



Neutral Citation Number: [2024] EWFC 160

Case No: LV16D01012

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 02/07/2024

Before :

MR JUSTICE PEEL

Between :

Lauren Belinda Simon	<u>Applicant</u>
- and -	
Paul Mark Simon	<u>Respondent</u>
- and -	
Integro Funding Ltd. ("Level")	<u>Intervener</u>

Simon Charles (instructed by **Ozon Solicitors**) for the **Respondent**
Jonathan Southgate KC (instructed by **AFP Bloom LLP**) for the **Intervener**

Hearing date: 20 June 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 2 July 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE PEEL

Mr Justice Peel :

Introduction

1. Pursuant to an order made by the Court of Appeal on 18 October 2023, these long running financial remedy proceedings have been listed before me for further consideration. I shall refer to the Wife as “W”, to the Husband as “H” and to the Intervener, a litigation loan provider, as “Level”.
2. W attended in person. H and Level attended and were represented. This hearing was, as I shall explain, adjourned over from a previous hearing before me on 5 June 2024.
3. H’s legal team is brand new, having been instructed as recently as April of this year in place of his previous long-standing representatives.
4. A number of judgments have been given by Roberts J, Nicholas Cusworth KC (as he then was) sitting as a Deputy High Court Judge and King LJ in **Simon v (1) Simon (2) Integro Funding Limited (‘Level’) [2023] EWCA Civ 1048**.
5. To explain the background, I consider that the most practical course is to repeat what King LJ set out in the decision of the Court of Appeal. There is no material dispute about the history, and to recast, or rehearse, the procedural narrative is unnecessary. King LJ said this at para 7 to 37:

“7. Financial remedy proceedings were issued on 12 February 2016. Disclosure was ordered in relation to a trust of which the husband was trustee as well as a beneficiary. Income and capital from the trust had been routinely used to support the family’s lifestyle including a loan from the trust which had funded and was secured against the family home.

8. The final contested financial remedy hearing came before Parker J in July 2018. The husband’s case was that the trust assets were not available for distribution. Parker J held that the husband had been guilty of ‘misrepresentation’, ‘obfuscation’ and ‘distraction’ and made an order for payment of £3m to the wife on a needs’ basis. She assessed the assets as amounting to at least £9m, this included the husband’s interest in the trust assets which she held to be an available resource.

9. The husband appealed: he asserted that the judge was in error as the trust assets were not available for distribution and that, as a consequence, the wife had been awarded all the available assets. I granted permission to appeal. In December 2018, in advance of the hearing of the appeal, the wife had applied to Level for a loan to enable her to clear her outstanding costs due to her former solicitors under a ‘Sears Tooth’ agreement and which would also allow her to be represented in both the appeal and in the ongoing contested proceedings in relation to the children. In the usual way, prior to lending the wife the sums she needed, Level obtained a written opinion from the wife’s then Queen’s Counsel (‘QC’) seeking advice as to the likely outcome of future financial remedy proceedings in the event that the appeal was allowed.

10. On 14 December 2018, the wife and Level made the first of three loan agreements, the first being for £500,000 which sum was substantially used to meet the costs incurred under the Sears Tooth agreement. Subsequently on 20 June 2019, Level advanced a further £100,000 and, on 27 September 2019, an additional £30,000 was advanced to enable the wife to make an application for a legal services provision order. Altogether this amounted to a total of £630,000. By February 2021 the figure with interest was £865,828. Interest has continued to accrue in the intervening two plus years at 19%.

11. The appeal from Parker J's order was adjourned until the final determination of parallel children's proceedings. The husband was subsequently granted residence of the children and that appeal was allowed by consent and a retrial ordered.

12. The judge became the allocated judge in respect of the retrial and on 2 December 2020, dealt with the application made by the wife under [s22ZA Matrimonial Causes Act 1973](#) ('MCA 1973') for legal services provision. The husband agreed to provide £45,000 to cover the costs of a private Financial Dispute Resolution Appointment ('the FDR'). The £45,000 was provided by the husband by withdrawing the funds from the trust.

13. The FDR took place on 12 February 2021. During the course of negotiations, the wife's QC and legal team became conflicted and withdrew. The wife continued unrepresented and has remained so ever since.

