely clear what the defendant meant by these phrases. In cross examination the defendant accepted that Fr Cullen/PREDA had not had any contact with the claimants **before** they had made their complaints to the police. Therefore, he accepted that neither Fr Cullen or PREDA had were responsible for the complaints being made to the police. The defendant's case is (now) that the boys' parents incited them to go to the police with a view to being able to bring claims for compensation against him and that, the complaints having



been made to the police, PREDA played a role in formulating the civil claims and helping the claimants to bring them to court.

56. It is not in dispute that the PREDA Foundation has provided support to the claimants. The issue is whether that support has been in any way improper. The defendant was not prepared to accept that PREDA believed that the complaints were genuine and had acted properly to provide support for (what it believed to be) victims of abuse. In his view PREDA had acted improperly and had encouraged the complainants to embellish their accounts. However, the defendant was unable to provide any direct evidence to support his allegations of misconduct against PREDA. When asked what motive it might have for acting as he alleges, the defendant said that PREDA was trying to enhance its media profile as that would enable it to obtain increased funding.
57. Fr Cullen confirmed that he had been involved in investigating the defendant's conduct in the 1990s. Fr Cullen stated that his investigations into the defendant had taken place because he was a member of the Philippine Department of Justice's Task Force for Child Protection which had a role in investigating the actions of (alleged) foreign paedophiles in the Philippines. Therefore he had never been conducting a lone witch-hunt against the defendant.
58. Fr. Cullen stated that he/PREDA only became involved with these claimants after the news broadcast in July 2014 and after C2-C4 had made their complaints. Marlyn Capio-Richter saw the broadcast and asked Fr Cullen what he knew about the defendant. His answers prompted her to contact the prosecutor in Angeles City. Ms Capio-Richter went to Angeles City to see the prosecutor and met C2-C4 whilst at the prosecutor's office. Thereafter, the organisation provided counselling and support for the claimants.
59. Fr Cullen expressly denies coaching the children. When they gave evidence, the defendant did not suggest to either Fr Cullen or Ms Capio-Richter that they had acted improperly. Whilst, I must acknowledge the difficulty the defendant faced as a litigant in person, the position is that there is nothing to contradict Fr Cullen's denial of impropriety.
60. I found Fr Cullen to be an impressive witness. I am wholly satisfied that he was honest and doing his best to assist the court with what he knew about the relevant events. Fr. Cullen was able to explain why he had a longstanding interest in the defendant's conduct and I wholly reject any suggestion that Fr. Cullen was engaged in some form of witch-hunt against the defendant or that he would be prepared to manufacture or manipulate evidence. In any event it is significant that his involvement and that of Ms Capio-Richter came about only after the complaints had been lodged with the police.
61. Ms Capio Richter's evidence was brief. Nevertheless, I saw nothing to suggest that she would have deliberately sought improperly to manipulate the evidence of the claimants either for her own potential financial benefit or that of PREDA.
62. I reject the defendant's suggestion of impropriety on the part of Fr. Cullen, Ms Capio Richter or PREDA generally. In my judgment PREDA created a receptive environment in which vulnerable victims might work through their problems and therefore be able to explain more fully the nature of the abuse that they had undergone.
63. Given my findings, the high point of the defendant's case is that the receptive environment created by PREDA might have encouraged a dishonest complainant to embellish the details of his complaint.

**(8) The defendant's medical condition**

64. The defendant contends that he is and was unable to obtain an erection and that he was certainly unable to maintain an erection sufficient to attempt anal sex. If the defendant is right about this issue, then that would cast significant doubt on the evidence of the claimants.

65. The defendant raised this issue in his second defence letter [9] where he stated:

Furthermore, I cannot raise an erection of any sort and certainly not an attempt at anal intercourse

66. This was not the first time that the defendant had raised erectile dysfunction as a defence to the allegations made by the claimants. In §5 of his Counter Affidavit [328] the defendant stated:

I am 73 years old and a diabetic. I take insulin injections three times a day aside from oral medications for diabetes and high blood pressure. I never had sex for almost a decade now and impossible to even get an erection. Thus, it would be impossible to have sex with anybody much less the claimants.

67. Further, the defendant maintained that he suffered from erectile dysfunction when interviewed by the police in 2015 in connection with the offences for which he was convicted in Bristol Crown Court: see [817].

68. When cross-examined about his alleged erectile dysfunction the defendant explained that he could not get an erection because he had "*a something plasia and they cut a chunk of prostate out and you lose the capacity to have an erection or ejaculate*".

69. The defendant has not served any medical evidence to support his claim of erectile dysfunction. Further, in breach of paragraph 1 of the Order dated 20<sup>th</sup> June 2018, the defendant has failed to disclose copies of any medical records relevant to his medical condition and surgery.

70. There is some support for the defendant's underlying medical conditions in the sentencing remarks of HH Judge Ambrose in the criminal proceedings in Bristol as he stated [373]:

Your age is placed before me as mitigation, you are 75 years of age, and your health. You have Type II diabetes and are insulin dependent. You have hypertension and high cholesterol, both of which you receive medication for, and you are awaiting surgery for a prostate condition.

71. However, it is not clear whether the defendant's mitigation was supported by medical evidence. Further, even if the mitigation was supported by medical evidence, I do not consider it provides any real support the defendant's allegation of erectile dysfunction between 2010 and 2014. The sentencing remarks indicate that the defendant's prostate surgery took place after July 2016. If so, such surgery could not have been a relevant cause of erectile dysfunction at the time the defendant is alleged to have abused the claimants.

72. The mitigation that he was going to go for prostate surgery some time in 2016 is to be contrasted with the defendant's oral evidence before me that he underwent prostate surgery at Angeles City Hospital at a cost of PHP 100,000.

73. Therefore, whilst I must weigh the defendant's allegations of erectile dysfunction in the balance when considering the overall evidence, I must take the following into account when considering what weight to give the defendant's evidence:
- 73.1 His claim is not supported by any medical evidence and he has not produced any medical records to support his claim;
  - 73.2 Whilst the claimant said in oral evidence that the cause of his erectile dysfunction was prostate surgery he did not identify that as a potential cause of his erectile dysfunction when he made his Counter Affidavit;
  - 73.3 Although the claimant said that he had undergone prostate surgery in the Philippines that was not mentioned during his mitigation in Bristol in 2016 where his counsel was mitigating on the basis that he was going to undergo such surgery in the near future.

***(9) The defendant's explanation: Capt. Bob aka Uncle Bob***

74. I then turn to another explanation that the defendant put forward as to why the claimants had made false complaints about him.

75. In the criminal proceedings in the Philippines brought in relation to C1, the defendant argued that: [274]:

The accusations against him in the instant criminal cases arose from his business deal with a foreigner involving his beach property in Zamabales. The accused sold his right to lease to a foreigner known to him as Uncle Bob for PHP500,000.00. The foreigner did not protect his investment and a legal problem cropped up. The foreigner lost his property, blamed the accused and demanded the PHP500,000.00 payment back. The accused did not give the money back. When the accused was released on bail in early May, the foreigner send somebody to approach him and asked that the PHP500,000.00 be returned after which his problem will be solved. However, the accused did not agree to return the PHP500,000.00.

76. The Defendant was unable to explain how or when Capt. Bob contacted C1, either in the Philippine proceedings or at the trial before me. At the trial in the Philippines the defendant said that:

he does not know if they (C1 and his mother) are connected with the Capt. Bob but he is certain that he (Capt. Bob) is behind the incident.

77. The Defendant did not seek to blame Uncle/Capt. Bob in his Counter-Affidavit in relation to the complaints raised by C2-C4. However, at [353] the following comment is made in (what appears to be) a Skeleton Argument from the defendant's lawyer in relation to the charges brought in relation to the complaints from C2-C4:

The instant complaint, again, was engineered by persons who are interested in his food service business and in their desperate move to pin him down after failing in the successive charges filed against him. It is a glaring sign of the frustration on their part after the dismissal of previous cases by the Courts. He received veiled threats by men in uniform that successive charges will continue if he will not leave Angeles City for good.

78. In evidence before me the defendant stated that Capt. Bob/Uncle Bob:

- 78.1 was the person interested in his business;
- 78.2 had played a part in the police undertaking a search of his premises for child pornography (although such pornography was found it was held inadmissible as the warrant was improperly obtained); and
- 78.3 had then played some part in C2-C4 coming forward with their complaints.

The defendant was unable to explain how or when Uncle Bob contacted C2-C4.

79. Whilst I must consider the defendant's evidence on this issue as part of the overall picture and balance it against the claimant's evidence there are a number of obvious difficulties for the defendant with this explanation:
- 79.1 There is no direct evidence to support any alleged contact between Uncle Bob and the relevant claimants;
  - 79.2 There is no documentary evidence to support the alleged dealings between the defendant and Uncle Bob;
  - 79.3 It is surprising that Uncle Bob should be referred to as both the purchaser of a property from the defendant (as part of the defence to C1's allegations) and a business rival (as part of the defence to the allegations from C2-C4);
  - 79.4 It is surprising that the defendant does not know-or at least did not give the proper name of the man to whom he had sold a property and who was a business competitor;
  - 79.5 It is surprising that Uncle Bob's role did not feature in the letters of defence;
  - 79.6 It is remarkable that (if the defendant is correct) Uncle Bob encouraged the claimants to make false accusations of sexual abuse against a man whom he cannot have known to have a sexual interest in young boys but who was subsequently convicted of such offences.

