



**Neutral Citation Number: [2019] EWHC 1874 (QB)**

Case No: HQ15PO3188

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 15<sup>th</sup> July 2019

**Before :**

**HIS HONOUR JUDGE GRAHAM WOOD QC**

-----

**Between :**

**WCC**

**Claimant**

**- and -**

**ALLAN STEER**

**Defendant**

-----  
-----  
**Miss Caroline Cross** (instructed by **Bolton Burden Kemp**) for the **Claimant**  
**The Defendant appeared in person**

Hearing dates: 25 – 27<sup>th</sup> February 2019

-----

## **Approved Judgment**

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

.....

**His Honour Judge Graham Wood QC:**Introduction

1. The Claimant, whose identity has been anonymized and who has been referred to throughout these proceedings as Mrs C, seeks damages for the injurious consequences of sexual abuse which she alleges she sustained at the hands of the Defendant over a three-year period between 1978 and 1981, that is from eight years to eleven years of age.
2. The claim has had a somewhat unusual procedural history. Although not individually particularised in the Particulars of Claim, the abuse alleged related to seven separate incidents over this period which formed the basis of seven counts in a sixteen count indictment in criminal proceedings in which the Defendant had been charged with indecency and/or indecent assault against both Mrs C and another child of the same age, BG. I shall refer to the criminal proceedings a little more detail later in this judgment.
3. As a result of his conviction on five separate counts the Defendant Alan Steer was serving a five-year sentence at the time that this claim was commenced. He has never been represented in the civil claim, but has participated as a litigant in person throughout. He put in a defence and counterclaim, as he was entitled, asserting that all of the allegations against him by the Claimant were fabricated and were being pursued dishonestly for financial gain. It was said that the Claimant's husband was the coercive force behind the civil litigation, although this was not a particular point pursued vigorously in the hearing before me. In relation to the provenance of the allegations which led to the criminal proceedings, it has always been the Defendant's case that they arise from the collusive agreement of Mrs C and BG and the latter's malicious motivation towards him and other members of her family. Mr Steer advanced several rather spurious causes of action within his counterclaim said to arise from the lies of the Claimant, including wrongful imprisonment, defamation, and culpable homicide (relating to his late wife was said to have died from a "broken heart") as a result of the allegations.
4. Unsurprisingly, the Claimant's solicitors challenged the Defence and Counterclaim and sought to have it struck out as an abuse of process. They succeeded before the deputy master, and obtained a judgment for damages to be assessed. It is noted that reliance had been placed pursuant to section 11 of the Civil Evidence Act 1968 on the two counts in respect of which the Defendant had been convicted. The matter then proceeded in due course to be listed for assessment of damages over a two-day hearing in May of last year before Spencer J.
5. I have seen the order of Spencer J, but not his judgment. However, it is plain from the terms of the order, including the cost consequence which required the Claimant to pay the Defendant's modest costs, that he considered it inappropriate to assess damages on the basis of attributing the entirety of the Claimant's psychiatric / psychological injury to the two counts on which there had been criminal convictions or to accept what was in effect a summary judgment in relation to the five "unproven" counts. Whilst there had been no appeal by the Defendant it was clearly open to the judge to take this view. In effect, the Claimant was put to election as to whether or not she wished to establish

Approved Judgment

liability for the balance of the allegations (i.e. the unconvicted counts) or to have damages assessed on the basis of the two convictions. There was a clear difficulty because the psychiatric evidence of Dr de Taranto on which the Claimant had been relying accepted the veracity of all the abuse allegations and attributed the various consequences accordingly.

6. Mrs C, notwithstanding the inevitable strain which a further extension of the proceedings would cause with having to relive matters which were already troubling her and said to be causative of PTSD, nevertheless wished to establish a liability for the balance of the allegations. In the light of this Spencer J made the order which appears at page 58C in the main trial bundle and reinstated Mr Steer's defence in relation to the five counts on which he had not been convicted, that is five further allegations of sexual abuse. He directed a further medical report from the Claimant psychiatrist. Whilst not stated in the order, this was clearly intended to address the difficult issues of causation which would arise in the event that the Claimant failed to establish civil liability. He did not reinstate the counterclaim.
7. Against this procedural background the matter came before me, as a curious trial mix of damages assessment and liability determination, with the ultimate assessment depending upon my findings in relation to the *criminally* unproven allegations of sexual abuse. As indicated above, Mr Steer fully participated in this trial, assisted by representatives from the PSU. The unusual nature of the proceedings would undoubtedly have made it difficult for him to address the relevant issues, but with the assistance provided to him, and the relaxation of procedures with a flexibility of approach, I am confident that he understood what it was that the court was deciding.
8. Special measures had been put in place in relation to the provision of screens, and the preparation of cross examination questions in advance by Mr Steer. I make it clear that I drew no adverse inference from such provision, which is now commonplace in both criminal and civil cases in which an alleged victim is required to face the alleged perpetrator in court. It does not impute any foregone conclusion as to the veracity of the allegations. I heard evidence from Mrs C, putting to her the matters which the Defendant wished to raise in cross examination, together with further matters which he had not identified but which were clear from his statement and various other materials submitted, her husband Mr C, the Defendant Mr Steer, and Dr de Taranto, the Claimant's expert witness. The Defendant had chosen not to rely on any psychiatric evidence.
9. At the conclusion of the evidence I reserved my judgment which is now provided.

Background

10. The Claimant was born on 11 November 1970, and is now 48 years of age. As a child, she had a close friendship with BG, and her mother was friendly with BG's mother Mrs G (Auntie D), as they lived next door to each other. The Claimant and Auntie D were close, probably closer than the Claimant was to her own mother, and Auntie D would frequently babysit when her mother was working nights. When she was eight, BG and her mother moved away from the area where the Claimant and her parents lived, to Abingdon, having met and married the Defendant Allan Steer. Although the Claimant was an only child, within BG's family home there was a sister (Auntie D's other

Approved Judgment

daughter Sarah) who was some four years older, and the Defendant's two boys, children from his former marriage.

