

**IN THE HIGH COURT OF JUSTICE**

**KINGS BENCH DIVISION**

Royal Courts of Justice  
Strand  
London WC2A 2LL

Friday, 4 October 2024

BEFORE:

**MRS JUSTICE STACEY**

BETWEEN:

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**LXB**

Claimant

- and -

**MR JOHN RIDLEY**

Defendant

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**MR J LEVINSON** appeared on behalf of the Claimant  
**MR A MORRELL** appeared on behalf of the Defendant

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**JUDGMENT**  
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(Official Shorthand Writers to the Court)

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1. MRS JUSTICE STACEY: The claimant, who is referred to as LXB pursuant to an anonymity order dated 16 November 2022, brings a claim in the tort of assault for personal injury and associated losses, including psychiatric injury alleged to have been caused by sexual assaults committed against him by the defendant, Mr John Ridley, between approximately 2004 and 2008 when the claimant was aged 12 to 16.
2. The parties had helpfully agreed the issues in the case as being limitation, causation and quantum. As to liability, the defendant was convicted of two counts of indecent assault of the claimant in Suffolk Crown Court. Notwithstanding the convictions, the defendant most vehemently denies the allegations. The parties agreed that all issues should be dealt with without a separate hearing of the preliminary issue of limitation.
3. I had an agreed bundle of documents before me. I heard evidence from the claimant, from his sister (SXB), his mother (TXB) and the one time chairman of a North London lawn tennis club (FXB), on behalf of the claimant, and I heard evidence from the defendant.
4. I heard expert psychiatric evidence from Professor Morgan for the claimant, who had prepared a report dated 26 February 2022, and a supplemental report of 21 February 2024 and written responses to Part 35 questions dated 30 April 2024. For the defendant, Doctor Richard Taylor, whose report was dated 5 April 2024, also gave evidence. A joint agreed statement of areas of agreement and disagreement had also helpfully been provided by both experts dated 17 July 2024.

### **The facts**

5. I make my findings of facts on the balance of probabilities, with the claimant bearing the burden of proof, save in one respect. That respect is that it is for the defendant to prove to the civil standard that he did not commit the offences he was convicted of.
6. The defendant was born on 24 September 1955 and is now aged 69. The claimant was born on 1 June 1992 and is now aged 32. In or around 2003, when the claimant was around 11 years old in his first year of secondary school, he joined a Lawn Tennis Club in North London (“the club”) as a junior member, where the defendant was the captain

of the men's team. The claimant was a very talented and promising young player, who was keen to and did excel at the sport. He spent as much time as possible at the club and described himself as being obsessed with tennis.

7. His mother too described him as being a very committed tennis player at that age, who, when he was not on the court, was researching tennis matches and players. He was also a very popular, sociable and happy child. People loved being around him and he was extremely engaging. He showed great promise as a tennis player, always winning matches and was engrossed in the club. The club loved him because of his tennis prowess and personality and commitment to the club.
8. The defendant was a senior figure at the club and was friendly with everyone, especially the youngsters. As men's captain, it was part of his role to know the players and the promising young players coming through. He let it be known to the youngsters that he was wealthy, having had a successful career as something in the world of finance, stock broking or the like and he now traded stocks and shares at home on a bank of computers and was a keen successful online gambler. He carried a black wallet with plenty of cash and was known to be generous to the young players.
9. When he was aged somewhere between 12 to 14, the claimant was very pleased and flattered to be asked to partner with the defendant in a competitive doubles away tournament at another tennis club when his usual partner was not available. The claimant seized on the opportunity. They won the match. The defendant gave the claimant a financial award for their success of on the defendant's account £5, and on the claimant's account, £20 or £30, but nothing turns on the difference. Whichever it was it felt like a lot of money to the claimant. It made him feel grown up and special.
10. The claimant's recollection was that thereafter they played together as double partners frequently, whereas the defendant remembers it as being only being twice. Again, little turns on it. It is accepted by the defendant that on occasion, he took the claimant and other young members of the club to McDonalds, to Burger King and on one occasion, to the Toby Carvery. The defendant would drive them around to various tournaments and away matches, and it was well known, and he accepted that he was generous with tickets he obtained for various sporting events.