#### ***(10) Approaching the Claimants' evidence: General factors***

80. Mr Levinson argues that the claimants were vulnerable by reason of their age, their limited education and poverty.
81. At the time of the alleged abuse the claimants were:
- 81.1 C1: between 10/11 and 15;
  - 81.2 C2: about 15;
  - 81.3 C3: 14-15;
  - 81.4 C4: 14-15;
  - 81.5 C5: 10.
82. It was not easy to determine exactly when the claimants left school. The Filipino school year runs from June to March rather than September to July. Further, the school years or "Grades" appear to follow an American rather than English system and it was not entirely clear whether a pupil moved up a grade simply by being a year older or whether he had to meet certain educational standards in order to do so. However, I am satisfied that C2 left school at 12 and C3 at 13. C5, who is only 14, is still at school. C1 continued in education until 18 reaching Grade 10. C4 was at school until 18 reaching Grade 12 and may have gone on to some form of further education. Therefore, by English standards, C1 and C4 have had a full education whilst C2 and C3 have had a very limited education. It is not yet clear how C5's education will measure up against English standards.
83. C5's family, made up of 2 parents and 4 children, were living with his father's relatives. The parents were sleeping in an extension made of scrap wood covered with plywood and tarpaulins. The children were sleeping in a 6-foot x 6-foot room with their maternal grandmother. C2 was living with his family in a house with a single bedroom, living room and kitchen. As the family comprised 2 adults and 8 children the accommodation must have been very cramped. There is no clear evidence about the other claimants' homes.
84. Three of the claimants are in work. C1 was earning a daily rate in PHP 450; C3 was earning PHP 215 per day; and C2 was earning about PHP 200 per day (PHP 4,000 per month divided by 20 working days). This probably reflects their respective academic achievements. PHP

200 is just under £3. Therefore, these claimants are now earning somewhere between £3 to £7 per day for full time work.

85. There is no doubt that such wages fall well below what would be expected in the UK. Whilst it is difficult to assess the relative poverty of the claimants and their families to other Filipinos, on balance of probability, I am satisfied that all the claimants and their families were very short of money.
86. Further, I consider that there is good evidence of a significant economic imbalance between the claimants and the defendant. It is agreed that from time to time the defendant would give the young boys who attended his house monetary presents or tips. The sums involved were as much as 150FPs-not that much less than a 17 or 18-year-old like C2 or C3 might be expected to earn in a day. In my judgment such sums would have been regarded as significant by each of the claimants during the material periods when the abuse is alleged to have taken place.
87. Therefore, I consider that all the claimants were vulnerable by reason of age and their financial circumstances. I accept that C2 and C3 had limited educations but C5 was progressing through school appropriately for his age and C1 and C4 appear to have done well academically.
88. Mr Levinson argues that this made the young claimants vulnerable to sexual abuse in return for payments that were modest by UK standards. There is considerable force in such an argument. However, the defendant counters that by arguing that the claimants' youth and poverty would have made it attractive to them to accept the assistance offered by PREDA and for them to lie in order to obtain UK damages at a level well beyond their financial horizons in the Philippines.
89. In my judgment the background factors remain simply that, background. Ultimately, I must decide whether I accept the evidence of the defendant or the claimants and I now turn to look at the claimants' evidence.

**(11) C1: aka PVX**

90. In assessing C1's credibility I shall look at the accounts he has given in chronological order.
91. C1 complained to the police in early 2013. The complaint was made in Tagalog and is recorded in a sworn statement at [201]. There is a translation at [202] which was prepared for the purposes of the Filipino criminal proceedings which (surprisingly) were conducted in English. C1 explained that he had gone to police headquarters to report the defendant. The statement continued:

Q: Why do you want to report him?

A: Because he made me touch his genitals then gave me money.

Q: When did the incident happen?

A: Many times already, then it happened again yesterday, February 23 2013 at around 2:00pm

....

Q: Can you tell us how he does this?

A: First, he would call me then ask me to enter his house. He would feed me, and then he would ask me to take a bath and watch TV. Then he would take his penis out and make me touch it. After that, he would give me money and tell me to go home.

Q: Do you know where Douglas is now?  
A: Yes, he is in jail now because he was arrested by the people from the CIDG.

92. One peculiar feature of the statement is that it is headed as though it was made on **30<sup>th</sup> January 2013** but describes events which are alleged to have taken place on **23 February 2013**. This apparent inconsistency played an important part in the defendant's acquittal-not least because, when asked, C1 asserted that the statement had been made on **30<sup>th</sup> January**.

93. I do not find this point of any real assistance to the defendant. The body of the document refers to *yesterday 23<sup>rd</sup> February*. Further, the document states that the defendant was in custody, having been arrested. As the arrest did not take place until 22<sup>nd</sup> (or 23<sup>rd</sup>) February the document must have been completed after that date. In my judgment the date in the heading has been entered in error. This is the only credible explanation for the document containing a reference to later events. In my judgment this is the only sensible inference to be drawn from the documentary evidence. Further, it is significant that, in evidence before me, the defendant accepted that C1 was present when the police came to arrest him-although he stated that C1 had come with the police rather than being found on the premises.

94. The supporting statement from his mother states that C1 had told her that he was:

Molested by the foreigner many times by touching his genitals, after which he would give money to my son

95. I then turn to the evidence that C1 gave during the trial in the Philippines. C1 described being asked to have a bath and then to hold the defendant's penis. He said that he was rewarded with chocolate and 120 pesos. This was repeated *many times*. He was then asked whether the defendant had told him to do anything else and replied: *Sometimes he made me swallow his penis*. C1 was asked how he felt *in those instances when the accused let you swallow his penis*. He replied:

A: I was afraid.

Q: Why?

A: Because he might do something wrong against me.

Q: Did he tell you something which made you frightened?

A: None.

Q: What made you think that the accused might do harm against you?

A: Because he might bring me to his bed.

C1 went on to say that this had occurred on many occasions and that he had been given 150 pesos each time. When asked why he had allowed the accused to abuse him so many times he answered that it was *because of money*.

96. Cross examination was surprisingly brief. It was limited to confirming the date of the initial sworn statement as 30<sup>th</sup> January and confirming that C1 was not shown in any of the pornographic photographs/videos of young boys found at the defendant's house. The defendant's attorney then sought to challenge the evidence from the police officers that C1 was at the house when they raided it on 22<sup>nd</sup>/23<sup>rd</sup> February. At least one officer confirmed

that C1 had been present in the Home Theatre Room of the property when they entered the property: see [234].

97. The criminal case was dismissed with 6 separate reasons being given upon which the defendant relies in this trial:
  - 97.1 C1 was uncertain during cross examination and gave few details of the (allegedly) prolonged abuse and the court did not believe that C1 was afraid of the defendant;
  - 97.2 There was a confusion about dates, particularly the date of the last incident, compounded by C1's assertion in evidence that he was sure that he had made his original complaint on 30<sup>th</sup> January;
  - 97.3 The police officer SPO1 delos Reyos had said that the warrant had been executed on 22 February whilst the information stated this had occurred on the 23<sup>rd</sup> February;
  - 97.4 The statements from the police officers did not confirm that C1 had been found in the house as might have been expected;
  - 97.5 Officer Manuel did not mention in evidence that C1 had been present;
  - 97.6 It was the common experience of the court that an accused would not have let the officers in if there was a minor in the house.
  
98. I have already indicated that I do not consider that the confusion about the date of C1's sworn statement affects the weight of his evidence. This was not an error by him and, in my judgment, is the result of a mistake by one of the officers dealing with the investigation when typing the date at the top of the page. Further, I find that C1 was at the property at the time the warrant was executed. This is consistent with C1's account in the sworn statement. Further, it is consistent with the evidence of the officer who gave oral evidence at the hearing and, more important, it is consistent with the defendant's own account that C1 was there when the warrant was executed, albeit that he said that C1 had arrived with the officers rather than being there all along. I do not regard the fact that the defendant opened the doors to the officers who were intending to execute a search warrant as carrying any probative weight.
  
99. Therefore, I do not consider it appropriate to attach any significance to five of the six factors which led the Filipino court to conclude that the allegation was not proved beyond reasonable doubt.
  
100. I must pay due regard to the Filipino court's findings about the way in which the claimant gave his evidence and its finding that it did not believe that C1 was afraid of the defendant. However, in doing so, I must bear in mind that there was limited cross examination of C1 about the details of the abuse which he underwent and that he was only 14 at the time.
  
101. C1 agreed that he had told his solicitors that the allegations in the Particulars of Claim were true. However, the Particulars of Claim alleged only that C1 and the defendant engaged in mutual touching of the genitals. They did not mention oral sex either by C1 on the defendant or the other way around. Further the allegations were said to have taken place in about 2013 whilst C1 now asserts (as he did in criminal proceedings in the Philippines) that the abuse started in 2009 and continued until 2013.
  
102. C1 was sent to see a Certified Assessment Psychologist who produced a report dated 28<sup>th</sup> December 2016. The report confirms that C1 was suffering from post-traumatic stress disorder as a result of sexual abuse. However, the report does not detail the allegations made. Therefore, whilst it supports C1's case that he was abused it does not help with the question of consistency.