11. Despite the distance, now some 6 to 7 miles, the friendship between BG and Mrs C continued. In late 1978 the Claimant would often stay at Auntie D's house on sleepovers. The frequency was hotly disputed, and I shall refer to the evidence on this a little later. Mrs C shared a bedroom with BG, and it is there that four of the seven incidents of sexual abuse are alleged to have occurred.<sup>1</sup> Two of the incidents allegedly occurred elsewhere within the Defendant's property (the garage and a storeroom) and the final incident took place at a local beauty spot, Wittenham Clumps. The abuse is alleged over a three-year period.
12. There are discrepancies in the evidence relating to any report of the abuse to the Claimant's mother which I will address when considering the evidence in more detail. Needless to say, after the last incident of alleged abuse, when the Claimant would have been almost twelve, her early and middle teenage years were somewhat wayward, with substance and alcohol misuse, poor school performance and disruptive behaviour leading to limited educational qualification.
13. The Claimant had a number of mental health problems in her adult life which are described in detail in the psychiatric evidence. In this period, she had made no reference to any person in authority about the abuse she had suffered at the hands of the Defendant, although there may have been an oblique reference in the course of some personal counselling. Her first marriage lasted approximately 10 years, and she disclosed some of the detail of what had happened to her husband. There were difficulties in maintaining an intimate relationship during this marriage. She was able to hold down various occupations, although recently for physical health reasons she has not worked. She met and married her second husband Mr C about 18 years ago. She made early disclosures of the abuse to him and he has remained steadfast, supporting her throughout the criminal and civil proceedings. She has continued to have difficulties in sexual relations with her present husband, although he is said to be tolerant and understanding.
14. Whilst this is disputed by the Defendant, who believes that there had been collusion some significant time earlier, the Claimant is said to have been contacted by the police "*out of the blue*" in early 2012, initially as a potential witness following a complaint made by BG about her stepfather Allan Steer. When the police first called round, Mrs C informed them that she too had been a victim of sexual assault by the Defendant, and thus she became a part of the investigation being a victim/complainant and subject to a detailed ABE interview. As a result of the evidence that was collated by the police investigation, the Defendant was charged with sixteen separate sexual offences, nine against BG and seven against Mrs C.
15. The Defendant pleaded not guilty, and a trial was necessary which took place in late 2013. The Defendant was convicted by a jury of five of the sixteen separate charges, three involving BG, and two involving the Claimant.<sup>2</sup> He was sentenced to five years

---

<sup>1</sup> For ease of reference, I deal with the specifics of the allegations/incidents of sexual abuse under the heading of "criminal proceedings" to align those incidents with each relevant count in the indictment.

<sup>2</sup> Because these offences all occurred over 30 years ago, the charges arose from earlier legislation, the Sexual Offences Act 1956, and the Indecency with Children Act 1960.

Approved Judgment

imprisonment in total with a requirement to sign on the Sex Offenders' Register for the remainder of his life.

**Criminal Proceedings**

16. As indicated above, counts 10 to 16 on the indictment related to the Claimant. Because there was a lack of specificity in the dates, all the charges involving Mrs C were said to have been offences which occurred within a three-year period, namely from 11<sup>th</sup> November 1978, to 10<sup>th</sup> November 1981 based upon the period which the Claimant had been able to recall as representing her visits to the Defendant's home in Abingdon.
17. Count 10, on which the Defendant was convicted, alleges indecency with a child, in circumstances where Mrs C was made to touch the Defendant's penis. It was said that Mrs C and BG were in the bedroom when the Defendant entered the room with a towel around his waist, having recently showered. He let the towel drop, and was naked, with an erection. Because the Claimant's bed was closest to the door, he approached her first, grabbing her hand and making her touch his penis. He did the same thing with BG who was in her bed.
18. When she was interviewed, the Claimant told the police that similar incidents occurred on several occasions almost monthly. Undoubtedly this is why counts 11 and 12 provided specimen charges over and above the first occurrence to represent the several occasions. The jury could not be sure about this, although they were sure that it had happened once, and whether the same type of sexual abuse occurred on several occasions will be an issue for me to address.
19. Count 13 is of a different variety, alleging sexual assault, and reflects the description given by the Claimant to the police where the Defendant had entered the bedroom in a similar manner to previously when the children were pretending to be asleep. Again, he is said to have taken her hand and placed it on his penis, but on this occasion, it is alleged, he also put his penis against the Claimant's lips, without penetrating her orally. The jury did not find the Defendant guilty of this charge.
20. Count 14 is the second of three counts which allege indecent assault, occurring in the garage of the Defendant's home at 23 Campion Road in Abingdon, when it is said that he grabbed the Claimant and put his hand down the front of her knickers touching her vagina without actually penetrating digitally. The Defendant was convicted on this count.
21. Count 15 alleges indecency which is said to have occurred in the storeroom, that is the upstairs boxroom at Campion Road, when the Defendant again made the Claimant touch his penis. He was acquitted.
22. Finally, in relation to count 16, it was alleged that the Defendant, on a family picnic to which the Claimant had been invited as a beauty spot known as Wittenham Clumps, again assaulted her by placing his hand inside her knickers and touching her vagina. This is said to have occurred when other family members were nearby, although unobserved by them. The Defendant was acquitted.
23. Although not directly relevant to the matters under consideration, the remaining nine counts which involved BG, the Defendant's stepdaughter, resulted in three convictions;

Approved Judgment

count 1, which was gross indecency reflecting the same incident described by the Claimant, as the first occasion of sexual abuse, count 6, when the Defendant sexually assaulted BG by digitally penetrating her as she was unwell, and lying on the sofa, and count 8, another incident of gross indecency when he was said to have made her get into bed with him and to stroke his penis.

