Neutral Citation Number: [2026] EWHC 2192 (KB)

Case No: KB-2024-000851

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/08/2026

**Before**:

**THE HONOURABLE MR JUSTICE SWEETING**

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**Between:**

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| **TWG** | **Claimant** |
| **- and -** | |
| **The Scout Association** | **Defendant** |

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**Justin Levinson** (instructed by **Bolt Burdon Kemp LLP**) for the **Claimant**
**Catherine Foster** (instructed by **Kennedys LLP**) for the **Defendant**

Hearing dates: 18th-19th March 2026

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# Approved Judgment

This judgment was handed down remotely at 11.30am on 19.8.26 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HONOURABLE MR JUSTICE SWEETING

## MR JUSTICE SWEETING:

## Introduction

1. This is my judgment following the trial of the Claimant's claim for damages arising from sexual assaults inflicted on him by an assistant Cub Scout leader, Leroy Grubb. The Claimant has a statutory right to anonymity pursuant to section one of the sexual offences Amendment Act 1992. An anonymity order has been made in this litigation in respect of the Claimant and his wife.

2. The Claimant was born on the second of June 1958. Between 1966 and 1969 he was a member of the first Midsummer Norton Scout Group in Somerset which was operated by the Defendant. Grubb was an assistant Cub Scout leader. Throughout the period of the assaults the Claimant was 10 years of age. Grubb was born in 1951 and so was some seven years older than the Claimant. Grubb came to know the Claimant at the weekly scout group meetings. On a series of occasions, he followed the Claimant on his walk home and sexually assaulted him, initially by requiring him to masturbate his penis and later making him perform oral sex.

3. On 1 July 1969 at Bath City Quarter Sessions Grubb was convicted of multiple counts of indecent assault on males other than the Claimant but asked for similar offences to be taken into consideration including an indecent assault on the Claimant which he said had taken place on 5 May 1969.

4. The Claimant seeks damages for the assaults on the basis that the Defendant is vicariously liable for Grubb's sexual assaults on him. The claim form was issued on the 4 of March 2024. A limitation defence was raised.

5. The Claimant's case as to vicarious liability is, in summary, that Grubb was only able to perpetrate repeated assaults as a result of his status as assistant leader in the Cub Scout pack and the relationship that he had formed with the Claimant at its meetings. Those meetings also afforded the opportunity for the assaults to take place. Vicarious liability is denied on the basis that there was no close connection between Grubb's role as an assistant Cub Scout leader and the activities he was authorised to undertake on behalf of the Defendant and the circumstances of the assaults. The fact of abuse is admitted only to the extent of Grubb's admitted criminal assault.

6. The Claimant claims damages for pain, suffering and loss of amenity as well as aggravated damages. His medical evidence is that he suffers from post-traumatic stress disorder and a recurrent depressive disorder which were caused by the abuse. By way of special damages, he claims the cost of treatment and travel for such treatment.

## The Issues

7. It was agreed that the issues at trial were:

    i) Should the section 33 limitation discretion be exercised in favour of the Claimant? (But see further below in relation to a change in the applicable law).

    ii) What was the extent of the sexual assaults perpetrated by Grubb against the Claimant?

iii) Is the Defendant vicariously liable for those assaults?

iv) To what damages is the Claimant entitled?

**Pleadings**

8. The Particulars of Claim set out the following positive case in relation to vicarious liability:

> "4. The Defendant assumed and was entrusted with and responsible for the care, safety and welfare of the Claimant during his time with the Scout Group and whilst engaged in activities incidental thereto including travelling home from Scout Group meetings and parades.
>
> 5. During his membership of the Scout Group, the Claimant regularly attended scout meetings, parades, activities and trips arranged by Grubb and the leader of the Scout Group, David Wiltcher. Grubb befriended the Claimant at Scout Group meetings and parades and gained his trust. Through his work for the Scout Group, Grubb learned how and when the Claimant would be making his way home after meetings and parades and assured the Claimant that he would make sure that he got home safely.
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> [...]
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> 8. The sexual abuse and assaults perpetrated by Grubb arose in circumstances where the Defendant entrusted the safekeeping, welfare and care of the Claimant to Grubb, delegated those tasks to Grubb and undertook its care and safekeeping of the Claimant through the services of Grubb. Further or alternatively, the sexual abuse and assaults by Grubb were committed in the course of Grubb's employment by or service for the Defendant and/or were closely connected therewith."

9. There was no allegation of any breach of a primary duty on the part of the Defendant nor of a non-delegable duty. The case was articulated solely in terms of vicarious liability.

10. The Defendant admitted that it was responsible for the Claimant's safety and welfare during his attendance at Scout activities but denied that this responsibility extended to his journeys to and from Scout activities or that it was responsible for the travel arrangements of cub-scouts attending meetings. In relation to vicarious liability, the Defendant's pleaded case was:

> "The said assaults did not take place in the context of any activities that LG had been required or authorised by the defendant to undertake.

> The Stage 2 test for vicarious liability is not satisfied because there was no close connection between the role of LG and the activities that he was required or authorised by the defendant to undertake and the circumstances in which the assaults occurred.
>
> The fact that LG had met the Claimant at the Group and therefore had the opportunity to follow him home is not sufficient per se to satisfy the test for vicarious liability.
>
> It is denied that it would be fair, just or reasonable to impose liability on the defendant for the acts of LG which were committed in circumstances over which it had no control and which did not arise from any tasks or activities which LG had been required or authorised to undertake in the context of his role as an Assistant Cub Scout Leader."

11. In the reply to the Defence the Claimant pleaded that:

> "Grubb's sexual abuse and assaults of the Claimant were closely connected with Grubb's role for the Defendant. The sexual assaults occurred on about 12 occasions. Grubb was only able to perpetrate the repeated assaults and ensure the Claimant's enduring submission to them and the Claimant's silence because of his status and the relationship that he had developed with the Claimant as his Cub Scout Leader."

**Limitation**

12. At the time of trial, limitation was a live issue in the proceedings. The latest date on which any cause of action had accrued was May 1969. In order to have been brought within the limitation period the claim would have to have been issued within three years of the Claimant reaching majority, which was in June 1976, thus by June 1979. The proceedings were not in fact issued until 2024 and were therefore some 44 years or so out of time. The Claimant accordingly sought the exercise of the court's discretion under section 33 of the Limitation Act 1980.

13. The parties addressed limitation both in their written submissions and at trial. The Defendant relied upon limitation in its Defence, contending that it would not be equitable to disapply the statutory time limit. The Claimant submitted that the discretion should be exercised in his favour. The principal focus of the parties' submissions was the effect, if any, of the delay upon the fairness of the proceedings and the Defendant's ability to investigate and defend the claim.