103. The report from Dr Calma-Balderamma dated 11<sup>th</sup> December 2017 confirms that C1 is suffering from signs and symptoms of PTSD as a result of the alleged abuse. It summarises C1's account of the abuse as follows at [78]:

The alleged abuse happened once or twice a week for more than 2 years. After the alleged abuse he was given money and food by Douglas Slade. [C1] added that he was told to hold the penis and was also forced to do oral sex with Douglas Slade.

104. A more detailed description is set out in the report at [79]. C1 explained what would now be recognised as a gradual grooming process in which the defendant invited him to the house, allowed him to watch television and provided him with food and some money. After about 4 months the defendant began kissing him and encouraged C1 to touch his penis. The rewards he received increased. He was asked to kiss the defendant, which he did not like but was "*forced*" to carry out because of the money he was receiving. There were also times that he was *forced* to put Slade's penis in his mouth which was what *usually happened when he was called by Slade to his house*, although he was on occasions he was *forced* to put his own penis in Slade's mouth.

105. The account is significant in that it contains the first report by C1 of putting his penis in the defendant's mouth. It also states that the oral sex and kissing were forced. However, the term "*forced*" must be viewed in context because the report states that *he was forced to do this (kissing) because of the money he was receiving*. In my judgment that is consistent with C1 feeling compelled to undertake the tasks which he found distasteful so he could continue to get money from the defendant rather than any suggestion that the defendant was using force or threatening to harm C1.

106. C1's witness statement repeats the gradual grooming process, with no sexual element to the initial visits and the defendant gradually starting to engage in mutual sexual touching with increasing levels of payment in terms of cash and gifts which ultimately amounted to as much as PHP 500 or PHP 1000. C1 said that there would be a sexual encounter *most weeks* which usually involved the defendant performing a sexual act on C1. However, on about 5 occasions he could remember that he had performed oral sex on the defendant and on 3 of these occasions the defendant ejaculated. C1 described the defendant masturbating to ejaculation. C1 said that he eventually told his mother about what was going on because the defendant wanted him to spend a night with him. As a result, C1's mother went to the police.

107. C1 confirmed his witness statement in evidence. When asked why his account was more detailed now than when he made the sworn statement to the Filipino police C1 said that he had been too shy to tell them or his mother about the oral sex. He also explained that he had been suffering from trauma which I understood as an indication that he did not wish to describe those parts of the abuse which he plainly found more unpleasant. He accepted that he had told the Filipino court that he had performed oral sex on the defendant but said that he had not told the court about the defendant performing oral sex on him because:

There is so many people in court that I am shy to tell them. It is open court and a lot of people watching. I do not want people to laugh at me.

108. C1 was asked about the confusion over dates. He could not explain why the statement appeared to be dated 30<sup>th</sup> January but referred to events of 23<sup>rd</sup> February.

109. C1 said that he had told his mother about the abuse some time before the raid on the defendant's house. He was not sure when she had reported the matter to the police but accepted that she had told him not to go back to the defendant's house. C1 said that he had



returned to the house on the day of the raid and explained that he had done so despite his mother telling him not to because the defendant had said:

“to go and see him because he had some money to give him so he went”

110. C1 was asked whether he agreed to the (alleged) abuse because he was frightened of the defendant or because of the money that he was offered, and he was quite clear that he kept going back to the defendant’s house because the defendant kept giving him things and money.
111. Finally, C1 corrected the assertion in his witness statement that the defendant had ejaculated. He said that the defendant had not ejaculated properly but a little bit of fluid had emerged or, as it was translated, it was “*a little bit wet not a proper one*”.
112. He denied that he had colluded with the other claimants or that he had had any contact with PREDA before making his complaint.
113. I must then balance C1’s evidence against the defendant’s evidence denying impropriety and the other matters which the defendant raises.
114. It is more difficult to form a reliable impression of a witness when they give evidence over video link rather than in court. Nevertheless, C1 struck me as a straightforward young man and there was nothing about his presentation that suggested to me that he was lying.
115. The allegation that, between the ages of about 10 to 14, C1 was making repeated visits to the defendant’s home is not in dispute with the defendant accepting that C1 was allowed to visit the house whether he was in or not. Equally it is not in dispute that the defendant was giving C1 “rewards” for visiting in the form of chocolate, presents and money.
116. There are some inconsistencies in C1’s account as he has gradually described more extensive abuse. However, I do not regard that as undermining his essential credibility. In particular:
  - 116.1 The sworn statement headed **30<sup>th</sup> January 2013** is remarkably brief. It is wholly different in kind from the type of statement one would expect to be prepared by a police force in this country when a 14-year-old attended complaining of sex abuse. There is no evidence to suggest that the officers taking the statement tried to explore the nature of the alleged abuse more thoroughly;
  - 116.2 Whilst the initial statement only mentioned inappropriate (mutual) touching C1 gave evidence about performing oral sex on the defendant at the trial in the Philippines in 2013;
  - 116.3 There was little or no attempt to elicit any detail behind his allegations at the Filipino trial. Therefore, in my judgment, it is not surprising that his allegations are incomplete;
  - 116.4 C1 was only 14 when he made the complaint and gave evidence. I am satisfied that it cannot have been easy for him to discuss these events in public;
  - 116.5 Whilst the allegations in the Particulars of Claim were limited to inappropriate mutual touching, C1 had complained of oral sex some 3 years earlier. In my judgment therefore, the failure to include that allegation in the Particulars is more likely to be a mistake on the part of the lawyers than a failure on the part of the claimant fully to explain the details of the abuse he had suffered.

117. On the other hand, the defendant has demonstrably lied about his conduct for the reasons identified earlier in this judgment. Further, the overall position must be viewed in the light of the defendant's sexual interest in young boys.
118. I wholly reject the suggestion that C1 has made his complaint because he was put up to it by Capt./Uncle Bob. There is no evidence that PREDA was involved with this claimant until after the complaints by C2-C4 and, in any event, it was not involved before C1 made his complaint to the police.
119. In all the circumstances I have no hesitation in preferring the evidence of C1. In doing so, I reject the defendant's evidence that he was unable to achieve an erection at the material times. I find that the defendant abused C1 as set out in C1's witness statement and confirmed in oral evidence before me.

**(12) C5: CGX**

120. I turn next to the evidence of C5 as he does not form part of the group of claimants who came forward after the televised appeal for information about the defendant.
121. In giving his oral evidence C5 claimed that he went to the Defendant's house 4 times in October/November 2014 and that he was sexually abused by the Defendant on 3 of those 4 visits.
122. C5 stated that he was invited to go to the Defendant's house by C3 and another boy known as XXX (also known as YYY) both of whom were about 3 or 4 years older than C5. The Defendant spoke to C3 who told C5 that the defendant wanted him to cut the grass. C5 did as he was asked remaining outside the house while C3 and YYY went inside. The defendant gave C5 some chocolate and a soft drink and he also paid him. Nothing inappropriate occurred on this first visit.
123. C5 stated that he agreed to go to the defendant's house again on or about 10<sup>th</sup> October with C3 and YYY. This time he went in to the house. C5 and C3 sat on the sofa while YYY left and went to the kitchen. The defendant took off his shirt and shorts and asked C3 and C5 to take their clothes off which they did. The defendant sat between the boys, played with their penises and played with his own penis, masturbating to ejaculation. The defendant then paid the boys.
124. C5 stated that he went back to the defendant's house for the third time on 30<sup>th</sup> October with YYY. They sat on the sofa and watched cartoons on television. The defendant took his shorts off and was partly naked. The defendant then asked the boys "*to go naked*". The boys took their clothes off and, when they sat down, the defendant played with their penises and masturbated himself to ejaculation-as C5 put it "*something has come out of his penis*". Again, he paid the boys.
125. C5 stated that he went back to the house for the fourth time on 5<sup>th</sup> November, again with C3. The boys were asked to sit on the sofa and again they took their clothes off and the defendant played with their penises.
126. C5 did not go back to the defendant's house again. However, on the day of the school Christmas party, the 19<sup>th</sup> December, C5 states that the defendant saw him and asked him to go to his flat. C5 did not want to go but the defendant took his hand and tried to pull him along with him. C5 resisted and bit the defendant's hand. C5 then went home to his mother. He then explained to his mother what had happened, and the matter was reported to the police.

127. However, near to the conclusion of his evidence C5 said that he had been mistaken and that it was C2 not C3 who had been with him- C2 being C3's cousin and having the same surname).

128. I found C5 to be a compelling witness. He was quietly spoken and reserved but was firm in his answers. Whilst he did not break down during his evidence he plainly found giving evidence upsetting. The impression he made was of an honest witness doing his best to explain distressing events which had occurred 4 years ago-a long time in the life of a 14-year-old boy.

129. However, it is not sufficient to consider only the impression C5 made when giving evidence, I must also see whether there are any objective factors which support or undermine his evidence.