24. Thus, the jury returned with a matrix of verdicts across the range of sexual offending alleged involving both girls in which their evidence was accepted to the required criminal standard in respect of five separate matters. For reasons which I shall elaborate later in this judgment, it does not follow, as the Defendant has persistently asserted, that the Claimant and his stepdaughter were found to be liars in relation to those in respect of which he was acquitted.
25. The question for this court will be whether it can be established, on a balance of probabilities, that the Defendant's sexual abuse was more extensive than that reflected in the convictions. A different standard of proof applies.

Evidence

26. It is unnecessary to rehearse all the evidence which is contained in the witness statements and the other material, including the statements which supported the prosecution. The Claimant has maintained her account which was advanced in the criminal trial and on which she has been consistent throughout, of seven separate incidents of abuse which she can recall. The Defendant has maintained his denial that any abuse had occurred, even that to which of the convictions related, and that the whole account has been fabricated for a number of reasons. Nevertheless, several discrete issues emerged during the course of the brief trial before me on which some further oral evidence was given, and it would be helpful to deal with these, as they will inform the central question of credibility.

Abuse as a 6 year old

27. When Mrs C was first examined by Dr de Taranto in 2015, she told the psychiatrist that the abuse at the hands of the Defendant represented the only time that she had been subjected to sexual abuse in her childhood. However, at the time of the second examination, which was based upon a telephone interview, and which led to the report dated 25 April 2018, Mrs C admitted that she had been sexually assaulted on two or three occasions by an older boy, about 11 years of age, who had penetrated her vagina with his penis. She also told Dr de Taranto that she had reported such assaults to her mother, who in turn told the parents of the perpetrator, but no further action was taken. Mrs C occasionally thought about the sexual assaults in the aftermath, but they had not impacted on her in the same way as the Defendant's behaviour
28. Dr de Taranto was asked in evidence whether she was concerned at this lack of disclosure, and in particular whether it might have undermined the Claimant's credibility. Dr de Taranto did not believe that it did, and in particular, when asked whether the account of penetration (i.e. rape) in so young a child and by a fairly young perpetrator suggested implausibility, or at least was likely to have had a far more significant effect, her evidence was that a six-year-old was likely to respond far differently to this sort of sexual assault than an older child who was approaching puberty, as the Claimant would have been in the three-year period of the abuse alleged

Approved Judgment

against the Defendant. Further, not only was the memory of a far younger child likely to have been vague, there was empirical evidence that sexual abuse at the age of five or six committed at the hands of an older child, but not by an authoritative adult in whom trust was reposed had a far less damaging effect. Thus, it did not cause a Dr de Taranto any concern.

Number of times stayed over

29. The Defendant was keen to emphasise in his evidence, and in his questioning of the Claimant in his prepared cross examination, potential contradictions in the evidence about the number of times in which Mrs C had been on sleepovers at Campion Road with BG. The Claimant's evidence when interviewed was that this would have been between 20 and 30 times, based, it would seem, on an assessment of staying over approximately once a month over a two to three year period.<sup>3</sup>
30. Reliance was placed upon the evidence of Auntie D G, BG's mother, who provided a statement to the police and confirmed in her evidence at the criminal trial that Mrs C only stayed over on a maximum of two occasions. According to the Defendant, this was "*established as a fact*" in the criminal proceedings. However, although it is not clear whether Brenda H, the Claimant's mother, ever gave evidence in those proceedings, (she was not called in the trial before me), she provided a statement to the police in which she made it clear that Mrs C had stayed over "regularly" in Abingdon. She also made reference to a bedwetting problem which the Claimant had at the time, and the need to ensure that plastic sheets were available at Auntie D's house to put on the bed.
31. In addition, the Defendant's stepdaughter, BG, in her police evidence (and thus presumably in the criminal trial) referred to the Claimant staying over "quite a lot".
32. Thus, at the very best, there was conflicting evidence as to the number of times the Claimant stayed at 23 Campion Road. It is, of course, central to the question as to whether or not the Defendant could have committed the balance of the sexual abuse which is alleged against him, the majority of which is said to have occurred in his home.

Layout of bedroom

33. The evidence of the Claimant has consistently been to the effect that she slept on a camp bed closer to the door, whilst the main bed, in which BG slept, was under the window. Thus, she was the first to be approached on the occasions that the Defendant entered the bedroom.
34. The Defendant produced a photograph which was taken relatively recently (approximately three years ago) and which purported to show the bedroom. He was adamant that the camp bed shown in that photograph which fits the description of prescribed by the Claimant was only acquired in recent years, and was not owned by him at the time of the alleged abuse. The one and only time he can recall the Claimant staying in BG's bedroom, was when the two girls shared a bed.

---

<sup>3</sup> Mr Steer insisted that the claimant had told Dr Taranto that she had stayed over 57 times, although I was not taken to the particular reference in a report which recorded this. The only one I have seen confirmed "20 to 30 times". It may be that it emerged in the counselling records after 2015, but once again I have not seen any reference to "57 times".

Approved Judgment

35. More significantly, however, as he sought to demonstrate by the photograph, was that the bed could not have been positioned as the Claimant described, because this would have blocked the door. The photograph showed the main bed perpendicular to the window, and the Defendant insisted that it had always been in that position. It could not have been placed under the window, as the Claimant described, because this would have blocked the radiator. For her part the Claimant was clear that the bed was never positioned as shown in the photograph, but always parallel to the window. Unfortunately, there was no photograph taken at the time (early 1980s), and for reasons which are not entirely clear this is not an aspect that was pursued in investigation by the police.