14. An agreement was reached at the FDR. Under the terms of the agreement, the wife was to receive a life interest in a residential property to be purchased for a figure of £1m by the husband's trust which trust would thereafter own the property absolutely; the wife was to receive no free capital or income in settlement of her claim. Given that the wife had and has no capital of her own, it followed that a consequence of the agreement was that she would have no funds with which to repay any part of the Level loan. A draft consent order reflecting the agreement was signed by the husband and the wife.

15. Shortly after the FDR, the wife contacted Level and told them that she would not be repaying the loan. Level, on learning of the proposed settlement, wrote to the court on 15 February 2021 copying in the wife's solicitors, the husband's solicitors and Mr Todd KC, who has throughout represented the husband. In their communication to the court Level said that they urgently requested being joined to the proceedings prior to the approval of any order. They continued: 'A formal application will follow, but in the meantime, we urgently request that no order is sealed in relation to this case and that we are heard in relation to any order which is presented'.

16. Two days later on 17 February 2021, without informing Level or copying them in, the husband's solicitors wrote to the barristers' clerk at the chambers from which the judge practises as a specialist matrimonial finance barrister, attaching the signed draft order reflecting the agreement reached at the FDR together with a Statement of Information for a Consent Order in relation to a

Financial Remedy D81 ('D81') which is required by the Family Procedure Rules 2010 ('FPR') rule 9.26, together with a schedule of assets, neither of which disclose the husband's interest in the trust. The court was not sent a copy and no formal application was made nor fee paid. The judge was not informed of the letter Level had written two days earlier asking that the proposed order not be made.

17. The following day on 18 February 2021, Level's solicitors, unaware of the direct communication which had taken place with the judge, wrote to the court in proper form attaching an application seeking joinder in the financial remedy proceedings with a witness statement in support. Although Level had not specifically sought an *ex parte* hearing, Newton J dealt with the matter on paper the same day and granted the application. The wife, the husband and his solicitors were each notified of the terms of the order.

18. The receipt of Newton J's order provoked a letter from the husband's solicitors to the court the following day (19 February 2021) asking why the order had been made *ex parte* and seeking the inclusion of a provision for liberty to apply and a return date. The letter indicated that a stay of Newton J's order would be sought pending an application to set aside the order joining Level to the proceedings. Unhappily, the husband's solicitors did not notify the judge or his barrister's clerk of these developments, nor did they inform the court that a draft order had been sent to the judge at his chambers to approve rather than by way of formal application through the court.

19. On 22 February 2021, in refusing to agree to a stay of the order which had joined them as a party to the financial remedy proceedings, Level's solicitors said that:

"My client is deeply concerned that your client and Ms Simon entered into a collusive agreement (seeking to exclude our client's interests) against which you might seek court approval without further notification to them. You have now been prevented from taking that step..."

20. The same day, the court notified the parties that Newton J had amended his order to add a liberty to apply provision and to provide for there to be an 'on notice' hearing on the first open date after 11 March 2021. Mr Todd's clerk offered only a date towards the end of July 2021.

21. Despite repeated requests, Level were not provided with the correspondence which the husband's solicitors had had with the court. On 26 February 2021, Level's solicitors wrote to the husband's solicitors and to the wife expressing their concern that notwithstanding that they were now a party, the husband's solicitors had refused to inform them of the status of the proceedings and asking whether they had had 'any communications with the court since the private FDR or provide a draft order which I presume to be in existence. Please do so by return'.

22. There was no substantive reply to the request nor was the judge informed of it; rather, four days later on 2 March 2021, the judge's barrister's clerk received what was referred to as a 'a very polite enquiry/chaser' in relation to the approval

of the draft order which had been sent to him two weeks earlier. The judge was neither informed of the correspondence which had passed between the solicitors and the court nor that Level had been joined as a party by Newton J. Absent any of that information, the judge, understandably, made no further enquiries. He approved the draft order that day and returned it to the court office for sealing.

23. On 5 March 2021, having had no response from the husband's solicitors, Level issued an application seeking (i) disclosure from the husband and wife; (ii) that the matter be listed for case management directions; and (iii) seeking an order that no substantive orders should be made prior to that hearing. On 10 March, the application was put before Holman J who offered to deal with an urgent oral hearing.