130. I start by looking at the contemporaneous complaints made by C5 and his mother to the police:

130.1 C5's mother complained to the police on 6<sup>th</sup> January 2015 [343-346]. Her affidavit explained that she had sought advice from her district leader Danilo Carolina before making her complaint. She states:

Before lunchtime last December 19, 2014, [C5] came home from a Christmas party. He approached me and told me that he was scared that Douglas might get mad at him for biting his hand. I asked him why he did that, and he said that he usually goes to Douglas's house and there, Douglas plays with his penis and lets him play with his too. I was surprised with what I have heard so I asked him many questions until he admitted that the PHP 100.00 that he has been giving me came from Douglas.

130.2 C5's own complaint was entirely consistent about the events of 19<sup>th</sup> December, stating:

On December 19, 2014 it was our Christmas party at school ... someone suddenly held my hand. It was Douglas. He grabbed my hand, and he was smiling at me. I suddenly got scared so I bit his hand and ran away fast ... When I arrived home, I told my mother about it and shared to her the things that Douglas did to me in the past.

130.3 C5's complaint described the abuse happening on 3 occasions, consistent with his current account. However, in his complaint he stated that all 3 events were in November and within a few days of each other rather than spread out between 10<sup>th</sup> October and 5<sup>th</sup> November as he said in evidence.

130.4 In his complaint, C5 described being asked to play with the defendant's penis on each of the 3 occasions. It is not clear whether he was asserting that on the last occasion the defendant's hand had touched his penis or his hand. The relevant passage states:

... we held Douglas' penis and played with it while one of his hands touched mine.

130.5 There was no mention of the defendant ejaculating;

130.6 C5 said he was given PHP 250 on the first occasion that the abuse took place, and PHP150 on each of the other occasions;

130.7 C5 stated that YYY was present on 2 of the 3 occasions that the abuse occurred and that C3 was present on the first occasion. In oral evidence C5 also said that Benton

was present on 2 of the 3 occasions that the abuse occurred but in evidence it was the first and second occasions rather than the second and third;

- 130.8 The details of the abuse were somewhat brief in the original complaint but not inconsistent with the evidence given in court.
131. I then turn to the Particulars of Claim which were consistent with the account given to the Filipino police alleging that the defendant touched his penis and that, on one occasion, the defendant touched C5's penis.
132. In his witness statement C5 identified 3 visits to the property not 4, with abuse occurring on only 2 visits. Further, he suggested that on 1 visit he was accompanied by C2 and on the other by C3. In summary he stated:
- 132.1 10<sup>th</sup> October: a visit with C3 and Rogelio Flores (aka YYY) during which he remained outside and no abuse occurred;
- 132.2 30<sup>th</sup> October: a visit with C3 and YYY: the defendant touched and played with C5's penis and the defendant masturbated to ejaculation. He received PHP 250;
- 132.3 5<sup>th</sup> November: a visit with C2: the defendant played with C5's penis and masturbated himself to ejaculation.
133. As C5 has alleged that he was present with C2 (and/or C3) it is important to consider their evidence on this issue.
134. I look first at C2's evidence on this issue. As the incidents with C5 occurred after C2 made his complaint to the police it could not have been mentioned at that point. The matter was not raised in the Particulars of Claim, the medical evidence or in C2's witness statement. However, in evidence before me C2 stated that he had gone to the defendant's house with C5 on at least one occasion and that the defendant had done *sexual things* to C5. When asked why he had gone to the defendant's house after he had raised the complaint to the police C2 answered that he went "*because of the money*".
135. C3 was also asked whether he knew C5 and agreed that he had seen C5 at the defendant's house although he believed that he had seen him in April 2014-before C2-C4 made their complaints to the police.
136. The defendant accepted that he knew C5 but suggested that he had only been to his house to collect bottles and other items upon which a deposit would be paid when they were returned to shops for recycling. He said that C5 had a small cart known as a "careton" and was known for collecting items in this way. C5 denied having a careton but accepted that he had from time to time collected items in order to recover the deposit.
137. Again, I must balance the evidence from the claimant against that from the defendant and all the other evidence in the case to decide whether on balance C5 has been sexually assaulted as he alleges.
138. I find that C5 has become confused over the passage of time as to which cousin was with him when he went to the defendant's property. There is some uncertainty over which occasions YYY was present. Save for that, C5's oral evidence is remarkably consistent with this original complaint.
139. I do not think it surprising that a 14-year-old boy should become confused over those issues given that it is now 4 years ago. I find that, on balance of probability, C2 and C3 each accompanied C5 on one occasion and that YYY was present on 2 occasions.

140. I reject the defendant's evidence that C5 had only been to his house to collect items so that he could reclaim the deposit. I also reject the defendant's suggestion that C5 is making this up in return for compensation. Amongst all its other difficulties the defendant's case can offer no real explanation as to why this 10-year-old boy made a detailed complaint to the police in January 2015 which is consistent with his oral evidence.
141. I am satisfied that, on balance of probability, C5 was subject to sexual abuse by the defendant on more than one occasion and that the matter came to light when the defendant tried to persuade him to go to his house on the day of the Christmas party and that C5 bit his hand and ran off.
142. Whilst the witness statement refers to only 2 episodes of abuse I find that there were 3 such episodes as set out in the initial contemporaneous complaint and as C5 explained in oral evidence before me. I do not find it surprising that there is an element of inconsistency between these accounts and the witness statement given C5's age and, in my judgement, it is more likely that the contemporaneous account (confirmed in oral evidence) is correct than that C5 has wholly invented these allegations as suggested by the defendant.
143. On balance I find that the Defendant abused C5 on 3 occasions and that the abuse involved the defendant "playing with" C5's penis and then masturbating himself. As with C1's claim, I reject the defendant's assertion that he was not able to achieve an erection.
144. In reaching this conclusion I found C2's evidence persuasive and a demonstration of the economic incentive for the boys to return to the defendant's house and allow him to subject them to sexual abuse given the money that was on offer.

***(13) C4: JRX***

145. I turn next to C4's claim, leaving the claims of the cousins, C2 and C3, to be dealt with together.
146. In his complaint sworn in July 2014 C4 said that he had started going to the defendant's house in November 2013 and had continued to go there once a week until May 2014 but had not returned once the school year started in June.
147. The complaint stated:

At first he told me he will provide for my schooling. Then, he would always give me chocolates and money worth PHP 150.00 in exchange of him fondling my penis and caressing my scrotum and legs. It reached a point where he made me stick my penis into his butt. Sometimes, he would insert my penis into his mouth and suck it until something came out of it. That was what he usually did to me whenever I go to his house. But sometimes, we would just watch pornographic shows. When he was done doing what he wanted, he would give us money and make us go home along with the other kids. Sometimes, he would make me enter his room with another kid and he would do everything he wanted there. I didn't tell my parents about it because I was scared that they wouldn't let me leave the house anymore.

148. The Particulars of Claim assert that the defendant:
- 148.1 Touched and rubbed C4's penis;
  - 148.2 Performed fellatio on C4;
  - 148.3 Subjected C4 to anal sexual intercourse (rape).
149. C4's statement asserts that he lived about 2 minutes from the defendant's home which he would pass on his way to and from school. The defendant used to ask him to come in and watch television. Initially the defendant promised to support C4's schooling and gave him

money, food and clothes. The sums offered were significant and included an offer to purchase a mountain bike which C4 declined because he realised that his parents would be suspicious about how he could afford it. Thereafter, C4 asserts that the defendant persuaded him to allow the defendant to perform oral sex on him in return for PHP 400 (equivalent to what C1 now earns for a full day's work). After he had performed oral sex on C4 the defendant then invited him to touch his penis and masturbate him. On some but not all the occasions that C4 masturbated him the defendant ejaculated.

150. The statement asserts that the defendant invited C4 to perform anal sex on him and that C4 refused. In other words, far from alleging that the defendant had raped him as set out in the Particulars of Claim C4 alleged that the defendant had invited C4 to penetrate him. C4 contends that the defendant repeated the request for anal sex on a number of occasions which frightened him, and he started avoiding the property.
151. The statement referred to being present at the defendant's house with other boys but mentioned only C3 by name. C4 stated that he and C3 had a bath together but refused to masturbate the defendant. C4 said that he and C3 decided that they would not return to the defendant's house after that.
152. The medical report from Dr Calma Balderrama contains a relatively brief account of the abuse with C4 stating that it occurred on about 15 occasions. It is potentially significant that the report records C4 as saying that he was "*forced*" to have sex with the defendant.
153. In evidence before me C4 explained that he had passed the defendant's house regularly and that the defendant would call him in. He estimated that he had been to the house about 4 times a month. Initially he had been given things he needed for school, money and chocolates. However, on about the third visit the defendant started touching him when they were watching television, and this developed into the defendant masturbating his penis and performing oral sex on C4. C4 repeated his account that, once the abuse had started the defendant had offered him money to buy a bicycle but that C4 did not feel that he could do this because his parents would be suspicious.
154. C4 was asked to explain the apparent inconsistencies in his accounts about having anal sex with the defendant. C4 stated that the discussions about anal sex had taken place when he and the defendant were watching a pornographic film on the computer which featured anal sex. C4's evidence was that the defendant wanted "*me to give him anal sex because we were watching on the computer*". C4 clearly stated that he had put his penis into the "*defendant's bottom*". Therefore, his oral evidence matched his initial complaint that he had penetrated the defendant.
155. C4 was asked about the allegation made in the Particulars of Claim that the defendant had penetrated him. C4 said that the defendant had wanted to penetrate him and that he had held his bottom but that he "*did not try to put his penis in my bottom*".
156. C4 agreed that he knew the other complainants apart from C5 who he had met only when they went to Manila to give evidence over the video link. However, said that he did not know that C2 and C3 were making complaints. He had been watching the news on television with his father when the programme about the defendant came on. His father knew that he had been visiting the defendant and asked him whether anything had happened to him. Although he was scared what his father would say he explained what had happened and his father had taken him to the police to make the complaint. C4 said he had not met anyone from PREDA until after the allegation and that it had begun to help him about 1 year ago.