11. The claimant saw the defendant as an uncle-like figure and looked up to him. On occasion, the defendant would take the claimant to something called, "Top Golf" which occurred on a number of occasions where they would play golf together.
12. The claimant comes from a close knit and loving family with an elder brother and two older sisters and both his parents. The family was also close to their cousins and other extended family members, including grandparents, great aunts and uncles as well as aunts and uncles. There was a family tragedy when the claimant's first cousin, -- who like many other family members, was a talented boxer (HXB)-- tragically died in a car accident in 2006. This was devastating for the family and in particular, the claimant's father who had worked closely with his nephew.
13. It was difficult for all family members dealing with their grief in their individual and collective ways, and the claimant's father became a little withdrawn for a while, even though ultimately the tragedy brought the whole family even closer together. In this period, while the claimant was dealing with his grief at this difficult period of time, he retreated into tennis and spent even more time at the club. The defendant knew of the tragedy in LXB's family.
14. The value of the gifts and the money given to the claimant by the defendant mounted up. The claimant never told his parents that the defendant had given him money, and after a while, the defendant told the claimant that he owed the money back. The claimant was unaware that the amounts given and the tickets and so on, had been anything other than a gift. He was taken aback and claimant was unable to repay what he was now being told he had to repay, as the defendant well knew.
15. Eventually, the defendant told the claimant that if he could not repay him, he would have to subject himself to being whipped by the defendant instead. The defendant raised this on a number of occasions until the claimant (then aged around 13 or 14) felt he had no alternative but to agree which he did one day when travelling in the defendant's car with him on his way back from a tennis event. The defendant then and there drove the claimant to a remote and isolated spot, they both got out of the car and the defendant asked the claimant to pull his trousers and pants down.

16. The defendant stood behind the claimant, asked him to bend over and then hit him at least three times on his bare buttocks with his bare hand, which was physically painful. The claimant wanted it to stop so he pulled his trousers and pants up and was told by the defendant that they were not finished. By this, the claimant understood that the defendant was determined to do this again on another occasion – that the so-called “debt” remained unpaid. They returned to the car and drove back.
17. The claimant felt embarrassed, scared and horrible and did not understand or know what to think about what had just happened to him. He was extremely confused. He told the defendant that no one must know about it. His strategy for coping at that stage was to try not to think about it and not to speak of it.
18. The second incident occurred some while later when the claimant was around 14 years old. The claimant had continued to play tennis at the club after the first incident and the defendant had resumed his habit of giving the claimant money, and after a while, as before, the defendant again told the claimant that he owed him. The defendant said that because the claimant owed him money, he would have to whip him again. The claimant again thought he had no alternative but to submit to the request.
19. The defendant arranged for the claimant to go to his house where he lived alone in what had been his parent's house and which had been in the family since it was built. Once inside the house and after a little while, the defendant told the claimant to go into the kitchen at the back of the house and told him to pull his trousers and pants down and bend over. On this occasion, the defendant hit the claimant's bare buttocks with a bamboo stick which the claimant found very painful, much more painful than on the previous occasion.
20. He tried to pull his trousers and underwear up to stop the hitting continuing, at which point the defendant became angry and threatened to put “it” inside him, which made the claimant very fearful of being anally raped, either by the defendant or by the defendant using the stick to penetrate him. He felt completely degraded and left the house as quickly as possible.