En-suite bathroom

36. In her evidence to the police the Claimant described the first incident of abuse occurring when the Defendant had just showered, and was coming out of the “en-suite” bathroom. It is a point relied upon heavily by the Defendant that her credibility is undermined because there was no en-suite to his bedroom at the time, but only one family bathroom. The en-suite was installed almost 20 years later. If the Claimant was right, according to the Defendant, “*there would have been two thirty year old women in his bedroom*”. He was seeking to emphasise a potential discrepancy which in the Defendant’s view suggested a lack of credibility on the Claimant’s part.
37. Mrs C was unable to say whether the Defendant’s house had an en-suite bathroom at the time. She was either assuming that this was the case, or based her account on what she had been told by BG. At no stage was she ever in the Defendant’s bedroom, and what she was endeavouring to convey in her evidence was that she had heard the shower running, and then the Defendant appeared at the bedroom door.

Meetings in the park

38. There was at least one meeting in Cotesmoor Park when Mrs C and BG were adults. It was not in dispute that in this meeting they discussed their experience of the abuse at the hands of the Defendant. The children of BG, being Jack, a child with a disability, and two younger children were present at the time. The issue, as identified by the Defendant, was whether or not this meeting took place before or after the Claimant and BG had given their evidence in interview to the police. It has always been the Defendant’s case that BG and Mrs C were in collusion and he relied heavily upon this meeting, which had been brought to his attention by Jack who told his wife that he had been left alone with the younger children. The Defendant had insisted that it took place before any interviews with the police, although at a later point in his evidence he accepted the possibility that he may have been wrong about this.
39. The Claimant, on the other hand, gave evidence that not only did it take place with their mutual agreement, but in fact that it was encouraged by the police following the interviews.

The Defendant’s evidence on collusion/provenance of the allegations

40. Insofar as it is relevant that the Defendant has not resiled from his position that BG had made up the allegations with Mrs C in collusive support, whilst not pursuing with any fervour his suggestion that the civil claim has been encouraged by Mrs C’s husband



Approved Judgment

through “coercion”, it is important to understand his case on how the allegations might have emerged.

41. The Claimant’s counsel, Ms Cross, sought to question Mr Steer on some of the specific allegations which had been made by BG and which formed the first eight counts in the indictment. Whilst not specifically relevant to the sexual abuse alleged against Mrs C, I permitted this questioning because it was pertinent to the issue of credibility, not least because the Defendant had denied all of the abuse allegations made by BG. He was cross-examined in particular about two aspects of corroborative evidence which came from his late wife Auntie D. Auntie D had recalled one occasion when BG had hurriedly pulled her pyjama top back down over her breasts/chest when she had looked into her bedroom, and when the Defendant had been present speaking to her, and another when she had seen the Defendant and BG “*rolling about on the bed in their bedroom*”, and on being disturbed by her, “*Alan (the Defendant) had got off the bed*” and she could see through his shorts that he was sexually aroused.
42. In his evidence the Defendant acknowledged that his relationship with his late wife had deteriorated significantly when BG first made the allegations, and she tended to “*believe anything BG said*”. That was the context, according to the Defendant, in which these two incidents to which reference was made should be considered, and for which there was in all probability entirely innocent explanations. He may well have been looking at BG’s chest, perhaps to examine a rash or something of that nature, which as a stepfather was a perfectly natural thing to do. BG would probably have only been nine at the time. As far as the rolling around on the bed was concerned, this was likely to have been innocent frolicking, and an attempt by the Defendant to establish some sort of relationship or rapport with his stepdaughter who had never particularly liked him. He had felt that the relationship was strained from the very beginning, and to behave naturally or normally as a father might could only benefit.
43. Accordingly, it was his late wife who had misinterpreted the situation on two separate occasions. However, more significantly he explained how he believed BG had chosen to make these allegations against him at a later stage in her life. In about 2011, said the Defendant, BG had an affair with her sister’s husband. By now she had her own children who would be looked after from time to time by Auntie D and him. When Sarah divorced her husband because of the affair, and his late wife sided with Sarah over the whole business, BG, seemingly out of spite, wrote to her mother and told her that unless she divorced him (Mr Steer) she would go to the police and report that he had sexually abused her as a child. In other words, the motive was malevolent towards her mother and not borne out of any desire to tell the truth about what happened. The Defendant did not explain how the creation of untrue allegations of sexual abuse would necessarily have threatened Auntie D. However, the import of his evidence was that because Auntie D did not give in to the threat, BG chose to make up these allegations in her report to the police, probably obtaining Mrs C’s collusive support before doing so.
44. The Defendant was keen to rely in his evidence on the fact that BG’s children had been looked after by him and Auntie D on many occasions when they were younger, which did not indicate any concern on BG’s part that he might have been a sexual abuser. He also provided in support of his own case letters from the older sister, Sarah, and a niece now living in France, both of which suggested that the Defendant had had a perfectly innocent and loving relationship in their younger years and there had been nothing inappropriate or untoward about the way in which he dealt with them.

Approved JudgmentReporting the abuse to mother/others

45. This is dealt with largely in my analysis of the evidence above. However, a discreet point arose on the evidence of the psychiatrist and in particular following the second report, relating to the consistency of the Claimant's account as to when the abuse which she had suffered at the Defendant's hands was first disclosed. Dr de Taranto in her first report was given information to the effect that Auntie D had been told by BG and Mrs C about the abuse when they were both 18. Further, that her mother had been told about it in 2012 when the police investigation first emerged. However, in her second report the psychiatrist noted a discrepancy in Mrs C's statement for these proceedings in which she appeared to give the impression that she was unaware in 2012 that Auntie D already knew. Dr de Taranto referred to a further discrepancy which had emerged from the counselling records in 2016 that her mother had been told about the abuse shortly after it occurred in her childhood, but that after she was disbelieved, she had "pushed it to the back of her mind". These potential contradictions may be relevant to credibility.