157. The defendant's evidence about this claimant is a little confused. In cross examination the defendant said that C2 and C3 had not been welcome at his house. However, he accepted that C4 had been to his house on 2 or 3 occasions. In making that admission the defendant said that he had known C4 as "Mario". The defendant denied any abuse.
158. I must consider the various accounts given by the claimant, the evidence from the defendant and all the other evidence in the case to decide whether, on balance of probability, C4 has been sexually assaulted as he alleges.
159. In his witness statement C3 stated that he had been known as Mario because C4 had warned him to use an alias. Therefore, I think it unlikely that the defendant knew this claimant as Mario and think it more likely that he has made a mistake about the use of an alias than that C3 has done so.
160. The chief difficulty for C4 is the inconsistent accounts he has given in relation to anal sex. In particular (i) the Particulars of Claim assert that he was raped by the defendant and (ii) the witness statement asserts that C4 refused to penetrate the defendant when he asserts that penetration did take place in the initial complaint and in oral evidence.
161. The allegation of rape does not appear in any other account that C4 has given of the alleged abuse. Further, other than the word "forced" in the medical report there is no suggestion that the defendant used his physical power to abuse C4. I regard the term "forced" as being used by C4 to reflect that he agreed to the abuse only because he wanted the money that was being offered. I find that it is more likely that the allegation of rape in the Particulars of Claim was a misunderstanding on the part of the lawyers drafting the document than an indication that C4 had made up and then retracted such an allegation.
162. C4 has not given an explanation as to why the witness statement draws back from the alleging that he penetrated the defendant. However, in my judgment it is significant that C4 maintained that he had placed his penis in the defendant's bottom/butt in both his original complaint and his oral evidence.
163. There is no evidence that PREDA was involved with C4 when he made his first complaint to the police and I reject any suggestion that C4 has deliberately exaggerated his account thereafter (whether encouraged to do so by PREDA or by himself). Further, I do not accept that these allegations were made up in an attempt to get compensation either at the instigation of C4 or his family.
164. Having seen C4 give his evidence and having considered the evidence as a whole I am satisfied that it is more likely that there was some confusion in taking C4's witness statement than that the claimant has invented his allegations of abuse against this defendant.
165. I find that, on balance of probabilities, C4 was abused as he alleges and that the news item on the defendant was the trigger for a genuine complaint and not an opportunity for C4 to make a false complaint in order to obtain compensation.

***(14) C2: JAZ and C3: JDX***

166. Given the close connection between the evidence of C2 and C3 I shall look at their evidence together-although each claimant must prove his case on balance of probabilities.

**(14)(a) C2's evidence.**

167. In his complaint sworn in July 2014, C2 said that he had started going to the defendant's house around 20<sup>th</sup> April 2014 and his visits came to an end when school started again in June 2014. He said that he had been invited to go along by his cousin C3 and that

In my desire to have money despite knowing what I have to give in return, I still went with him

168. The complaint stated:

On my first time to enter Douglas's house, he immediately chose me because I was new. But I was with my cousin [C3]. We were on a sofa with the TV in front. Douglas was between me and [C3], and his hands were squeezing and fondling our scrotum and penis. In the following days, there came a point when Douglas was already "sucking" my penis, and he instructed me to stick my penis into his butt and he said, "You like to fuck". In exchange for these acts, he would give us chocolate and money worth around PHP 150, then would tell us to go home. I went to his house for almost five times and he did the same thing to me repeatedly.

169. The Particulars of Claim assert that the defendant:

- 169.1 Touched and rubbed C2's genitalia;
- 169.2 Performed fellatio on C2;
- 169.3 Subjected C2 to anal rape.

170. I then turn to C2's statement and deal first with the allegations of abuse which are much more detailed than the allegations in the initial complaint. C2 describes the first sexual encounter as occurring on the second occasion that he went to the defendant's house. He states that he and C3 were told to undress and lie down on the bed and that he was scared but needed the money to pay for computer games. The defendant then performed oral sex on both C2 and C3 and gave them chocolates and PHP 150 each. C2 states that he returned with C3 on other occasions because they wanted money although they knew that *we would have to have sex with him*. On these occasions the defendant again performed "blow jobs" and played with his testicles and penis.

171. C2 states that anal sex occurred on one occasion and confirms that the details in his original complaint were correct. He embellished the account in his statement by stating that he had poured alcohol on the defendant's backside which smelt and was covered with rashes. This annoyed the defendant who told them not to return. C2 contends that he developed a sexually transmitted infection after this.

172. In his witness statement C2 says that after the news broadcast C3's father (his uncle) had come to his house and told his father what had happened to C3. C2's father had then asked whether anything similar had happened to him because he knew that C2 had visited the defendant. His father was very angry when C2 said that it had and insisted that he go to the police.

173. In addition to describing the sexual abuse he suffered at the hands of the defendant, C2's statement alleges that, on the first occasion they visited the defendant's house (on which no abuse occurred), he and C3 were doing some cleaning and found two guns "*one of which looked like a pistol and the other was much bigger*" in a drawer.

174. As with C4, the medical report from Dr Calma Balderrama contains a relatively brief account of the abuse. However, there are three assertions which are inconsistent with C2's witness statement. The medical report records C2 as saying that:

- 174.1 it all started when he was invited to go the house with C4 not C3;



- 174.2 he was not aware about the possibility that he would be subject to sexual abuse until the defendant did oral sex on him;
- 174.3 he had no option but to comply with what the defendant wanted because he was frightened. However, that was later qualified in the report to say that food and money were used to gain C2's trust and that he then let the defendant do whatever he wanted. Thereafter, C2 was frightened that if he refused to allow the defendant to do what he wanted then people would get to know about the abuse and he also needed the money for his family.
175. In evidence before me C2 explained that he had met the defendant through his cousin, C3. He had gone to the defendant's house for the first time with C3 in about April 2014. They had spent the time cleaning and found 2 guns in a cupboard in the bedroom, one of which was a pistol and the other was longer. There had been no abuse on that occasion.
176. On the second visit C2 described watching television in the bedroom with C3 and the defendant and the defendant asking them to take their trousers off after which he had held their penises. At the end of the visit the defendant had given them chocolate and money.
177. The third visit was also with C3. On this occasion the boys were asked to have a bath and then C2 was asked to lie on the bed with C3 being asked to go downstairs. Whilst C3 was downstairs the defendant performed oral sex on C2 and asked C2 to insert his penis into his anus. C2 did so and it went on for about 10 minutes after which C2 had a shower and then went downstairs where he met up with C3 and they were given money and went home.
178. C2 could only remember three visits to the defendant's house.
179. C2's oral evidence about how the matter came to light was consistent with his witness statement. He further stated that he had not met Fr Cullen or PREDA before he made the complaint to the police.
180. C2 was asked about the inconsistencies in the medical report and said that he had definitely gone to the house with C3 not C4 and he was unable to explain why C4 was mentioned in the report. He denied being frightened into accepting the abuse and affirmed that he had gone to the defendant's house for money.
181. Finally, C2 stated that, after he had made his police complaint, he had gone back to the defendant's house again with C5 because he had been promised money

***(14)(b) C3's evidence***

182. In his complaint sworn in July 2014 C3 said that he had gone to the defendant's house from sometime in April 2014 when he had been invited to go by C4 and that his last visit had been on about 3<sup>rd</sup> May 2014. He also stated that he had come to the police station because his father had seen the news item about the defendant molesting children in return for food and money and, knowing that C3 visited the defendant's house, asked him if the defendant had abused him.
183. The complaint stated:

When [C4] invited me to come with him and go to Douglas's house, I didn't know what we will do there. He only said we were going to watch cartoons. Then I went inside, and I found out that Douglas touches and molests kids in exchange for money. He chose me among many waiting kids and brought me to a room where he started touching my legs. He caressed my scrotum and then put my penis into his mouth to the point of sucking it. After doing what he wants, he would let us watch TV, give us

chocolate and PHP 150 and then tell us to "Go home". Within a month, he was able to do that to me almost 10 times. However, he would sometimes only give me PHP 100.00 because he preferred the newer kids and more kids were already going there.