21. Although the claimant continued to play tennis in the club -- and as consequence come into regular contact with the defendant -- he was careful to avoid being alone with him and was more circumspect about offers of “gifts”. He did succumb to the unmissable offer of a ticket to the Chelsea v Spurs Carling Cup Final in 2008 as he was a keen Chelsea fan, and the event would have been sold out many months before. He was careful however, to maintain his distance and no assaults took place after the second assault in the defendant's kitchen and there were no more requests for repayments or threats of punishment.
22. The claimant kept what had happened to him completely secret. He had a girlfriend at that time. What the defendant had done to him affected his relationship with his girlfriend and it did not last. He began to question his sexuality and was haunted about why these things had happened to him. He felt very ashamed and did not want anyone ever to find out. He had mood swings, flashbacks and nightmares about what had happened.
23. He stopped going to the tennis club after his GCSEs. After his A-Levels, he started a university degree on the South Coast but was unable to complete it. He began using recreational drugs such as ecstasy, ketamine, cocaine and binge drinking as form of self-medication which he attributes to the abuse. He struggled with the emotional side of relationships. He found it hard to get close to people emotionally or allow them to become close to him, and he has been unable to sustain romantic relationships since the abuse occurred.
24. After dropping out of university on the South Coast, he then successfully completed a sports science degree at another university and then moved to the United States of America in 2014. There was occasional further contact between the claimant and the defendant thereafter. It is not clear whether it was initiated by the claimant or the defendant, but again nothing turns on it. In 2015, there was some Facebook contact between them about a possible investment opportunity for the defendant in a business deal for new and refurbished tennis courts, which came to nothing and also, a request for sponsorship for a marathon run that the claimant was undertaking. The claimant saw the defendant occasionally in passing at the tennis club, but there was minimal contact. They lived in roughly the same neighbourhood.

25. The claimant was still struggling with drug and alcohol issues, and of feelings of shame and embarrassment still about what had taken place. On 14 November 2016, he began weekly therapy sessions to address the issues in his life. The therapist notes were before the court, as indeed were other notes from a life coach. The notes recalled that the claimant discussed his drug and alcohol issues, feelings that he did not fit in, and that he felt an outsider in a range of situations, including on occasions in large family groups and with old friends.
26. In the therapy sessions, they discussed his family, the family dynamics and his relationships, his confusion around his sexual orientation and about possibly discussing this with his family and how they might react. The claimant was anxious about opening up to his family, but the family was not homophobic. He discussed his insecurities and his feelings of suddenly feeling anger for no apparent reason when someone was sat next to him, and of the sterling efforts he was making to try to stay sober and not take recreational drugs.
27. Fifteen months after he started therapy, on 5 March 2018, the claimant made a disclosure to his therapist:

"He talked about a man at the club he belonged to from the age of 10. At around 14, this man lent the claimant money for food and cigarettes, with the claimant believing that he had been given £250 by the time he was 15. In lieu of payment, the man said he would whip the claimant, to which the claimant agreed. The claimant went with him in his car to a remote spot where the whipping took place. The claimant wondered if he could have been confused by what had happened."

28. This was the first mention to anyone that the claimant had made about what had occurred between him and the defendant in his teenage years. After opening up to a therapist, the claimant then felt confident enough to talk to others about what had happened, and he realised that it was better to talk about it than to continue to bottle it up. The next person he told was his elder sister. They were both very upset when he told her what had happened. She well remembered the defendant from the days when

her brother was playing tennis at the club. After speaking to his sister, their parents were also told.

29. At the end of March 2018, after the disclosure to his counsellor, the claimant disclosed the assaults to his former tennis coach at the club on 25 March 2018, and the next day to FXB (then the club chairman). Unbeknownst to the claimant, the club's Safeguarding Officer had been informed by the Lawn Tennis Association Safeguarding Officer on 22 March 2018 of an unrelated safeguarding allegation about the defendant. It is not clear what exactly was said to the Safeguarding Officers, but the fact of the matter was that the defendant had been arrested at Heathrow airport on his return from the Philippines or Peru at the end of February 2018, where he had been working with the Crusaders Christian Union.
30. The allegations concerned sex offences with young boys. Computers were then seized from the defendant's house and he was investigated by the police for allegations of indecent images of children alleged to have been found on his computers. He was suspended by the tennis club on 23 March 2018 in response to those allegations brought to their attention by the Lawn Tennis Association which had been informed by the police.
31. The claimant did not learn of these other allegations until the end of March 2018, after he had made the disclosures to his therapist as evidenced by his therapist's contemporaneous notes.
32. After his session with his therapist on 5 March 2018, he returned to the subject in his meeting on 12 March 2018, when his feelings of insecurity were discussed. He then reported to the therapist on 26 March 2018, that he had found out through various contacts at the tennis club that the perpetrator was under investigation for other child sex offences.
33. With the knowledge that the defendant was already being investigated for other child sexual offences, the claimant had sufficient confidence to tell the police about what had happened to him. He reported it on 26 March 2018. The police investigation into what may or may not have gone on in the Philippines or Peru, and the possession of indecent

images of children, was not ultimately proceeded with by the police. It is not clear to me if they were discontinued or never started, but it is immaterial.