14. Section 33 of the Limitation Act 1980 is not confined to a residual category of cases. It confers a broad and unfettered discretion, requiring the court to look at the matter in the round.

15. On behalf of the Claimant, Mr Levinson submitted that in considering whether it was equitable to allow the action to proceed, a number of matters were to be considered:

i) First, the prejudice to the Claimant if the limitation bar were maintained would be very substantial: his claim would be prevented altogether. By contrast, there was little, if any, prejudice to the Defendant in permitting the action to continue, save for the loss of a technical limitation defence.

ii) The Claimant had had to revisit deeply painful and humiliating experiences in order to bring the proceedings, experiences which he had understandably sought to put behind him. His delay in issuing the claim could be explained in a manner consistent with the account contained in his medical evidence and had to be seen in the context of long-standing psychological difficulties which had affected much of his adult life.

iii) The underlying allegations were capable of investigation by the police. Indeed, Grubb's offending against the Claimant was taken into account when he was sentenced for other, similar offences. Key witnesses, including the Claimant and Grubb, remain available, and the court could be satisfied that a fair trial could still take place. There was no indication that the position has materially altered since the expiry of the primary limitation period.

iv) The Defendant had early notice of the allegations against Grubb. To the extent that it failed to take steps at the relevant time to investigate his abuse of children in its care, it was not now in a position to assert unfairness arising from any consequent evidential difficulties. It was also material that, for a lengthy period, the Claimant could not realistically have advanced a claim of this nature until the combined effect of *Lister v Hesley Hall Ltd 2001* [2001] UKHL 22 and *A v Hoare* [2008] UKHL 6 made such claims legally viable.

v) The abuse was committed against a child by an adult placed in a position of trust. Given the Claimant's youth at the time, his enduring psychological fragility, the deeply personal nature of the harm suffered, the impact of the abuse on his sense of self-worth and judgement, the turmoil that followed, and the authority attributed to Grubb by the Defendant, it could not be said that the Claimant acted unreasonably in failing to bring proceedings earlier. In cases of this kind, it was both understandable and often inevitable that allegations of childhood sexual abuse might not surface for a considerable time. It would therefore be inequitable for the Defendant to gain the benefit of a limitation defence arising solely from the nature and circumstances of the wrongdoing.

vi) Finally, the Claimant's condition and the effects of the abuse are now more readily identifiable, and the Defendant was in at least as good a position as before to pursue contribution or indemnity proceedings against Grubb should it choose to do so.

16. In her submissions before me, on behalf of the Defendant, Ms Foster accepted that a fair trial was possible, essentially on the basis that there was no impediment to her argument that vicarious liability could not be established on the factual case advanced. Thus discrepancies or gaps in the evidence did not affect the determination of the vicarious liability issue. She nevertheless reserved her position in relation to prejudice to the Defendant in the event that the Claimant sought to draw inferences or fill evidential gaps as a result of the elapse of time.

17. Following the conclusion of the evidence and submissions, but before judgment was handed down, the law changed. Section 96 of the Crime and Policing Act 2026 came into force on 29 June 2026. It inserted sections 11ZA and 11ZB into the Limitation Act 1980. In broad terms, those provisions removed the limitation period for civil claims for personal injuries attributable to child sexual abuse and apply to actions brought, and causes of action accrued, before the provisions came into force.

18. The parties made supplementary written submissions as to the effect of the new legislation on the present claim. Both parties accepted that the present proceedings fall within section 11ZA. The consequence is that the claim is no longer subject to the limitation regime which existed at the time of trial and that the Claimant no longer requires the court to exercise the discretion formerly conferred by section 33.

19. The issue becomes whether section 11ZB requires dismissal of the action. Under section 11ZB(2), the court must dismiss a claim only if the Defendant satisfies the court that it is not possible for a fair hearing to take place.

20. In its supplementary submissions, the Defendant did not seek to contend that a fair hearing was impossible. On the contrary, the Defendant expressly accepted, as it had done at the hearing, that the evidential issues relevant to the question of vicarious liability could be fairly tried notwithstanding the passage of time.

21. In those circumstances, this is not a case in which the Defendant seeks to discharge the burden imposed by section 11ZB(2). The basis upon which limitation was originally contested has, as a consequence of the change in the law, fallen away. There is no basis upon which I could conclude that a fair hearing of this claim was not possible. Indeed, the case proceeded to a full trial and the Defendant now expressly disavows any contention to that effect.

22. It follows that the claim is not barred by limitation following the enactment of sections 11ZA and 11ZB. In those circumstances, my conclusions on the substantive issues do not depend upon the exercise of the former section 33 discretion. Whilst I have recorded the arguments advanced, since that issue no longer arises for determination, it is unnecessary and inappropriate for me to express a concluded view upon it.

## The Claimant's Evidence

23. I heard evidence from the Claimant as to the circumstances of the assaults. His account, in summary, was as follows.

24. The Scout Hut was approximately 25 minutes' walk from the Claimant's home and he would walk there unaccompanied. He attended Cubs once a week on a Thursday evening. Meetings were one and a half to two hours in duration starting at about 6 pm. There were some 30 Cubs attending and after three or four weeks he was provided with the Cubs' uniform. The Scout Hut included land which would be used for activities such as fire lighting, first aid and camping skills. His mother was keen that he should attend. She was bringing him up alone, money was tight and Cubs was a way for him to get out of the house and have something to do after school which was not expensive.

25. The Claimant had come across Grubb in another setting when he attended judo lessons at age five to six where Grubb was an instructor but he had no direct contact with him.

He then saw Grubb again at Cubs where he was dressed in full Scout uniform and was a scouting assistant. The meetings would always be run by the Scout Master, the Akela, with one other member of staff assisting. For the majority of time that person would be Grubb. The Claimant recollected Grubb as being very self-confident and barking out orders to Cubs so that they would run around doing things. He said that he found him quite intimidating and overbearing. He nevertheless thought that he was respected and that the Cubs listened to his orders since he was older and in a position of authority. The Claimant said:

> "Grubb gained my trust at Scout Group meetings and parades through his work for the Scout Group, Grubb learned how and when I would be making my way home after meetings and parades."