184. The Particulars of Claim assert that the defendant touched C3's genitalia and subjected him to fellatio.

185. I then turn to C3's statement. He confirmed that he had first gone to the defendant's house with C4. He also confirmed the circumstances in which he had made his complaint to the police. I summarise the rest of the statement as follows:

185.1 C3 states that he saw the defendant perform blow jobs on C5;

185.2 The abuse occurred on 3 occasions;

185.3 On the first occasion the defendant touched his legs, caressed his testicles and performed oral sex on him while they were alone. At the defendant's request C3 took hold of his penis;

185.4 On the second occasion C3 performed a "blow job" on the defendant;

185.5 On the third occasion C3 was with C2 and the defendant performed oral sex on both of them. C3 touched the defendant's penis on this occasion;

185.6 The defendant called him Mario because C4 had told him to adopt an alias;

185.7 On one occasion the defendant had asked both C2 and C3 to clean the house and they had found a gun in a drawer.

186. The medical report from Dr Calma Balderrama contains a brief account of the abuse which is said to have occurred on three occasions after C3 first went to the house with C4. C3 and his father told the doctor that he was bullied and called Douglas Salde after the alleged abuse became known in the community. The situation became so bad that C3 did not go back to school and completed modules at home to finish the school year.

187. In evidence before me C3 said that he had first gone to the defendant's house in April 2014 when asked along by C4. He said that he had gone to the house with C2 on one occasion but that that was the last of the 3 times he had been to the defendant's.

188. C3 described the first sexual encounter as happening in the defendant's bedroom. He said that the defendant had performed oral sex on him and that he had then performed oral sex on the defendant.

189. The second encounter was said to have occurred when C3 went to the house on his own. He was asked to lie naked on the defendant's bed and the defendant masturbated him and then C3 masturbated the defendant. The defendant wanted them to have a bath together but C3 did not want to bath with the defendant and so had a bath on his own after which the defendant kissed him and gave him money and chocolate.

190. It was difficult to follow C3's account of the third time he was abused. He stated that he was at the house with C2. C3 said that he was doing the cleaning and that C2 and C3 went up to the bedroom alone with the defendant. When C3 went upstairs the defendant and D2 had finished and the defendant was naked and touching him everywhere.

191. C3 said that he and his cousin had discovered a drawer or cupboard with a gun or guns in it when they were cleaning. He was vague or confused on when this incident had taken place. He described the pistol and said the second item was a long one with black things and a round thing at the end.

192. When asked why he had not mentioned performing oral sex on the defendant and masturbating the defendant earlier C3 said that he was young and too scared to mention it

to the police and that he it was so disgusting that he had not mentioned it. No particular explanation was given for the difference in the detailed descriptions of the 3 incidents given in the witness statement and in oral evidence.

193. C2 confirmed that the complaint had been realised because his father had asked him whether the defendant had abused him after he had seen the relevant news item. C2 denied knowing or being involved with Fr Cullen or PREDA before making the complaint. He said he did not meet Fr Cullen until after the criminal proceedings in the Philippines were dismissed.

194. In more or less his last answer to questions C3 said that it was his own decision to bring a claim and when asked if he was lying to obtain compensation he said that he felt:

Really disgusted about this. I feel really really dirty I want justice for myself.

***(14)(c) The defendant's evidence about C2 and C3***

195. The defendant said that he knew C2 because he used to play basketball. However, he denied that C2 had ever been to his house saying that C2 was a horrible person who used to shout out that the defendant was gay and scream it over the wall. The defendant said that he "did not allow him near the place".

196. The defendant said that he did not know C3 by name, although he knew that he played basketball. The defendant said that C3 was not welcome at his house.

197. The defendant did say that "Mario" had visited his house on 2 or at most 3 occasions-which is consistent with C3's evidence that he adopted the name Mario and went to the property on 3 occasions. The defendant's evidence was that "Mario" was C4.

198. The defendant denied ever owning a pistol or any sort of firearm.

***(14)(d) Discussion and findings***

199. There are numerous inconsistencies in the accounts given by C3 and C2. By way of example:

199.1 C3 has reduced the number of incidents of abuse from 10 in his original complaint to 3;

199.2 C3 failed to mention that he had performed oral sex on the defendant or touched the defendant's penis until his witness statement;

199.3 in his witness statement C3 alleged that he had performed oral sex on the defendant on the second occasion. Whilst in evidence he described that as occurring on the first occasion;

199.4 In his witness statement C3 said that the defendant had performed oral sex on both him and his cousin whilst they were in the same room during the third occasion. This is consistent with C2's evidence. However, in evidence C3 said that the defendant and his cousin had gone to the bedroom alone and he had only joined once the defendant had finished abusing C2;

199.5 C3's evidence was somewhat vague and confusing when he tried to explain how he and C2 came to find a gun or guns in the defendant's property;

199.6 C2 alleges in the particulars of claim that he was the subject of an anal rape-an allegation not mentioned anywhere else;

199.7 in the medical report, C2 states that he went to the defendant's property with C4 not C3;

199.8 C3 only describes going to the property with C2 on one occasion, whilst C2 says that he went with C3 on three occasions-on the first of which they found a pistol and were not abused;

- 199.9 In his witness statement C2 said that he had not gone back to the property after school restarted in June 2014. However, in oral evidence he said that he had gone back to the defendant's property in about October/November 2014 with C5.
200. As in all the claims I must consider the evidence as a whole and decide whether on the balance of probabilities, the claimants were abused by the defendant or whether they are lying about what occurred whether to obtain compensation or for some other reason.
201. Looking at the inconsistencies in C2's account:
- 201.1 I found it surprising that C2 should have returned to the defendant's property in October/November 2014, after he had made his police complaint. However, I found his explanation (and the manner in which he gave that explanation) highly persuasive. I accept that C2 was prepared to return to the property because he was motivated by obtaining some money from the defendant and that he did return with C5 as he alleges. I find that this was not mentioned in the witness statement because it did not form part of his claim and he had no reason to mention it;
- 201.2 As with C4, I regard the allegation of anal rape made by C2 in the particulars of claim was the result of a misunderstanding on the part of his lawyers rather than an attempt by the claimant to inflate his claim. I reach that conclusion because there is no mention of such a complaint in any other document. Further, if this was an attempt to lie to increase the value of a false claim I would have expected C2 to persist in it rather than accepting that no such rape had ever taken place;
- 201.3 C2's oral evidence was broadly consistent with the allegations set out in his initial complaint;
- 201.4 I would not expect young men of 19 to be wholly consistent when giving evidence about repeated incidents of sexual abuse that took place over four years ago.
- 201.5 I consider it more likely that these inconsistencies are the result of innocent confusion than that the entire claim put forward by C2 is false when considered against all the background evidence.
202. Further, whilst C3 did not create a particularly good impression when giving evidence and was somewhat confused in the account he gave this is a situation in which his evidence can be supported by the evidence of C2.
203. In reaching my conclusion I accept that C2 and C3 had no contact with Father Cullen or PREDA before making their initial complaints. I am satisfied that C3 disclosed the alleged abuse only when questioned by his father who had seen the television programme. Further, on balance, I accept that upon finding out about the alleged abuse of his son, C3's father went to see his brother, C2's father, to see whether C2 had also been abused. It was only in response to his father's questioning that C2 disclosed that he too had been abused.
204. Further, in reaching my conclusion I have to take into account the very limited weight that can be attached to the defendant's evidence that no such abuse occurred. As with the other claims I reject the defendant's evidence that he was unable to achieve an erection.
205. Therefore, on balance of probability, I am satisfied that these claimants were abused by the defendant. I am satisfied that C2 was abused on two occasions and that on the first the defendant played with his penis and that on the second he subjected C2 to fellatio and persuaded C2 to penetrate his anus. I am satisfied that C3 and the defendant engaged in mutual fellatio and mutual touching of penises as set out in the original complaint. Further, I accept that on balance he was abused on 3 occasions as he stated during oral evidence.

### **(15) Quantum Generally**

206. Mr Levinson directed me to the **Judicial College Guidelines: Chapter 4: Psychiatric and Psychological Damage**. As these claims are subject to conditional fee agreements entered into after 1 April 2013 the claimants are entitled to the 10% uplift on any damages. I set out below the relevant part of the **Guidelines** dealing with psychiatric damage generally and the awards appropriate for such damage when it is Moderate to Severe:

#### **(A) Psychiatric Damage Generally**

The factors to be taken into account in valuing claims of this nature are as follows:

- (i) the injured person's ability to cope with life, education and work;
- (ii) the effect on the injured person's relationships with family friends and those with whom he or she comes into contact;
- (iii) the extent to which treatment would be successful;
- (iv) future vulnerability;
- (v) prognosis;
- (vi) whether medical help has been sought;
- (vii) Claims relating to sexual and physical abuse usually include a significant aspect of psychiatric or psychological damage. The brackets discussed in this chapter provide a useful starting point in the assessment of general damages in such cases. It should not be forgotten, however, that this aspect of the injury is likely to form only part of the injury for which damages will be awarded. Many cases include physical or sexual abuse and injury. Others have an element of false imprisonment. The fact of an abuse of trust is relevant to the award of damages. A further feature, which distinguishes these cases from most involving psychiatric damage, is that there may have been a long period during which the effects of the abuse were undiagnosed, untreated, unrecognised or even denied. Aggravated damages may be appropriate.