24. Also on 10 March 2021, the husband's solicitors asked what order Level sought. They did not tell Level that the order had been approved and sent to the court for sealing. Level responded by telling the husband's solicitors that they were unable to identify the order they sought until there had been disclosure. The next day, the husband's solicitors replied stating that the 'matter has now concluded'. On 12 March, Level asked whether, in the light of that comment, the husband had 'succeeded in attaining an approved consent order notwithstanding our join(d)er to the proceedings'. The husband was invited to undertake not to apply without 14 days' notice for the approval of any consent order.

25. The husband's solicitors finally informed Level on 15 March 2021 that the agreement had been reduced to a consent order 'which should have been sealed by the court by now'. In the event it was not until the next day that the order was in fact sealed.

26. Also on 15 March 2021, the husband made an application for the order permitting Level to intervene to be discharged and for an order to be made that Level be enjoined from using any information they had obtained by virtue of having provided the wife with the loans in any collateral proceedings.

27. On 17 March 2021, Holman J ordered a stay of the consent order. At a further hearing on 19 March 2021, Holman J made a freezing order in respect of the former matrimonial home and a property in Israel. As a condition of the freezing order, Level gave an undertaking not to use the information they had other than in the financial remedy proceedings. Holman J ordered Level to plead their civil claim against the husband by 16 April 2021. Holman J subsequently clarified that he was not prepared to require Level to particularise precisely what orders they would be seeking in the set aside proceedings saying: 'In general the answer to that is obvious: that the wife receives a sufficient sum to at least equal the amount that she owes to the interveners. Above that they have no interest'.

28. On 6 April 2021, three weeks after the sealing of the consent order, Level issued their civil claim which alleged repudiatory breach on the part of the wife, procuring a breach of contract by the husband, procuring a court order by fraud and unlawful means conspiracy. They relied on [ss423-425 Insolvency Act 1986](#) ('IA 1986'): 'Transactions Defrauding Creditors'. The transaction relied

upon was the consent order approved by the judge on 2 March 2021 and sealed on 16 March 2021.

29. In the defence filed in response to Level's particulars of claim and again in his oral submissions, Mr Todd laid heavy emphasis on the fact that 'unconditional permission to appeal had been given' against the order of Parker J which had made provision for the wife to receive a lump sum of £3m. In my view the defence significantly overstates the significance of the grant of permission to appeal which simply said: 'the appeal has a real prospect of success for the reasons set out in the skeleton argument'. Contrary to para 15.4.1 of the defence, it is not correct to say that such permission is 'very rarely given'. Permission to appeal is not given unless there is a real prospect of success and to grant it by reference to the skeleton argument is a convenient shorthand commonly used. Further it is absolutely not the case, as stated at para 18 of the defence, that the Court of Appeal had 'already indicated that the appeal would succeed'.

30. This submission was made by Mr Todd in order to support his submission that the fact that an earlier order had erroneously given the wife £3m should be ignored and should not infect the court's approach when considering whether to approve the proposed consent order once again put before the court which order would give the wife no free-standing capital of her own.

31. Whilst the circumstances which led to the appeal against Parker J's order being allowed have undoubtedly been overstated, I accept that, her order having been set aside, it would be wrong to use the terms of that defunct order to justify a refusal to make an order in the terms now sought.

32. On 29 November 2021, Roberts J heard an application by Level for permission to disclose material and information in their possession but which was subject to 'without prejudice' privilege. Level wished to be able to use without prejudice offers and materials, including counsel's position statements from the FDR, in support of their application to set aside the consent order by establishing, for the purposes of the engagement of [s423 IA 1986](#), that the result of the transaction within the financial remedy proceedings was to defeat Level's claims as a creditor of the wife.

33. In her judgment (*LS v PS* [\[2021\] EWFC 108](#)), Roberts J between [70] and [74] said that Level did not stand in the same position as a third-party unsecured creditor. Different policy considerations, she said, are engaged where, as here, one is concerned with 'a professional corporate lender which offers bespoke services designed for the specific purposes of enabling a litigant to participate fully and effectively in litigation flowing from matrimonial breakdown'.

34. Roberts J said at [77] that on the facts of the case, Level had been entitled to 'seek and secure' party status as an intervener in the financial remedy proceedings 'when it became aware of the steps which had been taken to conclude a settlement which, on the face of it at least, had the appearance of defeating it[s] ability to recover its debt in whole or in part, from the wife'. Roberts J however refused the application considering that a court had 'ample

evidence available to it in the absence of the privileged material to form a view as to whether or not this order should be set aside’.