26. He described the first incident in which he was assaulted as follows.

> "I remember that in the first winter after I had joined Cubs, I would walk home by taking the quick route home which avoided the main road as I assumed this would be a safer route. The first time Grubb abused me was in around early 1969. I was walking home one evening after attending the Cubs. As usual, was walking this quicker route home. I arrived at the end of a cul-de-sac on Rackvernal Road which led onto fields and a rugby field. The road was secluded and quiet and there were corrugated iron garages or sheds at the end of the road. Although the centre of the village had streetlights, the outskirts where most people lived had no streetlights and this road was very dark. Grubb, appeared out of nowhere. He was still in his scout uniform. He took me by my arm and said something like "I'll walk you home". He assured me that he would make sure that I got home safely. I had no reason to believe that he wasn't going to take me home. He walked me down Rackvernal Road. As stated above, there were no streetlights on this road so it was very dark. Grubb then proceeded to take out his penis from his trousers and said, "you can touch it if you want". He grabbed my arm forcing me to hold his penis and masturbate him. I recall that Grubb ejaculated and then he told me words to the effect of "this is our secret, if you tell anyone I will hurt you". Grubb then disappeared. The incident and the threat left me feeling terrified. I had to make my own way home after the incident feeling frightened and confused about what had just happened.
>
> On approximately 12 further occasions, Grubb abused me in the same place during the time I attended Cubs. After the first time I was abused, I was frightened that he would come out every time I walked back home. The way he would walk me home would feel coercive, as I knew Grubb would then abuse me. Grubb would always take me down Rackvernal Road given there were no streetlights there. I was extremely scared, and I felt overpowered by Grubb. He would almost frogmarch me to an area, force me to perform oral sex on him or to masturbate him,

> remind me not to tell anyone about it, as it was "our secret" before disappearing. I knew what he was doing to me was wrong, but I was too scared to tell anyone and the consequences of him hurting me if I did. The abuse took place over a period of approximately 5 to 6 months."

27. The Claimant indicated on a map where the first assault and those which followed had taken place. This appeared to be no more than a third of the way along the route of his journey home, perhaps a little less. Given his evidence as to his journey time this would mean that Grubb caught up with and then assaulted him within no more than eight to ten minutes of leaving the Scout Hut.

28. There was evidence that another Scout had been assaulted. A letter from the Scout Leader to the Scout Associations Legal Secretary dated 18 June 1969 says: "Two charges relate to Scouts one at our Headquarters, the other on his way home after a meeting." It was agreed that the reference to headquarters was to the Scout Hut which the Claimant attended.

29. It appears that the Claimant, of all the members of his troop, was targeted repeatedly. In cross-examination by Ms Foster on behalf of the Defendant he said that on the first occasion he had not initially been frightened as he recognised Grubb as a Scout Leader. The pattern of the assaults was always the same with Grubb leading him further along the road to a dark spot.

30. I found the Claimant to be a straightforward witness. In submissions it was suggested that there were "lawyerly inserts" into his witness statement. I do not accept this. The appropriate way in which to challenge the evidence on such a basis was in cross-examination. The Defendant had a full opportunity to do so and I did not detect any inauthenticity in what the Claimant described or the words he used. In my view he had not exaggerated his account of what had taken place or the effect on him over the years nor was his account embellished in the process of preparing a witness statement. There was however a difference in the account recorded by Dr Kehoe, the Defendant's medical expert witness, of the number of assaults which had taken place and those which had been set out in the letter of claim and recorded in the report of Dr Cooling, who gave evidence for the Claimant. Although Dr Kehoe was aware of the inconsistency he did not ask the Claimant about it during his interview with him. I consider that there was room for error or a misunderstanding and I accept the Claimant's evidence when he was asked about this in cross examination. His estimate was that the assaults had taken place on some 10 to 12 occasions. He added that three to four occasions, as set out in Dr Kehoe's report, would have been far fewer than he recollected.

31. Thus as a 10-year-old he was assaulted up to a dozen times. The fact that he was a victim of a sexual assault was recognised at the time, following the criminal proceedings, but there was no investigation nor was he offered any help. Such was the way of the world in the 1960s. The Defendant was aware of the fact that he had been assaulted and a Representative of the Scout Association spoke to his mother. The Defendant's records indicate that Grubb was dismissed as an assistant Cub Scout leader.

32. Although the abuse ceased following Grubb's arrest, its psychological effects did not. The Claimant's evidence, which I accept, is that he attempted thereafter to put the abuse

behind him and to continue with his life without discussing it. In practice, however, he carried the consequences of what had occurred for many decades. He never disclosed the abuse to family members, intimate partners or friends. Feelings of shame, embarrassment and self-blame became deeply entrenched. He continued to regard the abuse as a secret which could not safely be discussed and remained troubled by the threats which Grubb had made to him as a child.

33. The Claimant described a longstanding sense of anger which emerged during adolescence and persisted into adult life. He was angry at Grubb, angry at the circumstances in which the abuse had occurred and, to some extent, angry with himself. He explained that he was ill-equipped to understand or articulate the emotions which he was experiencing and that he frequently expressed them through irritability, anger and occasional aggression.

34. I also accept the Claimant's evidence concerning the persistence of intrusive memories. He described recurrent thoughts about the abuse, distressing recollections, feelings of humiliation and self-disgust, and nightmares which have continued into later life. His evidence was that he still experiences disturbed sleep and that his wife has observed him shouting, screaming or lashing out while dreaming. The abuse remained a source of psychological distress notwithstanding the passage of more than fifty years.

35. He described longstanding difficulties in trusting people, a tendency to be emotionally guarded and a reluctance to form close personal relationships. He explained that he often felt inadequate, carried a persistent sense of shame and found it difficult to discuss his experiences even with those closest to him. Significantly, despite a long and successful second marriage, he did not disclose the abuse to his wife until many years later. Even now, he finds it difficult to discuss the details of what occurred.

36. I accept that the abuse also affected the Claimant's sexual development and intimate relationships. He described feelings of anxiety, inadequacy and embarrassment associated with sexual intimacy and attributed those difficulties to the premature and abusive sexual experiences to which he had been exposed as a child. He felt that an important part of his childhood innocence had been taken from him and that the abuse continued to affect the way in which he viewed himself and his relationships with others.

37. The abuse also had broader consequences for the Claimant's life choices and sense of personal identity. I accept his evidence that he abandoned an ambition to join the Royal Navy because of anxieties about living and working in a predominantly male environment. Whether or not that career would ultimately have been pursued absent the abuse, his evidence demonstrates the extent to which the abuse influenced his attitudes towards other men and his ability to trust those around him.