The psychiatric evidence

46. Whilst the evidence of Dr de Taranto was largely unchallenged by the Defendant, bearing in mind that he was unrepresented, and had chosen not to adduce any contradictory evidence himself, some analysis of the salient features is still required. As indicated above, there were two reports, the first based upon a face-to-face examination with the Claimant leading to a report dated 11<sup>th</sup> November 2015, and the second, provided as an addendum/update, and addressing in particular questions of causation on the basis of alternative findings relating to the unconvicted criminal counts following a telephone interview, and provided after 10<sup>th</sup> July 2018 (incorrectly dated 11<sup>th</sup> April 2018).
47. It seems to me that there are two important aspects of her evidence on which this court should focus. The first relates to diagnosis, that is the assessment of the Claimant's mental health state and the complex conditions from which she is said to suffer from time to time, and the second is causation, that is the attribution of any of those conditions to the abuse which is alleged to have occurred. Clearly the latter is highly dependent on my findings.
48. In the reports, the psychiatrist describes the Claimant as suffering from multiple mental and physical health problems which are deeply intertwined and are highly affected by a variety of life stresses. It is important to note that several of these are independent of the abuse alleged to have occurred. The Claimant has endured a difficult relationship with her parents, not only relating to their separation, but a lack of empathy or emotional connection to her mother. She experienced sexual abuse as a very young child, allegedly in the form of penetration (although as indicated above probably incorrectly recalled) which would have had some effect on her growing up, although less than that attributed to the abuse at the Defendant's hands, and she has had anxious personality traits, although not amounting to an anxiety personality disorder. Some of her sexual problems in adulthood have been connected with gynaecological health issues, and her lack of sexual enjoyment will have contributed to the breakdown of her first marriage and the stresses associated with that. There has been a background of family depression, and clear evidence that the Claimant has been treated for depression from time to time.

Approved Judgment

49. The specific diagnoses which Dr de Taranto made following her first assessment are: (i) adjustment disorder (ii) harmful use of alcohol and solvents (iii) recurrent depressive disorder; (iv) generalised anxiety disorder; (v) lack of sexual enjoyment; (vi) post-traumatic stress disorder. Undoubtedly, not least because it is the most recently evidenced and giving rise to the most disturbing symptoms, is the last of these diagnoses.
50. In her evidence before me, Dr de Taranto described some of these conditions as being historic, and some still present. The affective disorders were of a relapsing and remitting nature, that is coming and going with fluctuating symptoms. As far as the severity of the PTSD is concerned, she believes that at various times it has been either moderate or moderately severe, having its onset after the police contact in 2012. This depended on whether the treatment which she had been receiving, which hitherto has been far from comprehensive, was assisting in the alleviating of symptoms, which in turn depended upon whether daily reminders were occurring. She noted, also, that whilst alcohol and substance misuse had been historic, it had returned in the more recent period. Dr de Taranto expected that the Claimant would always have some residual symptoms, although she expected a marked improvement if the appropriate therapy was accessed, in the form of what she described as a DVT, which was a derivative of cognitive behavioural therapy.<sup>4</sup>
51. Dr de Taranto expressed her views as to the relationship between the Claimant's various psychiatric conditions and the abuse attributed to the Defendant. In relation to the adjustment disorder and the substance misuse, between which there was a connection because this was the early manifestation in the Claimant's childhood of her reaction to the abuse by the Defendant, and other life factors, whilst she believed that although there had been a contribution from some of the early relationship difficulties and the previous episode of abuse as a 6 year old, nevertheless the sexual assaults at the hands of the Defendant were the most important factor.
52. The chronic affective disorders are described as having a complex causation. These, essentially, are the depression and the anxiety aspects. The more significant contributory factors are the relationship difficulties and physical health, as well as the early sexual abuse. Dr de Taranto accepts a role played by the sexual abuse attributed to the Defendant because of the chronicity and the timing (at a vulnerable stage in her life) but not a major role.
53. As far as her anxious personality traits are concerned, these were mostly caused by her early childhood relationship difficulties and dysfunctional attachment experiences, although the effect may have been increased by the alleged abuse. Further, whilst the alleged abuse was a major factor in the sexual dysfunction and lack of enjoyment, physical and gynaecological issues were also relevant.
54. Dr de Taranto attributed the entirety of the PTSD to the alleged abuse. As far as the recurrent and recent substance and alcohol misuse was concerned, the psychiatrist believed that this may well have been a product of the PTSD, particularly if the Claimant was seeking to "self medicate" to deal with some of the more notable aspects.

---

<sup>4</sup> It is this which is costed in the special damages.

Approved Judgment

However, she would also have sought to address her physical health problems with alcohol and cannabis.

55. Thus, on the basis of the psychiatric evidence, there is a very substantial contribution from the abuse attributed to the Defendant to the Claimant's overall and current psychiatric presentation. Notwithstanding her primary view, Dr de Taranto also addressed what may be a relevant question in the context of this case, and that is whether a finding that only a proportion of the allegations were true (i.e. those which are not subject to summary judgment) would impact upon her assessment of causation. Whilst her evidence on the extent to which this affected the Claimant's credibility trespasses on the role of the judicial decision maker, her observations may be self-evident. Perhaps more significant is the conclusion that if the Claimant had either mistakenly recalled sexual abuse which did not occur, or had misled the court in this regard, then the contribution from the accepted and acknowledged abuse (identified in the convictions) would be far less. In particular, doubt would be cast on the diagnosis of post-traumatic stress disorder, which has at its root cause the unearthing of a substantial raft of allegations.