35. It was not until 22 February 2022 that the husband conceded in correspondence that the consent order should be set aside ‘to permit Level to make representations as to whether the order should be approved’.

36. The wife, in two brief emails to the husband’s solicitors on 14 March 2022, said that she wanted no part in the proceedings and in the event of the consent order being set aside, she did not intend to take any further steps ‘other than asking the court to approve the consent order’. She concluded by saying: ‘To be clear I do not want to be involved in further damaging, expensive and time consuming litigation’.

37. On 21 March 2022, the first day of the trial listed for three days to determine the set aside issue, the husband agreed to the consent order being set aside. This represented a delay of a year in the litigation which had, by now, been going on for over five years and which prevarication inevitably resulted in an order for indemnity costs being made by the judge against the husband.”

6. At the March 2022 hearing, Mr Cusworth QC gave two judgments and made a number of orders. H, having agreed to the consent order being set aside, then applied for it to be made (or remade). The judge refused. The judge upheld the order which had joined Level to the proceedings as Intervener. The judge made a number of conventional directions for exchange of Forms E, provision of specific disclosure and replies to questionnaire. He provided for (i) a 2-day case management hearing and (ii) a 5-day final hearing. Finally, he directed that the civil claim be transferred to the family court, to be heard after conclusion of the financial remedy proceedings.
7. H appealed the orders of Mr Cusworth QC. Permission to Appeal was granted on 27 February 2023, and the judgment of the Court of Appeal on the substantive appeal was handed down on 12 July 2023. The appeal was refused on the substantive grounds (in particular joinder of Level as Intervener, and refusal to make the consent order), but allowed only to the limited extent that (i) the judge should not have transferred the civil claim to the family court and (ii) the judge should not have timetabled towards a full scale final hearing; rather, he should have listed an intermediate hearing to consider whether the case could be dealt with summarily and/or what further steps would be required to dispose of the proceedings.
8. King LJ noted as follows at paras 61 and 62:

“61. At such a hearing, the wife would have the opportunity to tell the judge exactly what her intentions are. She would understand that if she wishes the protection of an order, then the court will need to consider whether the draft agreed order is appropriate and, if not, only then to consider what further directions or order to make. If the wife made clear that she did not wish to pursue her financial remedy application, and the husband did not seek the continuation of the proceedings, a court cannot require her to do so. This was acknowledged by

Mr Southgate KC, as referred to below. That is one reason why I consider that the judge was wrong to make the directions which he did.

62. Mr Southgate accepts that no matter how unattractive the withdrawal by the wife of her application for financial remedies would be as an outcome so far as Level are concerned, if the wife, who is the applicant in the financial remedy proceedings, does withdraw her application for financial remedies there will be little they can do about that other than making her bankrupt and they would be unable to recoup any of the debt she owes to them. Level, Mr Southgate says, would simply be left with having to be vigilant in order to see if her circumstances changed and whether, after the dust has settled, she and the husband tried to ‘slip through’ an order at a later date.”

9. The history which I have repeated above was described by the Court of Appeal as “troubling”. Mr Southgate KC, on behalf of Level, is, with on the face of it some justification, highly critical of H and his former legal team. At the hearing before me on 5 June 2024, H’s leading counsel, Ms Harrison KC, who had had no previous involvement, told me that H distances himself from the actions of his previous legal team, deflecting blame and responsibility on to them. I reject that submission, which seems to me to be unsustainable unless and until he waives the privilege between himself and his previous lawyers and substantiates the assertion.
10. True, there have been no direct factual findings, based on tested evidence, but it is not difficult to reach a number of provisional conclusions (which, for the avoidance of doubt, are not intended to be binding on a future court, including in any civil litigation):
 - i) That H and W entered into an agreement at the Private FDR which included as one of its objectives an outcome to avoid repayment to Level of its loan. Other factors may have come into play, but it is probable, in my view, that preventing Level from recouping its monies was part of the motivation, and it was certainly one of the consequences.
 - ii) H sought the making of a consent order without notifying Mr Cusworth QC of the involvement of Level, and the order of Newton J.
 - iii) Thereafter H fought tooth and nail to (a) retain the consent order, until he had no realistic option but to agree to it being set aside and (b) resist any involvement by Level in the proceedings enabling them to take steps to protect their interests.
11. It was confirmed to me that, pursuant to the agreement, a property was provided in October/November 2021 for W to occupy, and in which she has no beneficial interest, but no other financial provision has been made. W appears to have no resources against which Level can enforce the litigation loan agreements.
12. I confess to being troubled about the involvement of H’s previous lawyers (all of whom, of course, have a duty to the court) in the events of February/March 2021 leading to the approval of the consent order. Who was responsible for the