#### **(a) Severe:**

In these cases the injured person will have marked problems with respect to (i) to (iv) above and the prognosis will be very poor: **£48,080-£101,470**;

#### **(b) Moderately Severe**

In these cases there will be significant problems associated with factors (i) to (iv) above but the prognosis will be much more optimistic than in (i) above. While there are awards which support both extremes of this bracket the majority are somewhere near the middle of the bracket. Cases of work-related stress resulting in permanent or long-standing disability preventing a return to comparable employment would appear to come within this category: **£16,720-£48,080**;

#### **(c) Moderate**

While there may have been the sort of problems associated with factors (i) to (iv) above there will be marked improvement by the trial and the prognosis will be good: **£5,130-£16,720**

207. Mr Levinson also referred me to a number of authorities:

207.1 **EB v Houghton [2011] EW HC 279 (QB)** a decision of Slade J in which she:

- .1 Dealt with the question of aggravated damages at §§146 to 150:
- .2 Awarded the sum of £28,000 for damages for pain and suffering and loss of amenity arising out of three sexual assaults against a girl when she was between

10 and 11 years of age. The assaults included: (i) stroking the claimant's leg on several occasions when she was a front seat passenger in his car; (ii) fondling the claimant's chest and breasts on several occasions when she was standing on a gate looking at animals in the field; and (iii) on one occasion, persuading the claimant to undress, purporting to massage her and inserting his finger or fingers into her vagina. As a result the claimant developed a generalised anxiety disorder which caused to experience various psychosomatic complaints. Further she suffered from post-traumatic stress disorder before and during the criminal trial. The anxiety disorder was of long standing because the claimant was 29 years of age by the time the matter came before the civil courts. However, by trial, the claimant had overcome her inability to enjoy intimate relationships and was able to work and perform her role as a mother. Swift J awarded damages of £28,000 which notes up to £34,403 for inflation;

207.2 **FKB v Lampitt [2015] EWHC 3368 (QB)**: a decision of HH Judge Peter Hughes QC. The claimant was repeatedly abused by the defendant, her stepfather, between the ages of 10 and 14. The abuse included inappropriate kissing inappropriate touching both over and under the clothing, digital penetration of the vagina and forcing the claimant to touch his penis and masturbate him. The abuse took place several times every week and increased in severity over time. The claimant was 23 at the time of trial. The abuse had affected her at school such that she underperformed in her GCSEs. She suffered chronic disc the mere and chronic PTSD causing her to be socially withdrawn or lacking in drive and to have a limited degree of enjoyment in life. Absent treatment the claimant's condition was unlikely to improve. With treatment it was likely that she would make significant progress although she might not make a full recovery. The judge awarded a total of £80,000 made up as to £65,000 for general damages of 15,000 for aggravated damages;

207.3 **ABB v Milton Keynes [2011] CW HC 2745 (QB)**: a decision of HH Judge Hampton in which there were four claimants:

- .1 C1 suffered regular and persistent abuse from the age of 4 to 17. The abuse included fondling, oral penetration and a range of penetrative and intrusive sexual acts. Further, C1 was induced to carry out similar acts upon his father including regular anal and oral penetration. C1 developed long-standing and complex mixed drug and alcohol dependence. He failed to complete his education. The award of general damages was £70,000;
- .2 C2 experienced abuse from the age of 5 or 6 until he was 17. He had learning difficulties which played a part in the causation of his anxiety-based problems, lack of confidence and difficulties with relationships. C2 also experienced non-epileptiform seizures which were triggered by upsetting events. The judge awarded £70,000 by way of general damages;
- .3 C3 avoided the prolonged and persistent abuse suffered by C1 and C2 and was abused on less than 10 occasions. He suffered no distinctive and identifiable psychiatric disorder although there were elements of anxiety and social avoidance. General damages were assessed at £10,000;
- .4 C4 was abused for a period of five or six years. The abuse included frequent vaginal intercourse, oral penetration and posing for indecent pictures in front of the camera. The abuse affected C4's academic performance, although she had been able to make up lost ground. There was no evidence of major depression or significant psychiatric disorder. However, there was evidence of low self-esteem and negativity. The judge awarded general damages of £55,000;
- .5 The award of £55,000 notes up to £65,676 whilst the award of £70,000 notes up to £83,588.

207.4 **B v Quick: Lawtel: 2002:** HH Judge Caulfield: an award of £58,380 noting up to £76,455.82 for a 24-year-old female who had been the subject of abuse when she was 11. The abuse included touching her vaginal area over her underwear, digital penetration, oral sex and rape. The court awarded aggravated damages because (i) there was a gross betrayal of trust by the defendant who was acting in loco parentis at the time of the abuse, (ii) the fact that the defendant made up stories as a threat to hold over the claimants did commit the offences; (iii) came at young age at the time of the abuse; (iv) the fact that the claimant was a virgin at the time the abuse; and (v) the defendant's refusal to accept responsibility in the criminal proceedings and the civil proceedings. The claimant developed post-traumatic stress disorder of moderate intensity, which included nightmares and flashbacks. The PTSD affected the claimant's studies. It improved with the passing of time but was exacerbated when she complained to the police and during the criminal trial which took place about 12 years after the assault. The claimant continued to suffer from sexual aversion, anxiety and low mood. It was anticipated that those symptoms would resolve fully in about two years with treatment.

207.5 **C v D & SBA [2006] EW HC 166 (QB):** a decision of Field J. C made three allegations of abuse against a monk who had taught him whilst at junior school: (i) touching his genitals whilst drying him with a towel at the local swimming baths; (ii) on one occasion videoing him and other members of his class whilst they were taking a shower after PE lesson; and (iii) when the claimant was in the school infirmary (a) unfastening his tie and undoing his top shirt button, pulling down his trousers and underpants and starting at his genitals; and (b) on another occasion fondling his penis. The claimant was suffering from some form of mental abnormality which caused great difficulty in interpersonal relationships, he had a deep distrust of persons in authority, he was callous and uncaring to others, he was isolated from his peer group and had suffered from depression and occasional psychotic episodes. The judge held that the overall level of abuse was relatively mild and that there were other contributory causes to his mental condition. The award of damages was £20,000 which notes to £29,026.

208. Before moving to look at the cases of the individual claimants I make some general comments about the medical evidence upon which they rely. The reports from Dr Calma-Balderrama and Dr Reyes-Laureano do not follow the format generally adopted by experts providing reports to courts in this country. In the circumstances it is considerably more difficult to identify the nature and extent of the claimant's psychiatric problems and, in particular, it is difficult to assess the likely prognosis.

### **(16) Quantum: C1**

209. C1 was subject to regular abuse between 2009 and early 2013 when he was 10/11 to 14.

210. C1's witness statement only touches upon quantum briefly. C1 stated that he still remembered the abuse and had intrusive thoughts about it. He said that he felt "guilty and bad" about it and tried to distract himself by going out with his friends and family and work. There is no suggestion that any continuing psychological problems interfere with his work.

211. The psychological report from Reyes-Laureano, dated December 2016, states that the claimant finds it hard to forget the sexual abuse and felt guilty that it had occurred. However, C1 had a positive outlook and had the capacity to forget and overcome the traumatic things that had happened to him: [104]. There is a diagnosis of PTSD with the full panoply of PTSD symptoms including recurrent intrusive memories of the traumatic event, distressing dreams and flashbacks. However, it is not clear upon what evidence Dr Reyes-Laureano has

based her conclusion that C1 was experiencing all these symptoms as it is not explained in the report and, in particular, is not contained in her record of the narrative given by C1.

212. The medical report from Dr Calma-Balderrama is dated 11th December 2017. During the consultation C1 said that he had tried to forget what had happened to him and that he had repeated thoughts about the sexual abuse. On occasion he used to walk out on his parents and was seen to "manifest with blank stares". C1 denied being bullied. However, his performance at school was affected and he had to repeat a year. He said that he was still affected by what happened and he would have intrusive thoughts of the alleged abuse from time to time. He continued to feel that people were talking about him.

213. Dr Calma-Balderrama concluded that C1 had suffered from signs and symptoms of PTSD at the time of evaluation and that his perception of himself and other people had also changed. The report contains the following paragraph:

... some of the manifestations that tell us that there was sexual abuse can be traced back to some of the behavioural changes, sleep problems, unexplained fears, nervousness, isolation, low self-esteem, age inappropriate maturity, secrecy, in addition to the signs and symptoms of trauma such as intrusive thoughts and anxieties related to the triggers of the alleged abuse.

214. The prognosis was good with treatment and poor without it.

215. Whilst I remain unclear about the precise nature and extent of C1's symptoms, I find that on balance, he is and has been suffering from PTSD as a result of the sexual abuse inflicted upon him by the defendant over a lengthy period. Further he requires psychotherapy. However, there is no suggestion that he is experiencing any difficulty with work and the prognosis is good with treatment.

216. In the circumstances I consider that the appropriate award of damages including any element of aggravated damages is £35,000.

### ***(17) Quantum C2***

217. in his witness statement C2 said that he felt guilty after the abuse and that he stayed at home rather than going outside because he was afraid he would be bullied. He said that he still had nightmares about the abuse and was frightened that something like this would happen again. He tried to avoid things which reminded him of the abuse which he had suffered.

218. In her report dated December 2016 Dr Reyes-Laureano recorded that C2 was well supported by his family. She found that C2 had some positive attitudes and traits which could be encouraged and nurtured through counselling, psychotherapy and group therapy. She noted that he had a patriarchal attitude towards women-however this was not attributable to the abuse. Dr Reyes-Laureano said there were indications that the claimant continued to suffer from PTSD as a result of his experiences with the defendant. Further, C2 continued to feel guilty over the abuse and to experience anger, or even hatred towards the defendant.