**Findings as to abuse and causation of injury**

56. I now turn to consider the evidence and provide my findings on the principal questions as to the extent of the abuse, and the degree of psychiatric injury which was caused thereby.
57. The inevitable starting point, not least because it gives rise to an inescapable conclusion that some damage will have been caused to the Claimant, is that two separate episodes of highly distressing sexual assault committed in breach of trust and against a vulnerable nine-year-old girl with whose care the Defendant was partially entrusted, have been established as fact. This court cannot go behind the judgment which has been entered on the basis of the convicted counts, and the inference which arises therefrom, namely that the Defendant's evidence was rejected (his emphatic denial) and the evidence of both the Claimant, and the Defendant's step daughter was accepted unequivocally to the higher criminal standard of proof.
58. However, it cannot be assumed, as the Defendant has on several occasions, that there is a lack of substance to the balance of the allegations which have been made. I do not intend to speculate as to why the jury could not be sure that the Claimant was abused in the manner described in count 10 on more than one occasion, or why they were prepared to accept to the requisite higher criminal standard that the Claimant had touched the Claimant's genitals by putting his hand down her knickers in the garage of his family home, but not in the box room or at the nature reserve. I propose to assess the Claimant's evidence on the basis of her testimony to this court, and the various accounts which she has given to professionals, including police officers and the psychiatrist on previous occasions. In this regard, consistency will be an important consideration.
59. In paragraphs 27-45 above I identified potential contentious areas of evidence. As indicated, my determination on these provide helpful pointers.
60. First of all, in relation to the number of times in which the Claimant alleges that she stayed over at the Defendant's property, acknowledging that if there had been only one

Approved Judgment

or two visits the abuse could not have been anywhere near as extensive as that asserted by the Claimant, in my judgment it would be inappropriate to place too much store on the evidence of Auntie D, which is in stark conflict to that of both the complainant girls, and the Claimant's mother. It seems to me that in view of the closeness of the friendship between the two girls which had continued for many years since their early childhood, in a three-year period it is not feasible that there should have been only one or two occasions when Mrs C stayed over. This would mean that the established abuse occurred on either the first or the last of the only two occasions, which would be highly unusual in the context of abuse by an adult in a position of trust of a young girl. It is far more likely, in my judgment, that the regular staying over of Mrs C gave some encouragement to the Defendant both to lower his guard, and to prepare his approach to the opportunity for abuse.

61. I derive further support for my conclusion on this issue from the statement of the Claimant's mother. Although she has been generally unsupportive of her daughter, it is not suggested that following the police investigation she was being either disruptive, or did not want to assist in the investigation. The description of Mrs C "regularly" staying over, and the need to provide Auntie D with sheets to cope with a bedwetting problem, is entirely consistent with the Claimant's account.
62. Perhaps the most compelling consideration, in my judgment, is the potentially conflicted position of Auntie D, who as the mother of BG, standing by her daughter in the face of the numerous allegations of sexual abuse made against her husband, BG's stepfather, was also a close friend of the Claimant's mother Brenda. She would or should have known the vulnerable position in which Mrs C, as a child, had been placed in their family home, perhaps at a time when she had begun to suspect that her husband was an abuser. To accept that Mrs C had stayed over on numerous occasions would be tantamount to an admission that she had exposed, perhaps knowingly, a young girl who was not her own daughter to a clearly vulnerable situation. It seems to me that this together with the matters I have referred to above, enables me to conclude that on a balance of probabilities the evidence of the Claimant, BG and her mother is to be preferred to that of the Defendant and Auntie D, and that there were numerous visits to the Abingdon property, and thus numerous opportunities for abuse.
63. I can deal with the layout of the bedroom and the existence of the en-suite bathroom together. To some extent the first of these issues is determined by my conclusion in relation to the number of times in which Mrs C visited. It is implausible that she would have always shared a bed with her friend, which would have been particularly uncomfortable as the girls grew older and larger. It is far more likely that in such circumstances a second bed would have been provided. The Claimant has consistently described a bed which is shown in the photograph, and said by the Defendant to have been acquired sometime later. I reject the Defendant's evidence in this regard, and prefer the evidence of the Claimant. She was able to describe, quite vividly, how the bed folded up to provide a table, and the Defendant did not deny that this was the way in which this particular temporary bed collapsed. Furthermore, if a bed had been placed in this small room it was unnecessary for it to have blocked the door as the Defendant has described. Apart from the fact that it was foldable, and restricted space would only be temporary, there is no reason why the main bed could not have been against the window, allowing far more room for the folding camp bed. The Defendant's suggestion that it would block the heat from the radiator is also implausible, in my judgment,

Approved Judgment

bearing in mind that in many small bedrooms this is precisely the way that furniture has to be laid out.