communications sent to Mr Cusworth QC, and who was aware of the contents of those communications? Who knew that when those communications were sent, Level were involved in the litigation, including intervening in the proceedings? Why did H's legal team not draw this to the attention of Mr Cusworth QC? However, I am acutely conscious that none of H's previous legal team appeared before me, and I have not had the benefit of any observations they might have on these matters. It would therefore be wrong of me to say any more on the subject.

W's involvement in the proceedings

13. Until this hearing before me on 20 June 2024, W had not engaged at all in the proceedings since the Private FDR on 12 February 2021, other than by sending two emails to H's solicitors on 14 March 2022, and one to the solicitors for H and Level just before this hearing. She did not attend any hearings (nine in total, I am told) until this one, and was not represented at any of them.
14. The two emails sent by her on 14 March 2022 (referred to in the Court of Appeal judgment) said that she did not want any further involvement.
15. Pursuant to the Court of Appeal's order, the hearing was duly listed before me on 5 June 2024. Notice of the hearing was sent out by the court on 4 April 2024 with the usual wording that "Failure to attend may result in an order being made in your absence". W was repeatedly reminded of the hearing in correspondence, including by recorded delivery.
16. On or about 19 April 2024, H parted company with the legal team who had represented him throughout, and instructed new solicitors and counsel.
17. On 21 December 2023, I had made a direction on the papers that (i) H and W shall by 21 days before the hearing set out what, if any orders, they invite the court to make and (ii) Level shall by 14 days before the hearing set out what, if any, orders they invite the court to make. H produced a document in advance of the hearing on 5 June 2024 stating that he was not inviting the court either to make the previous consent order or to make any other orders in the financial remedy proceedings. W did not produce any such document. Level produced a document saying that they were not able to state their position until W did so.
18. At the hearing on 5 June 2024, W did not attend which was unsurprising given her previous non engagement with the court process. She did not communicate with the court. H urged me to make no order on the financial remedies application and bring matters to a close. His leading counsel, Ms Harrison KC, submitted that as neither H nor W was seeking an order, the court could not force them to seek relief and there was no purpose in continuing the proceedings. Level argued that W must attend. Mr Southgate KC reminded me that the Court of Appeal order expressly directed that all parties should attend this hearing, and in its judgment the Court of Appeal envisaged that W would "tell the judge exactly what her intentions are". Further, FPR 27.3 requires every party to attend a hearing unless the court otherwise directs.
19. With some reluctance, given how long this litigation had gone on for and the enormous costs, I adjourned the case to 20 June 2024. I made an order requiring W to attend, and made provision for her to join the hearing remotely if she wished. I also

ordered her to set out in writing before the adjourned hearing “her position in relation to any orders she seeks in relation to her application for financial remedies in these proceedings”.

20. My order was duly served on W. On 10 June 2024, she sent an email to the parties saying:

“I do not want to be part of this ongoing situation with level
I do not agree with these court proceedings
I do not wish to continue these court proceedings
I will not be attending court and want no further involvement
Regards
Lauren Simon”

21. That seems to me to have complied, albeit informally, with my order that she set out her position in writing.
22. Level responded to W’s email by applying to me on 13 June 2024 for issue of a bench warrant to secure her physical attendance at court. I declined to do so. It seemed to me that I should consider the application at the adjourned hearing.
23. In the event, W contacted the court, requested a link and attended remotely.
24. At the hearing on 20 June 2024, W confirmed to me directly that she wanted the proceedings to come to an end, and sought no order. She was crystal clear in not wanting any further litigation which she said had destroyed her and her family. H again pressed for no order to be made. Level, through Mr Southgate KC, realistically accepted that they could not seek any substantive relief and all that remained (other than costs) was to bring the proceedings to an end as appropriate.