219. Dr Reyes-Laureano felt that there was evidence of suicidal ideation as a result of the abuse and that the claimant regarded himself as flawed or dirty.

220. As with C1, Dr Reyes-Laureano diagnosed the full panoply of PTSD symptoms in this claimant without explaining the evidential basis upon which she did so. Dr Reyes-Laureano stated that the symptoms had persisted and did not seem to be resolving. She recommended CBT.



221. Dr Calma-Balderrama recorded that the claimant was more fearful and irritable. He had started to drink after the sexual abuse and began smoking more frequently. He became more reclusive and preferred to stay at home when he was not working. He was afraid to go out because he was afraid that he would be bullied by his friends about the sexual abuse. He also felt guilty about what happened to him. Dr Calma-Balderrama considered that C2 and C3 supported each other. The abuse did not appear to have caused C2 any difficulties in forming intimate relationships with girls.
222. Dr Calma-Balderrama concluded that C2 was manifesting signs and symptoms of PTSD and that the sexual abuse had aggravated a pre-existing problem stemming from his adverse childhood experiences and behavioural problems. Dr Calma-Balderrama recommended psychotherapy.
223. Again, I find it difficult to get any real grasp on the full nature and extent of the claimant symptoms. However, in this case the abuse occurred on only three occasions over a limited period of time. Further, the report from Dr Calma-Balderrama suggests that other factors have played a part in contributing to the claimant's problems. Therefore, in all the circumstances I consider the appropriate award in this case to be £25,000.

### ***(18) Quantum: C3***

224. In his witness statement, C3 said that he was traumatised by the abuse and unable to eat or sleep for some time as he felt guilty that he had not done anything to prevent it. Once it became known in the community that the defendant had abused him he was bullied at school and he needed therapy to help him recover from the abuse. He had been called "Boy Douglas".
225. Dr Reyes-Laureano concluded that the claimant was suffering from nightmares and would benefit from counselling and other interventions which would allow him to recover his sense of safety and security and overcome the nightmares. Dr Reyes-Laureano noted that the claimant had high "self- efficacy" but that he would benefit from counselling to help him gain more confidence.
226. Again, there is a diagnosis of the full panoply of symptoms associated with PTSD in circumstances where it is difficult to see the evidential basis for that conclusion. Dr Reyes-Laureano suggests that C3 would benefit from CBT and group therapy.
227. C3 told Dr Calma-Balderrama that his behaviour changed after the abuse. The claimant's father supported that assertion, saying he would stare blankly and manifest hyper-arousal. C3 said he tried to avoid being exposed to things that reminded him about the abuse. After the abuse he became depressed and refused to go out. He was unable to enjoy playing with friends and felt that his life was broken and damaged. He said that at the time he had had suicidal thoughts and wished he was dead. He refused to go back to school. His sleep was disturbed and he had nightmares. The grandparents said that he was irritable and easily angered. He was afraid of people who looked like the defendant. When the community learned about the abuse the claimant was bullied and, as a result, felt to go back to school to complete the year.
228. Dr Calma-Balderrama concluded that the claimant had PTSD which had improved over time with counselling and therapy. At the time of the examination 2017 the claimant was still manifesting some signs and symptoms of trauma and he continued to need psychotherapy and other interventions to help him fully recover. However, he was in work and there was no suggestion that he was experiencing any difficulty in his employment.

229. Again, I have the same reservations about the full nature and extent of the claimant's PTSD and the true prognosis. Doing the best I can, I consider that the appropriate award for damages for pain suffering and loss of amenity including any aggravated damages is in the region of £27,500.

#### **(19) Quantum C4**

230. In his witness statement the claimant says that after the abuse he went outside less because he felt ashamed because of what happened and was frightened that others would make fun of him.

231. Dr Reyes-Laureano considered that C4 was still experiencing fear when he encountered gay men and that he felt anger and needed to avenge himself against the defendant, a conclusion based on his comment "we will win against Douglas". Dr Reyes-Laureano concluded that C4 would benefit from counselling in order to address these feelings as that would help him to let go of his fear and hatred and be able to forgive himself so that he could move on with his life. Dr Reyes-Laureano felt that the claimant had symbolised the abuse as rape-although there was no suggestion that physical force was involved. Further, Dr Reyes-Laureano expressed the view that C4 may have feelings of meaningless, hopelessness and even suicidal ideation.

232. As with the other claimants, Dr Reyes-Laureano's report sets out the full panoply of PTSD symptoms without any apparent evidential base. Dr Reyes-Laureano recommends CBT to help C4 overcome (i) his fear of gay men, (ii) the trauma of being forced to do sexual acts, (iii) his view of himself as flawed or dirty, (iv) his feelings of hopelessness meaningless and (v) his possible suicidal ideation

233. Dr Calma-Balderrama records that the claimant's out of house activities reduced after the abuse because he felt ashamed. The claimant told Dr Calma-Balderrama that he continued to stay at home most of the time. He was uneasy and irritable when the defendant's name was mentioned. However, he had progressed well with his schooling and hoped to be an engineer.

234. Dr Calma-Balderrama concluded that, at the time of the examination, C4 was not suffering from any psychiatric disorder but that had been affected psychologically by the alleged sexual abuse. Dr Calma-Balderrama said that the claimant's self-esteem had suffered and he was anxious about going out because he was frightened of being ridiculed by others. She suggested therapy to ensure that he did not develop a psychiatric disorder.

235. In the circumstances the effect upon this claimant has not been as marked as upon C1-3 and he appears to have made a relatively good recovery by the time he saw Dr Calma-Balderrama about 3.5 years after the abuse. Nevertheless, he was subject to repeated abuse over a period of about 8 months. In my judgement, the appropriate award of damages for pain and suffering, including any aggravated damages is £20,000.

#### **(20) Quantum: C5**

236. C5's witness statement does not give any details about the effect of the abuse upon him.

237. The only expert evidence in C5's case comes from Dr Reyes-Laureano who prepared her report in December 2016.

238. Dr Reyes-Laureano stated that C5 wished he could forget the abuse but was unable to do so. He had a sense of powerlessness and helplessness because he was unable to do anything to stop the abuse taking place. Dr Reyes-Laureano considered it is "very evident" that the

claimant was still traumatised. C5 stated that he wanted to lose his (continuing) fear of what happened and would be prepared to do anything just to forget the abuse. He was experiencing nightmares and wanted to run away and start his life over again in a new environment.

239. Again, there is a diagnosis of PTSD with the full panoply of PTSD symptoms without any apparent evidential base for such finding.
240. Dr Reyes-Laureano recommended that the claimant had CBT and group therapy to help him overcome his experiences.
241. C5 was abused on three occasions and narrowly avoided what he thought was to be an abduction on the day of the Christmas party. I am satisfied that he found the latter incident extremely frightening and that his has had a significant effect on him. I am satisfied that C5 has developed psychological symptoms as a result of the abuse. However, in my judgment the evidence does not provide a clear idea of the prognosis.
242. Doing the best I can, I think an award of £20,000 is appropriate in this case as in that of C4. Although, C4 was abused for a more prolonged period the psychological effects appear to have been somewhat more significant for C5.

### ***(21) Quantum: Special damages***

237. The claim for special damages as set out in the Schedule of Loss and is broken down into three heads:
- 242.1 the cost of treatment from Dr Calma-Balderrama or Dr Reyes-Laureano which is put at £10,990;
  - 242.2 travel costs incurred in attending medical experts and consulting with solicitors;
  - 242.3 costs incurred by PREDA as part of the litigation process.
243. The cost of medical treatment and/or counselling were met by PREDA. The claimants are not expected to reimburse the charity for those costs and are under no obligation to do so. Further, although the experts recommend counselling for the claimant's there is no detailed breakdown of the number of sessions required or the likely cost. Therefore, there is nothing to support the figure of £2000 per claimant set out in the schedule. In the circumstances I dismiss the claim for costs of treatment.
244. The claim for travel incurred in arranging medical treatment or counselling to see medical experts and solicitors is more properly a cost of litigation than a claim for damages. There may have been some costs incurred in obtaining psychological treatment. However, those costs cannot be isolated. I cannot make a finding on balance of probabilities as to the damages incurred. Therefore, this head of claim will be dismissed.
245. The final head of claim is for damages for £1000 to reflect the miscellaneous costs incurred by PREDA which appears to be based upon the evidence of Marilyn Capio-Richter who spent a week assisting the claimants. This is not a loss which has been sustained by the claimants. Further, there is no evidence to show that a week of Marilyn Capio-Richter's time should be valued at £1000 I therefore dismiss this head of claim as well.

### ***(22) Conclusion***

246. Therefore, I find the claims proved and the claimants are entitled to damages as follows:
- 246.1 C1: £35,000;
  - 246.2 C2: £25,000;
  - 246.3 C3: £27,500;

246.4 C4: £20,000;  
246.5 C5: £20,000.

247. I dismiss the claim for special damages.

248. I have not heard argument on costs but my provisional view is that the defendant should pay the claimants' costs to be assessed on a standard basis if not agreed.

**7<sup>th</sup> December 2018**

**HH Judge Mark Gargan**