38. A striking feature of the evidence was the enduring nature of these effects. The Claimant repeatedly described the abuse as something which had accompanied him throughout his adult life. He explained that he had sought to bury the memories and compartmentalise them, but that they never truly left him. I accept that evidence. The abuse did not represent an isolated episode of childhood adversity from which the Claimant quickly recovered. Rather, it cast a long shadow across many aspects of his emotional life, relationships, self-esteem and sense of security over a period extending into late adulthood.

39. The Claimant eventually decided to come forward after seeing material on social media which brought the events back to the forefront of his mind. By then he was in his sixties. His evidence was that he wished both to obtain some measure of justice and to ensure that no other child might suffer similar abuse. I accept that the process of disclosure was itself emotionally difficult for him but that it represented an attempt, after many years of silence, to confront what had happened and seek some degree of closure.

40. There was evidence from the Claimant's wife, who was referred to as FXX. She has known the Claimant since 1994 and they married in 1995. She explained that the Claimant did not disclose the abuse to her until 2023, notwithstanding the length and stability of their relationship. Prior to that disclosure she had been aware throughout their marriage of aspects of the Claimant's behaviour which she did not fully understand at the time but which, in retrospect, she now attributes to the abuse he had suffered as a child.

41. One theme of her evidence was the Claimant's protectiveness towards their daughter. FXX described how the Claimant was consistently anxious to ensure that their daughter was accompanied to and from school, and other activities, and was reluctant to allow her to attend sleepovers away from home. At the time she regarded this as parental protectiveness. Following his disclosure, however, she came to understand it as reflecting his concern to protect his daughter from risks similar to those which he had himself encountered as a child.

42. FXX further described episodes of low mood which recurred throughout much of their marriage. She and other family members observed periods which she referred to as the Claimant's "dark times", during which he appeared depressed, withdrawn and preoccupied. She explained that the Claimant would often isolate himself and spend time alone, but was unable or unwilling to provide any real explanation for his mood. It was only after his disclosure that she came to understand that these episodes were connected to intrusive thoughts and memories relating to the abuse.

43. Her evidence also supported the Claimant's account of longstanding difficulties discussing his emotions. She described how, when questioned about his low mood, he would sometimes react with irritability or anger, withdrawing from discussion and insisting that he wanted to be left alone. She recalled him saying that he had "his secrets". The effect was not only upon the Claimant himself but also upon the relationship, because she was left uncertain as to the cause of his behaviour and at times feared that he was concealing some other difficulty from her.

44. FXX also described features of the Claimant's behaviour which were consistent with continuing psychological distress. She recalled that he had experienced nightmares throughout the period she had known him and that these occasionally involved physical movements or shouting in his sleep. She further observed his reluctance to return to Midsomer Norton and his emotional distance from members of his family.

45. She gave a description of the Claimant's difficulties with self-esteem and social confidence. She explained that he did not readily relax in social situations, was often critical of his own appearance and appeared to carry a persistent lack of confidence notwithstanding the outward appearance of a settled and successful adult life.

46. FXX described the Claimant's disclosure in 2023 as a significant event in their relationship. She said that he told her he had finally come to terms with what had happened and did not wish to reach the end of his life without anybody knowing. Although she found the disclosure shocking, it provided an explanation for behaviour which had puzzled her for many years. She regarded the disclosure as having strengthened rather than weakened their relationship. Significantly, she observed that the Claimant appeared lighter in mood thereafter and that some of the burden he had carried for many years seemed to have been alleviated by finally speaking about the abuse.

47. I regarded FXX's evidence as providing support for the Claimant's account of the enduring effects of the abuse. Although she had no direct knowledge of the events themselves, her evidence demonstrated that for many years before disclosure the Claimant exhibited behaviours consistent with unresolved trauma, including recurrent low mood, social withdrawal, difficulties with trust and emotional intimacy, disturbed sleep, hypervigilance concerning the safety of his daughter and a marked reluctance to revisit or discuss the period of his childhood in which the abuse occurred.

## Adverse Inferences

48. The Claimant submitted that an adverse inference should be drawn from the fact that Grubb was not called to give evidence. It was submitted that the Defendant had chosen to advance a positive case on vicarious liability while failing to call the individual whose conduct lay at the centre of the allegations.

49. Ms Foster submitted that no such inference should be drawn. She contended that it was entirely speculative to assume that Grubb could have been located, would have been willing to assist the Defendant, or would have provided truthful or reliable evidence had he been called. She further submitted that the issues before the court could properly be determined on the basis of the evidence that was available.

50. I do not accept the Claimant's submission in the context of the issue which I have to determine. The absence of evidence from Grubb may potentially have been relevant to questions concerning the effect of the passage of time upon the fairness of the proceedings, had such an issue arisen for determination. However, I did not regard his absence as assisting on the separate question of vicarious liability.

51. Any conclusion as to what evidence Grubb might have given would necessarily be speculative. It is impossible to know whether, if located and approached, he would have been willing to co-operate with these proceedings or, if he had done so, whether his evidence would have been candid and reliable. In those circumstances, I do not consider that any meaningful inference can properly be drawn from the fact that he was not called.

52. In any event, I agree with the Defendant's submission that the evidence available to the court was sufficient to enable the issues in dispute to be determined. The question of vicarious liability falls to be resolved by reference to the findings of fact which I make and the application of the relevant legal principles, to which I now turn.

## The Legal Framework

53. The modern law of vicarious liability has developed through a series of decisions of the appellate courts and now involves a two-stage analysis. The emergence and development of that approach, beginning with *Lister v Hesley Hall Ltd* [2001] UKHL 22, [2002] 1 AC 215, and continuing through *Various Claimants v Catholic Child Welfare Society* [2012] UKSC 56, [2013] 2 AC 1, *Cox v Ministry of Justice* [2016] UKSC 10, [2016] AC 660, *Armes v Nottinghamshire County Council* [2017] UKSC 60, [2018] AC 355, *Various Claimants v Morrison Supermarkets plc* [2020] UKSC 12, [2020] AC 989, and *Trustees of the Barry Congregation of Jehovah's Witnesses v BXB* [2023] UKSC 15, [2023] AC 1269 was recently summarised by the Court of Appeal in *Burger v Risk Solutions* [2026] EWCA Civ 804.

54. As the authorities make clear, the first stage is concerned with the nature of the relationship between the defendant and the wrongdoer. The second stage requires an evaluative assessment as to whether the tort was so closely connected with the acts which the tortfeasor was authorised, entrusted or expected to perform that it is fair and just to impose liability upon the defendant. The ultimate question remains whether the wrongdoing can fairly and properly be regarded as having been committed in the course of the relevant employment or quasi-employment: *Lister* at [28]; *Morrison* at [23]-[31]; *BXB* at [58].