Conclusions

25. The original consent order has been set aside. By Rule 9.9(A5) of the Family Procedure Rules 2010:

“Where the court decides to set aside a financial remedy order, it shall give directions for the rehearing of the financial remedy proceedings or make such other orders as may be appropriate to dispose of the application.”

26. Level’s involvement in the case has been principally to oppose the making of a consent order which would (on their case) be a court approved mechanism under which they would be deprived of their entitlement under the litigation loan; hence its participation to give it a platform to seek a “measure of protection” as the Court of Appeal indicated. Its opposition to the making of a consent order was, after all, precisely the relief sought when they first applied to intervene.

27. Per paras 51 and 114 of the Court of Appeal’s judgment:

i) Para 51 (King LJ):

“The concession made in correspondence by those instructing Mr Todd that Level should be permitted to intervene in order to make representations in respect of the making of the proposed consent order was right. In my view, it is equally the case that they should continue to be an intervener, at least in relation to any further argument as to whether an order should be remade in the same terms as the original consent order.”

ii) Para 114 (Moylan LJ):

“Further, however, apart from the very limited intervention which has been accepted as being appropriate in the unusual circumstances of this case, namely for the purposes of making submissions as to the proposed consent order, no circumstances were identified during the course of the hearing which, in my view, would justify any more extensive participation either in this case or more generally.”

28. The starting point is that W by Form A initiated financial remedy proceedings in February 2016. It is W’s application which gives rise to the court’s powers to distribute the assets of the family as between H and W.
29. Level’s interest in these proceedings, as identified above, was principally so as to make submissions on any proposed consent order. Level are not entitled to seek financial remedies orders as between H and W. It follows that this court can only make distributive orders (whether by consent or otherwise) as between H and W, on application made by either or both of them. It cannot make a distributive order upon application by Level so as to require H to pay W such sum as Level is entitled to.
30. It is apparent, based (i) on W’s history of non-engagement, (ii) her email dated 10 June 2024, and (iii) what she told me in court, that W does not seek any orders, including a consent order. Nor does H. Whatever their reasons for this, I cannot force them to apply for orders, whether by consent or otherwise. As the Court of Appeal pointed out at paras 61 and 62 of their judgment (supra), and as acknowledged by Level’s leading counsel, if W and H, for their own reasons, elect not to pursue financial remedy proceedings, there is precious little that Level can do about it.
31. Since neither H nor W invite me to make a consent order, or any other substantive order, I am not asked to exercise my oversight duties under s33A of the Matrimonial Causes Act 1973, or to undertake any evaluative exercise under s25. In that sense, Level has succeeded in their intervention in that (i) the consent order was eventually set aside and (ii) no further consent order, or relief, is being sought. No further “measure of protection” is required.
32. In default of any application for a financial remedies order being pursued, whether by consent or otherwise, the options today are, it seems, to me:
 - i) To adjourn the financial remedies application, but that would build in delay and further cost, and would take matters no further forward.

- ii) To dismiss the financial remedies application, but that in itself is a form of financial remedies order and would require an evaluation by the court of the s25 criteria which neither party invites me to undertake.
 - iii) To make “No Order”, and provide for W to withdraw her application. That would bring the proceedings to an end. It would enable either party at some point in the future to resurrect the claims and invite the court to make an order; there is no time bar to such applications as was made clear in **Wyatt v Vince [2015] UKSC 15**.
33. The preferable course, not opposed by any of the parties today, is the third option i.e to make “No Order” and for W to withdraw her application. Should either W or H wish to make an application for financial remedies in the future, it must be issued afresh. If such an application is made, Level is to be automatically joined as Intervener, and the application must be served on them. The court will consider at the first available opportunity thereafter whether Level should remain as Interveners, and, if so, the scope of the intervention. For the avoidance of doubt, neither this order nor judgment are in any sense a substantive determination on the merits of the financial remedies application issued all those years ago by W. The financial remedies claims of both W and H remain open to them to pursue.

The civil claim

34. Level is not without potential remedies, as its civil claim remains pending. I make no observation on the merits, or otherwise, of its claim for a sum which now stands at about £1.2m (including interest but excluding costs).

Anonymisation

35. Given that this litigation has been publicly and openly aired in previous judgments, there shall be no anonymisation of this judgment.