64. In relation to the en-suite bathroom, it is to be noted that the Claimant has never said in any statement or in any part of her evidence that she was in the Defendant's bedroom. She could not have known that there was an en-suite bathroom unless she had been into the bedroom. She has consistently described hearing water running, and the Defendant appearing as if from a shower with a towel around his waist. If she had been told at some time that there was an en-suite bathroom, it is highly likely that this may have been information she had picked up at a later point, perhaps when discussing the matter in the park, or had simply misinterpreted the situation when thinking back. I unhesitatingly accept her evidence in this regard.
65. The meeting in the park assumed more importance at the outset of the case, until the Defendant conceded that he may have been mistaken about the timing. Nevertheless, I accept the Claimant's clear and unequivocal evidence in this regard that it had been positively encouraged by the police enabling the women not to have an opportunity for collusion, but to share their experiences and to gain strength from each other as the allegations had emerged. If they were going to collude and concoct a story, going to the park with young children was an entirely inappropriate way to do it, bearing in mind the many and varied ways of communicating in modern times through social media, texting etc.
66. It is to be observed that the Defendant has always denied abusing either girl, that is, his stepdaughter BG, or Mrs C. His case, bearing in mind the consistency of account between the complainants in the police evidence, depended not only on the fact of collusion, but also a motive for his stepdaughter to have created such malicious and damaging allegations. I find the Defendant's evidence relating to the spiteful response of BG to Auntie D's favouring of the older sister, Sarah, following the affair with Sarah's husband, and her refusal to divorce Mr Steer not only to be lacking in substance, but also to be utterly implausible. It is an inescapable fact that disclosures were made not only to the police, but also to Auntie D at a time when the latter appears to have been already aware of occasions in the past when her husband had been behaving highly inappropriately. That appears to have been the catalyst for the breakdown in normal marital relations.
67. The fact that occasionally Mr Steer and his wife would look after BG's children in later years is in my judgment immaterial. There is no evidence that he was ever afforded an opportunity to be on his own with those children. I place little store by this. Similarly, the evidence relied upon by the Defendant from his older stepdaughter Sarah, and a niece to the effect that he always behaved entirely appropriately towards them, and had on many occasions been on his own with them, carries little weight. There is no evidence, empirical or otherwise, that those who abuse young girls do so comprehensively in respect of all those in their care, rather than selectively as and when opportunity arises.
68. On the basis of my findings set out above, I must now consider whether the Claimant has embellished the extent of the abuse to which she was subject by the Defendant, or at the very least her recollection does not provide a basis for establishing, on a balance of probabilities, that she was sexually assaulted on seven occasions, as opposed to the two single incidents for which liability has been established. In this respect her

Approved Judgment

credibility is central. In my judgment, although clearly somewhat flat and unexpressive in the way in which she gave her evidence, undoubtedly a product of medication and her mental state generally, the Claimant was entirely consistent and unwavering in her account, to the effect that she was assaulted on no less than seven separate occasions. It is inevitable in recalling events which took place over 30 years ago that mistakes will occur either in terms of precise location or the nature of the assault. Whilst mistakes may have been sufficient to give rise to reasonable doubt in the minds of the jury, in the context of the Defendant's persistence in asserting that all the incidents of abuse alleged in relation to either BG or Mrs C are the result of malicious fabrication, and the generally unimpressive way in which he gave his evidence, I have little difficulty in coming to the conclusion that the Claimant has established, on the balance of probabilities, that she has been the subject of five further occasions of abuse in addition to the two for which judgment remains.

69. In these circumstances it is unnecessary to deal with the question of causation in any great detail. The evidence of the psychiatrist, unchallenged, is that if such extent of abuse was established, the respective attributions of the different components of the mental illness must remain, and no question of any diminution or attribution from extraneous factors needs to be taken into account. In other words, the psychiatric injury which is summarised in paragraphs 49-50 above is the consequence of the Defendant's unlawful and tortious conduct for which the Claimant falls to be compensated.

Assessment

70. The recoverable heads of loss are represented by general damages for pain, suffering and loss of amenity, and an additional claim by way of aggravated damages (if the court so permits) together with the special damage claim for the future cost of therapy.

PSLA

71. The invariable starting point for the assessment of psychiatric injury is the Judicial College guidelines, the current edition being the 14<sup>th</sup>. I accept the submission advanced by counsel for the Claimant, Ms Cross, that there are two relevant categories, because there are essentially two types of psychiatric injury. The first, "*psychiatric damage generally*" provides the umbrella for the effects of the adjustment disorder, particularly in the Claimant's earlier years, which was associated with solvent and alcohol abuse, the generalised anxiety disorder and the recurrent depressive disorder, both of which have been present throughout most of the Claimant's adult life since childhood, and the sexual dysfunction. It is contended that in relation to the subcategories (a) is the most appropriate, provided with the application of the 10% uplift the range between £48,080 and £101,470.
72. I respectfully disagree with Ms Cross that this category, which is reserved for the most severe of cases, is the appropriate one. Whilst there has been suicidal ideation and occasional symptoms of severity in terms of coping/breakdown, in my judgment it could not be said here that the progress is "*very poor*", particularly bearing in mind that the Claimant will be able to move forward after the conclusion of these proceedings and not have to return to revisit events which have given rise to her psychiatric illness. In my judgment the more appropriate category is that of "*moderately severe*". This identifies those cases where the factors present in the more severe category may still exist, but where there is not a very bleak prognosis. There is, furthermore, a broad range

Approved Judgment

provided which allows for those cases which are close to the severe category be identified. The range is £16,720-£48,080.

73. The second relevant category is that of “*post-traumatic stress disorder*”, the condition which is clearly identified on the psychiatric evidence and which has been particularly troubling for the Claimant in recent years. The suggested sub-category here is “*moderately severe*” where it could not be said that all aspects of the life of the injured person would be badly affected. The range is £20,290-£52,490. I agree that this is the appropriate range for the assessment of the Claimant’s post-traumatic stress disorder. This is certainly in accordance with the evidence of Dr de Taranto.
74. How should assessment then be approached? It seems to me that in the first place I should consider the exercise on the basis of two separate areas of psychiatric injury. Here causation is relevant, but it is not a precise exercise. Counsel has referred me to the helpful guidance provided in **BAE Systems (operations) Ltd v Konczak [2017] EWCA Civ 1188** where it is necessary to make a division to take into account non-tortious aspects of an injury. That was a case involving sexual discrimination in the workplace, although there was psychiatric injury which fell to be evaluated.
75. In my judgment the fairest way to consider the general psychiatric harm is to arrive at a starting point figure on the assumption that it was all referenced to the tortious conduct of the Defendant. In this regard I would assess an appropriate figure, within the identified bracket, which was close to the upper end, namely £45,000. The evidence of Dr de Taranto, of course, is that not all of the Claimants mental health problems (excluding the PTSD) are referable to the Defendant’s sexual abuse. Sensibly she does not seek to make an arithmetical attribution. However, in the broad-brush or rough and ready way in which judicial assessment has to be carried out, I must arrive at a fair division for that part which is attributable to the Defendant’s liability. On the basis of her evidence, I would assess this at 60% overall. Accordingly, an appropriate figure, in my judgment, would be £27,000.
76. The assessment of the post-traumatic stress disorder does not require such a division, because it is attributable in its entirety. In my judgment, allowing for the effect of the PTSD for Mrs C, and taking into account that it has been in its worst manifestation in the period following the criminal proceedings and subsequently as momentum has been gained in the civil proceedings culminating in the hearing before me, with little improvement in the therapy which has been undertaken so far with OSARCC, a reasonable and fair assessment would be £35,000.
77. There must be some degree of aggregation, rather than the provision of a total of the two categories, because there is in many respects an overlap of symptoms, save in respect of the most discrete aspects such as loss of sexual enjoyment and the consequences of alcohol and substance abuse. Again, applying a broad-brush, I arrive at a total assessment for general damages in respect of pain, suffering and loss of amenity in the sum of £55,000 on the application of the JC guidelines.
78. I now turn to consider whether the figure which I have arrived at is in line with previously decided cases, acknowledging that judicial precedent (where courts have made assessments in similar cases) should be treated with some degree of caution, because the judgment does not always reveal the degree of symptomology. Counsel has referred to several exemplar cases, and I select just three. In **ABC v West Heath 2000**