55. In the present case, it is common ground that the relationship between Grubb and the Defendant satisfies the first stage of the analysis. The sole issue is therefore whether the assaults were sufficiently closely connected with Grubb's role as Assistant Cub Scout Leader to satisfy the second stage of the test. The required approach was summarised by Lord Burrows in *Trustees of the Barry Congregation of Jehovah's Witnesses v BXB* [2023] UKSC 15, [2023] AC 1269. He explained, at [58(iii)], that the stage 2 question is:

> "whether the wrongful conduct was so closely connected with acts that the tortfeasor was authorised to do that it can fairly and properly be regarded as done by the tortfeasor while acting in the course of the tortfeasor's employment or quasi-employment."

56. The task is therefore a fact-sensitive one, although involving a legal conclusion, directed to the connection between the tortfeasor's authorised activities and the wrongdoing. Mere "but for" causation is insufficient. The fact that a role provided an opportunity to commit a wrong does not, without more, establish vicarious liability: *Morrison* at [31]; *BXB* at [58(iii)].

57. Whilst the principles applicable to cases of sexual abuse are not materially different from those which govern the law of vicarious liability generally, in *Morrison* Lord Reed explained at [23] that sexual abuse cases have focused upon criteria especially relevant to that context, including "the employer's conferral of authority on the employee over the victims, which he has abused." Subsequent authorities have emphasised that, in cases involving the sexual abuse of children, particular significance commonly attaches to the conferral of authority, trust, responsibility and power over the victim. The authorities therefore focus not merely upon where or when the abuse occurred but upon the relationship which enabled it to take place.

58. In *Lister* the House of Lords held that a boarding-house warden's sexual abuse of children in his care was so closely connected with the duties entrusted to him that it

would be fair and just to impose vicarious liability. The significance of *Lister* lies not simply in the fact that the abuse occurred in the context of employment, but in the fact that the abuse represented a gross misuse of responsibilities which had been entrusted to the tortfeasor for the care and supervision of vulnerable children.

59. In *London Borough of Haringey v FZO* [2020] EWCA Civ 180, the Court of Appeal upheld a finding of vicarious liability where a teacher groomed and abused a pupil. Although some of the abuse occurred away from school and even after the pupil had left the school, the relevant relationship had been created through the teacher-pupil relationship entrusted to him by the defendant. The grooming process, which constituted an abuse of that entrusted position, provided the necessary connection. McCombe LJ emphasised, at [150], that in the modern authorities the place and timing of the abuse may be relevant but are rarely determinative. Likewise, in *AB v Chetham's School of Music* [2021] EWHC 1419 (QB), liability was imposed because the teacher's position of authority, care and responsibility placed him in a position to gain access to and exercise influence over the claimant, and the abuse represented a misuse of that trust.

60. By contrast, the close connection test will not be satisfied merely because the tortfeasor encountered the claimant through the employment or quasi-employment relationship. In *BXB* the Supreme Court held that a congregation was not vicariously liable for a rape committed by an elder because the assault arose from a personal relationship rather than from the exercise of authority conferred by his religious office. Similarly, in *EXE v Governors of the Royal Naval School* [2020] EWHC 596 (QB), the school was not liable for abuse committed by a kitchen porter whose duties gave him neither authority over, nor responsibility for, the claimant. In those cases the employment provided no more than the occasion for contact.

61. The ultimate question is therefore whether, viewing the matter realistically and in the round, the tortfeasor's role merely provided the opportunity for the wrongdoing or whether the wrongdoing was so closely connected with the authority, responsibilities, powers and opportunities entrusted to him that it may fairly and properly be regarded as committed in the course of the quasi-employment relationship. *Lister*, *Morrison* and *BXB* all emphasise that this evaluative judgment depends upon the particular facts of the individual case.

62. Among the matters which may be relevant are the nature and scope of the tortfeasor's entrusted functions; whether the relationship placed the tortfeasor in a position of authority or responsibility over the claimant; whether the wrongdoing involved an abuse of that position; whether the claimant's trust and vulnerability derived from the role entrusted to the tortfeasor; and the extent to which the tort formed part of a continuum beginning with activities undertaken pursuant to the entrusted role rather than being wholly independent of it.

63. The authorities also make clear that the fact that abuse occurs away from the defendant's premises or outside formal hours of duty is not conclusive. In *X v London Borough of Wandsworth* [2006] EWCA Civ 535, [2006] 1 WLR 2320, the Court of Appeal held that sexual abuse occurring away from school premises could nevertheless satisfy the close connection test where the teacher's pastoral responsibilities and the trust reposed in him as a teacher formed the basis of the abuse. Sir Anthony Clarke MR observed, at [131]-[132], that the critical question was whether the teacher's conduct

could fairly be regarded as performed in the course of his employment and that the off-site location of the abuse was not decisive.

64. The Defendant's uncontroversial submission was that the application of the test in *BXB* requires a close connection between the authorised activity of the tortfeasor and the commission of the tort which it is sought to make the defendant vicariously liable for. Ms Foster submitted that this was a clear case because the authorised activity was as an assistant Cub Scout leader helping the group leader at the Cub Scout meetings. That did not include any pastoral role or any responsibility for the Claimant coming to or from the Scout Hut. Ms Foster relied upon the fact that the assaults took place after the scout meeting, away from the scout hut and not during any activity which Grubb was authorised to carry out as part of his role.

65. The Defendant's case was essentially that the authorised activities had ceased and the assaults took place away from where those activities were carried on. At most this was a case where attendance at the Scout group afforded an opportunity for the offending but this was insufficient to establish vicarious liability. Ms Foster pointed to the fact that Grubb intercepted the Claimant on his way home and was described as appearing out of nowhere in the Claimant's evidence. The contention that on the first occasion Grubb assured the Claimant that he would make sure he got home safely only appeared for the first time in the Claimant's witness statement dated 1 May 2025 and not in the earlier accounts of the abuse set out in the Letter of Claim and the account given to the Claimant's medical expert. She further submitted that this was not a case of grooming because the assaults were predatory and the Claimant had done what he could to avoid Grubb, saying that on occasions, after the assaults had commenced, he had tried to run home.

66. Ms Foster also relied upon a number of additional authorities which were said to illustrate the limits of the close connection test.

67. First, my attention was drawn to *Bazley v Curry* (1999) 174 DLR (4th) 45. There, the defendant operated a residential children's home and the tortfeasor was employed in a role involving direct responsibility for the day-to-day care of vulnerable children. His duties extended to intimate personal care and supervising children at bedtime. The Supreme Court of Canada held that the employer was vicariously liable for sexual abuse committed in the course of that relationship. The significance of the decision lies in the fact that the employer had entrusted the tortfeasor with extensive caring responsibilities which materially enhanced both the opportunity for abuse and the degree of power exercised over the children. This was an example, it was argued, of abuse which was closely connected with the very functions entrusted to him.

68. By contrast, Ms Foster relied upon *Jacobi v Griffiths* (1999) 174 DLR (4th) 71, where the Supreme Court of Canada declined to impose vicarious liability. The tortfeasor was a volunteer associated with a youth club who came into contact with children through club activities. The abuse occurred at his home after he had persuaded the children's parents to permit visits there. Although the club provided the opportunity for the relationship to develop, the Court distinguished between an enterprise which entrusted a defendant with responsibility for children's care and one which merely provided a setting in which contact occurred. The abuse became possible only once the tortfeasor had separated the children from the public and supervised environment in which the

club's activities ordinarily took place. Accordingly, the connection between the entrusted role and the abuse was held to be insufficient.

69. Ms Foster further relied upon the decision of Johnson J in *TVZ v Manchester City Football Club Ltd* [2022] EWHC 7 (QB). That case concerned allegations of abuse by a coach, Barry Bennell. Although Bennell had obtained access to boys through his activities as a scout and football coach, the Court held that neither stage of the vicarious liability test was satisfied. Of particular relevance to the present case was the Judge's conclusion that the football club had not entrusted Bennell with responsibility for the boys while they were staying at his home, nor had it delegated to him any general duty for their care and welfare outside the football activities themselves. Johnson J emphasised the distinction between a residential school teacher, entrusted with extensive responsibility and authority over children, and a football scout whose functions were materially narrower. The abuse represented conduct undertaken for Bennell's own purposes rather than an abuse of responsibilities entrusted to him by the club.

70. Relying upon those authorities, Ms Foster submitted that the present case was closer to *Jacobi* and *TVZ* than to *Lister, Christian Brothers* or *Bazley*. It was contended that Grubb's role merely created the opportunity to encounter the Claimant and that the relevant assaults occurred only after the scouting activities had concluded and whilst the Claimant was making his way home. On that analysis, the Defendant argued that there was no entrustment of responsibility for the Claimant at the material time, no delegated duty concerning his journey home, and no sufficiently close connection between the abuse and the functions which Grubb had been authorised to perform.

71. On behalf of the Claimant, Mr Levinson submitted that as the sexual assaults were intentional torts they could, axiomatically, not themselves be within the activities which Grubb was authorised to carry on. Equally his motive for committing them was a personal one; he was pursuing his own interests and gratification. If these features precluded a close connection, then vicarious liability could never be made out in such a case. But that is not the law. The close connection required is between the circumstances in which the assaults occurred and the authorised activities.

72. He submitted that the present case bears a much closer resemblance to *Lister*, *FZO* and *AB v Chetham's*, than to the authorities upon which the Defendant relied. The essence of that submission was that this was not a case in which the tortfeasor merely encountered the Claimant through scouting and thereafter embarked upon a wholly separate course of conduct unconnected with his authorised role. Rather, it was said that Grubb's position as Assistant Cub Scout Leader provided him with authority over the Claimant, entrusted him with responsibility for children within the Cub Scout movement, and enabled him to establish the relationship of trust and confidence which made the initial abuse possible and gave him the power and opportunity to continue it whilst intimidating the Claimant into not divulging that he had been assaulted. The fact that he did not do so was an indication of the fact that he had been selected as a compliant victim which itself depended upon the contact and knowledge which Grubb acquired from his position in the scout group.

73. Against that background, Mr Levinson contended that the present case is distinguishable from *Jacobi* and *TVZ*. Unlike those cases, it was said, Grubb's role involved direct engagement with children entrusted to the Defendant's care through its

scouting activities, that the Claimant fell within the very class of children over whom he exercised authority, and that the abuse was facilitated by the relationship which that entrusted position enabled him to create. On that footing, the Claimant submitted that the Defendant's role was not merely to provide the occasion upon which the parties met. Rather, it conferred the authority, trust and access which were subsequently abused, thereby satisfying the close connection test.

**Conclusion on vicarious liability**

74. Drawing the authorities together, the factors which commonly point towards the existence of a sufficiently close connection in child sexual abuse cases include the entrustment of responsibility for children; the conferral of authority, influence or supervisory functions over the claimant; the development of trust by virtue of that role; the use of that position to gain access to the claimant; the selection of the claimant because he or she falls within the class of children entrusted to the tortfeasor's care; and the exploitation of the relationship thereby created as part of a continuing process culminating in the abuse. Where those features are present, the abuse is capable of being characterised not merely as conduct for which the role provided an opportunity, but as conduct which constituted an abuse of the very position entrusted to the tortfeasor.

75. In the present case, it is those latter features which are of central importance. On my findings of fact, the Claimant was known to Grubb because he was a Cub Scout under his supervision. Grubb occupied a position of trust and authority by virtue of his role as Assistant Cub Scout Leader. It was that role which enabled him to form the relevant relationship with the Claimant, to gain his confidence, to acquire knowledge of his circumstances and movements, and ultimately to obtain access to him. The Claimant's evidence, which I accept, was that Grubb used that position on the first occasion to present himself as a trusted adult who would ensure that the Claimant got home safely after the meeting.

76. The assaults were not isolated or spontaneous acts. They occurred repeatedly over a period of time. The opportunity for each assault arose directly from a relationship that had been established and nurtured through Grubb's role within the Scout movement. The Claimant was targeted because he was a child over whom Grubb exercised the authority and influence which that role conferred. The abuse was therefore an abuse of the very position with which Grubb had been entrusted.

77. I accept that the assaults did not occur at Cub meetings themselves. Nor did they occur on Scout premises. However, those features are not determinative. As the authorities make clear, the critical question is whether the wrongdoing was sufficiently closely connected with the functions entrusted to the tortfeasor. Here the relevant chain of events began at Cub meetings, arose from the relationship established there and depended upon the authority, trust and opportunity that Grubb derived from his role as Assistant Cub Scout Leader. As a matter of fact the assaults only occurred within close proximity to the Scout Hut, after Scout meetings and within minutes of the Claimant making his way home.

78. On the balance of probabilities, it was not a coincidence that the Claimant was one of the children whom Grubb abused. He was selected because he was a Cub Scout known to Grubb through the latter's role as Assistant Cub Scout Leader. The process by which

Grubb gained the Claimant's trust, identified his vulnerability and obtained access to him was itself inextricably bound up with that role.