Approved Judgment

[2015] EWHC 2687 (QB) award for general damages was £35,000, principally in relation to adjustment disorder, increased anxiety, and relationship/sexual difficulties, for a younger Claimant who had been groomed and sexually assaulted by a teacher at a special school.

79. In **REA v Nottinghamshire County Council [2018] EWHC 403**, the Claimant was one of a number of former pupils of a residential school who had been subject to emotional, physical and sexual abuse by a teacher, and who had suffered a significant adjustment disorder with associated trust issues, relationship difficulties and mood swings. He appears to have had some improvement, but his condition was permanent. The sum of £45,000 was awarded for general damages.
80. In the case of **EB v Haughton [2011] EWHC 279 (QB)**, the Claimant was the same age as Mrs C at the time of the sexual assaults, which were of a similar nature, although the psychiatric consequences were not as serious, being manifested in an anxiety disorder with associated psychosomatic complaints. The sum awarded by the court was £28,000 the general damages in respect of PSLA, although it is noted that there had been a contribution to the Claimant psychiatric presentation by childhood difficulties, in the absence of which the award was likely to have been higher.
81. These cases reinforce my view that an appropriate assessment for PSLA is that which I have set out above, namely £55,000.

Aggravated damages

82. It has become increasingly common in cases of sexual abuse for an additional element to be awarded on top of PSLA in the form of aggravated damages. It is important that aggravated damages are intended to be compensatory and not punitive, dealt with by another category not appropriate here, known as “exemplary damages”. Ms Cross on behalf of the Claimant referred to the court to the case of **FKB v Lampitt** seemingly unreported but heard in the High Court before His Honour Judge Peter Hughes QC sitting as a High Court judge. The circumstances of that case were not dissimilar to the present one, with the Claimant, albeit much younger than Mrs C at the time of assessment, suffering abuse from her father over a several year period as a young teenager. He was convicted after criminal proceedings. The judge in that case awarded the sum of £15,000 by way of aggravated damages. He drew on the assistance provided by the Court of Appeal in **Rowlands v Chief Constable of Merseyside Police [2007] 1 WLR 1065**, and held that where an award was made it should be considered alongside PSLA damages and the total should not exceed that which was fair to reflect the totality of the case, and to avoid the risk of double recovery.
83. It seems to me from this and other cases that whilst the focus is on the conduct of the Defendant and the way in which he has addressed the allegations, either by denying them, or compounding the Claimant’s suffering, where awards have been made it is because of the effect which such conduct has had on the Claimant, emanating from the tortfeasor. Here it is submitted that relevant to the principle of the award of aggravated damages and its assessment is not only the Defendant’s denial throughout the criminal proceedings which required the Claimant to be subjected to a gruelling experience in court, but also his continuing insistence that all the allegations have been fabricated, including her mental injury, and that the Claimant has been in collusion not only with the other complainant but also her husband.

Approved Judgment

84. In my judgment these are all relevant matters. In the circumstances, and on the basis of the approach taken in previous cases, I have little hesitation in endorsing an award for aggravated damages, and allow the sum that is claimed, namely £10,000, which seems to me to be entirely appropriate.

Special Damages

85. There is a relatively straightforward claim based upon the cost of therapy which is set out in the schedule of loss and damage, together with the cost of travelling to that therapy. The other costs have been abandoned and are clearly not recoverable. The figures have been provided by Dr D Taranto, and they are not challenged. In the circumstances it seems to me that the Claimant has established an entitlement to the recovery of these therapy and travelling costs, and accordingly they are awarded in the sum of £10,530.

Interest

86. It is three years and eight months approximately since these proceedings were issued. The Claimant is entitled to general damages interest at the rate of 2% per annum from that date. The appropriate rate in the circumstances would be 7.6%. The total of general damages is £65,000, and this adds a further sum of £4,225.

Conclusion

87. It can be seen from my assessment above, that the Claimant's total entitlement to damages is £79,755 and judgment should be entered to this sum.
88. In addition, the Claimant is entitled to her costs unless there is application to the contrary. The provisional order which I make is that those costs should be subject to a detailed assessment if not agreed.
89. I am conscious that the Defendant's lack of legal representation makes post judgment communication difficult. I am prepared to receive indications as to typographical errors and any further orders which may be required. However, I cannot revisit any of the findings in my judgment. If any further applications are required these should be notified to the QB office, and if necessary a brief telephone hearing can be arranged. Otherwise, I invite counsel to submit for agreement, and ultimately for my approval, the final order arising from this judgment.