79. In my judgment this case is closer in principle to *Lister, X v Wandsworth* and *FZO* than to *BXB*. The abuse did not stem from a relationship that happened independently to exist between tortfeasor and claimant. It stemmed from, and was facilitated by, a relationship of authority, trust and responsibility created by the Defendant's enterprise and entrusted to Grubb.

80. Standing back and considering the matter in the round, I am satisfied that the assaults were so closely connected with Grubb's role as Assistant Cub Scout Leader that they may fairly and properly be regarded as having been committed in the course of that quasi-employment. The abuse therefore represented a misuse of the authority, trust and opportunity entrusted to Grubb by the Defendant. In those circumstances, I am satisfied that the connection between the abuse and Grubb's authorised role was sufficiently close to satisfy stage 2 of the vicarious liability test. The Defendant is therefore vicariously liable.

## The Medical Evidence

81. Each side called a consultant psychiatrist; Dr Cooling for the Claimant and Dr Kehoe for the Defendant.

82. Dr Cooling's conclusion was that the Claimant:

> ".. has longstanding post traumatic stress disorder; this condition is coded 309.81 according to the DSM-5 diagnostic classification. The equivalent ICD-10 coding is F43.1. The ICD-11 coding is B640. There is no precise scientific way of accurately assessing the severity of post traumatic stress disorder in the past because the GP records are uninstructive. My assessment is that the post traumatic stress disorder has existed at a level of at least moderate severity and it will have been capable of fluctuating to some degree, depending on other external life events.
>
> Secondly, I note that he has had depressive disorder, of at least moderate severity, in the past and he describes longstanding mood instability. In my opinion, he suffers from moderate recurrent major depressive disorder, currently in remission. This condition is coded 296.35 according to DSM-5. The equivalent diagnosis according to ICD-10 is F33.41.
>
> Thirdly, I note that [the Claimant] struggled with physical intimacy in his younger years and his first marriage ended in acrimonious circumstances and he moved away from Midsomer Norton and made a new life in [...] . In my opinion, a range of psychiatric opinion would include the possibility that in addition to the diagnosis of post-traumatic stress disorder, [the Claimant] could also be considered to have complex post traumatic stress disorder according to the ICD 11 diagnostic classification. This

condition is coded 6B41. In my opinion, [the Claimant] has described symptoms to me which include the following:

i)Re-experiencing the traumatic event or events in the present in the form of vivid, intrusive memories , flashbacks or nightmares, which are typically accompanied by strong and overwhelming emotions such as fear or horror and strong physical sensations or feelings of being overwhelmed or immersed in the same intense emotions that were experienced during the traumatic event.

ii) Avoidance of thoughts and memories of the event or events or avoidance of activities, situations or people reminiscent of the event or events

iii)Persistent perceptions of heightened current threat, for example as indicated by hypervigilance or an enhanced startle reaction to stimuli, such as unexpected noises

This is a case where the symptoms have persisted for many years and caused significant impairment in terms of personal, family, social, educational, occupational or other important areas of functioning. In addition to the characteristic symptoms of post-traumatic stress disorder being apparent in this case, it is also clear that in addition, there have been other consequences including:-

i)Severe and pervasive problems in affect regulation

ii)Persistent beliefs about oneself as diminished, defeated or worthless accompanied by deep and pervasive feelings of shame, guilt or failure, related to the traumatic event

iii)Persistent difficulties in sustaining relationships and in feeling close to others.

The disturbance causes significant impairment in personal, family, social, -26- 175 educational, occupational and other important areas of functioning."

83. Dr Kehoe's conclusion was that:

"It is likely that the abuse contributed to intermittent emotional distress and to the development of his personality characteristics over the years. Without the abuse TWG would likely have had a greater degree of confidence and be less prone to periods of low mood, irritability and occasional post-traumatic stress symptoms.

I consider that the adjustment disorder he experienced in 1990, was a consequence of a relationship breakdown, and the

> contemporaneous GP records support this. It may have been the case that the abuse contributed to difficulties in that relationship, but there is no clear evidence of this. I consider it likely that the adjustment disorder would have occurred even in the absence of the abuse, as would the history of excessive alcohol intake and use of cannabis around that time (as this was a pattern of behaviour exhibited by his peers as well).
>
> I do not consider that TWG went on to experience further episodes of depression or adjustment disorders. TWG was clear that he had not done so, and there are no further presentations with emotional difficulties in his GP records. Hence I found no evidence of recurrent depressive disorder (a diagnosis made by Dr Cooling).
>
> I consider that the childhood sexual abuse contributed to his personality development and to intermittent post-traumatic stress symptoms (not post-traumatic stress disorder)."

84. In the joint report the psychiatrists summarised their respective views on the impact of the abuse:

> "Dr Kehoe could not attribute the adjustment disorder in 1990 to being a consequence of the childhood abuse. This is because the adjustment disorder followed on from a relationship breakdown, and there is no indication that the abuse caused that relationship breakdown. In contrast Dr Cooling has noted depression with biological features in 1990 and that depression is multifactorial in causation.
>
> We agree that some of TWG's personality characteristics of low self-esteem, introversion and some difficulties with trust issues, may have been influenced by the experience of childhood abuse, but it was difficult to be clear, as such characteristics are shared by many individuals. Dr Cooling considered that the post-traumatic stress disorder and recurrent depressive disorder arose as a consequence of the childhood abuse.
>
> Dr Kehoe considers that TWG showed no history of post-traumatic disorder or recurrent depressive disorder. Dr Kehoe considers that, if the Court accepted that TWG had suffered from such psychiatric conditions, then the cause of the post-traumatic stress disorder would likely be related the abuse, whereas recurrent depressive disorder would likely be multifactorial and it would be impossible to relate this primarily to the abuse. Dr Cooling also notes that depression is multifactorial in terms of causation."

85. There was therefore a difference in diagnosis between the two psychiatric experts. Dr Kehoe considered an adjustment disorder was the appropriate diagnosis. Dr Cooling thought the Claimant's account fitted a diagnosis of PTSD. The principal reason De

Kehoe did not accept this diagnosis was because he considered that PTSD would have manifested itself more clearly and with more significant symptoms. He pointed to the fact that the Claimant had only one episode in 1990 in which he had seen his General Practitioner for help with depression and low mood. Dr Kehoe described this as a short-lasting depressive mood which had taken place many years ago in the aftermath of a relationship breakdown. Otherwise, in his view, there was no evidence that the Claimant's work, social or personal life had been affected in the way one might expect if recurrent PTSD or depression was an underlying condition. Since he was prepared to seek help from his GP for depression in 1990, the absence of any further complaints or recorded episodes in his medical records supported, in Dr Kehoe's view, the conclusion that his settled home life, long marriage and close relationships with his wife and daughter were all indicative of the absence of any underlying serious mental health issues.

86. Dr Kehoe nevertheless accepted in evidence that if Dr Cooling was correct in his diagnosis of PTSD then the only life event capable of giving rise to that condition was the series of assaults to which the Claimant had been subject as a 10-year-old. An adjustment disorder could be serious in itself and, as he accepted, produce symptoms of a type associated with PTSD not amounting to the full-blown condition.

87. Dr Cooling referred to a number of features of the Claimant's presentation and history which he said clearly fitted a PTSD diagnosis. This included avoidant behaviour, intrusive thoughts, sleep disturbance and hyper vigilance. As far as the 1990 visit to the general practitioner was concerned he thought this was an important part of the diagnosis of PTSD because it involved biological features and could not be regarded as simply evidencing a depressive mood or an adjustment disorder. He pointed out that it was treated with two types of antidepressant medication.

88. Both experts, in my view, gave considered and careful evidence based on their assessment of the Claimant. It was accepted by Dr Kehoe that the Claimant may have improved when he saw him, which was some time after Dr Cooling's examination. Both agreed that the process of talking to them about what had happened, and eventually to his wife, had been cathartic for the Claimant and accounted for some improvement in his well-being.

89. Both psychiatrists explained that there was a range of views which could properly be arrived at in the Claimant's case because there were difficulties in reaching a diagnosis given that the abuse happened a long time ago and that the Claimant has lived a long life since. Both psychiatrists accepted that incidences of low mood or depression were part of life and might have to be distinguished from features which indicated long lasting trauma or psychiatric illness as a result of abuse. It may equally be said that where such features can be identified then they are likely to have stemmed from the abuse.

90. The Claimant's evidence was that the assaults have had an impact throughout his life, notwithstanding his coping mechanisms, principally that of seeking to suppress the memory and get on with life. He was wary of men who shared physical characteristics with his abuser. He has over many decades, regularly had intrusive thoughts about the abuse and has pictured his assailant standing over him. The evidence of his wife supported the conclusion that the abuse although historical has had profound and lasting consequences.

91. A series of sexual assaults on a young child were likely to have been significant life events which the Claimant then had to cope with on his own. Until fairly recently the Claimant has not been able to talk about what happened to him and of course received no support or therapy at the time. The assaults have, in my view had lasting effects notwithstanding that they have not been a serious impediment to the Claimant leading a normal work and home life. I accept the Claimant's account as honest and unembellished. For the reasons given by Dr Cooling the condition has persisted and, absent treatment, has proved intractable. It has the hallmarks of underlying PTSD. I find on the evidence that this is the correct diagnosis accepting that such a condition may vary in intensity and seriousness and may share some of the features of an adjustment disorder.

## Damages

92. There was relatively little dispute as to the principles applicable to the assessment of damages. The main issue concerned the extent to which the abuse caused or contributed to the psychiatric difficulties from which the Claimant has suffered during the course of his life and continues to suffer today.

93. I have considered the evidence of the Claimant and of *FXX*, together with the expert psychiatric evidence. I found all of those witnesses helpful. Where there is a difference of opinion between the experts, I prefer Dr Cooling's evidence, for the reasons I have already given.

94. I accept that the abuse perpetrated by Grubb had a profound and enduring effect upon the Claimant. The abuse occurred when he was a young child. It was repeated. It involved a gross abuse of trust by an adult who occupied a position of authority in his life. I accept the Claimant's evidence that he carried feelings of shame, embarrassment and self-blame for many years and that he disclosed the abuse to nobody until much later in life.

95. I am satisfied on the balance of probabilities that the abuse caused the Claimant to develop PTSD and recurrent depressive disorder and that those conditions have persisted, albeit with varying degrees of severity, over many years. The abuse materially affected the Claimant's emotional wellbeing, his self-esteem, his personal relationships and his enjoyment of life.

96. In assessing general damages, I have regard to the nature and duration of the abuse, the Claimant's age at the time, the abuse of trust involved, the psychiatric injury caused, the persistence of symptoms over many decades and the continuing effect of the abuse upon the Claimant's life. I also take account of the fact that the abuse has now been acknowledged and addressed in these proceedings, a matter which the evidence suggests has afforded the Claimant some measure of validation and improvement.

97. I accept Mr Levinson's submission that the appropriate category within the Judicial College Guidelines for sexual or physical abuse is "moderately severe" which is described as follows:

> "In these cases the injured person will have suffered serious abuse and/or severe or moderately severe and prolonged psychiatric injury. Cases in this category will not have both

> serious and prolonged abuse and severe or moderately severe and prolonged psychiatric injury but may have one of those features. At the upper end the abuse will have had serious effects on their ability to cope with education, work, and to sustain personal and sexual relations."

98. Doing the best I can, I assess general damages for pain, suffering and loss of amenity at £80,000.

*Aggravated damages*

99. The Claimant also seeks aggravated damages.

100. The purpose of aggravated damages is compensatory. Such damages may be awarded where the manner or circumstances of the wrongdoing have injured the Claimant's dignity, feelings or pride, thereby increasing the injury which he has suffered.

101. In the present case, I have no difficulty in concluding that the circumstances of the abuse were profoundly degrading and humiliating. The Claimant was a vulnerable child. The abuse was repeated. It was perpetrated by a trusted adult who exploited a position of responsibility which had been entrusted to him. The resulting feelings of shame and humiliation formed a significant part of the injury which the Claimant has suffered.

102. To avoid double recovery, care must be taken not to compensate the same injury twice. Having regard to the matters already reflected in the award for pain, suffering and loss of amenity, I nevertheless conclude that a distinct award of aggravated damages is justified. I assess aggravated damages in the sum of £10,000.

*Treatment costs*

103. I accept the expert evidence that the Claimant would benefit from therapy. The proposed treatment is reasonable but there was a dispute about the number of sessions required and the anticipated cost.

104. Taking those arguments into account, I award the sum of £5,000 in respect of future treatment costs together with £500 in respect of associated travel expenses.

***Total award***

105. Accordingly, the Claimant is entitled to damages as follows:

   i) General damages for pain, suffering and loss of amenity: £80,000

   ii) Aggravated damages: £10,000

   iii) Treatment costs: £5,000

   iv) Travel expenses: £500

      a) Total: £95,500

106. Judgment will therefore be entered for the Claimant in the sum of £95,500, together with interest, which I invite the parties to calculate and agree.

END