34. However the defendant was charged with the two offences against the claimant. He also faced a separate and completely unrelated complaint that had been brought against him of three counts of sexual activity with a child (contrary to section 9(1) of the Sexual Offences Act 2000) against a different complainant, JK. JK is not known to the claimant. The offences against JK were also of spanking of a bare behind, and JK was also a young boy at the time. The defendant accepts that there cannot have been any collusion between the claimant and JK.
35. At the trial, which eventually took place in Southwark Crown Court, the defendant was convicted of all five counts, three in relation to JK and the two in relation to the claimant. There is a further criminal matter that is relevant, which is that in 1998 the defendant had been tried for sexual offences against JK's younger brother, which also involved spanking. He was convicted in the Crown Court, but his conviction was overturned by the Court of Appeal, Criminal Division. The defendant cannot now remember the details of the case. He appears not to have faced a retrial for those matters.
36. The trial concluded on 5 March 2021. There had been a number of delays from arrest and charge in 2018 because of COVID-19, and procedural issues to deal with the international aspect of the overseas allegations. In 2019, when the police investigation was still ongoing, the claimant began misusing alcohol and cocaine again after seeing the defendant by chance when driving through his locality in North London, which led him to relapse into heavy drinking and cocaine abuse.
37. The claimant gave evidence at the criminal trial, as did other family members. The defendant also gave evidence. The defendant denied that any offences had taken place. The claimant was frustrated and angry with the defendant's refusal to accept any wrongdoing. He found giving evidence at the criminal trial to be a great ordeal. He felt violated and as if it was him on trial and not the defendant.

38. In April 2021, the defendant was sentenced to five years imprisonment and a ten-year sexual harm prevention order was imposed. The claimant continued therapy until March 2021. Shortly after the trial, a police officer informed the claimant that he could be eligible for compensation by the Criminal Injuries Compensation Authority, and also a possible civil claim for personal injury damages.
39. Prior to that date, the claimant had been unaware of the possibility of financial compensation for what had happened to him. He was not motivated by the possibility of financial gain in making and pursuing the allegations to the Crown Court.
40. After the Crown Court trial, the claimant continued to suffer mood swings, social anxiety, difficulty with stable relationships, nightmares and flashbacks.
41. Since leaving university, the claimant has struggled to hold down jobs, stay sober from drugs and alcohol, whilst seeing his peers settling down with partners and stable relationships and starting families. He feels left behind. He has now moved back home with his parents and needs their support. He delayed coming forward to the police because of feelings of shame, fear, guilt and his embarrassment. His coping strategy was to try to block out what had happened.
42. Only after finding the courage to disclose the matter to his counsellor did he feel able to report to his family and the police. Having done so, he wanted to await the outcome of the criminal trial before pursuing any civil case. The prospect of the ongoing criminal trial and the thought of giving evidence was a significant preoccupation for him.
43. After sentence and the conclusion of the criminal proceedings, the claimant consulted solicitors who agreed to act for him and a medical report from Professor Morgan was obtained in February 2022. A letter before action was sent to the defendant in May 2022 and proceedings were then issue and served in October 2022.
44. The defendant denied that any offences had taken place against either the claimant or JK or in relation to any Filipino or Peruvian boys or JK's younger brother and continued to do so in his evidence before this court. The defendant is awaiting the

outcome of an application to the Criminal Cases Review Commission and is seeking to overturn his criminal conviction.

45. His evidence to this court was that he was not particularly close to the claimant and said that he did not know him any better than any of the other young players. He said it was the claimant who had asked him for lifts and borrowed money from him, and that perhaps the claimant had made up the allegations because he was unhappy that he had not been taken by the defendant to a tennis match at the O2 stadium when he was 17 or 18.
46. The defendant asserted that the claimant must have consistently lied to his therapist, to his sister, to his mother and to FXB and to this court. The defendant accepted that if the allegations were true, they would be likely to have caused the psychiatric injuries described.

**Medical evidence.**

47. The medical evidence has been set out above as in the dates of the various reports, and both experts gave live evidence in this court. Both doctors agreed that the diagnosis depended on the accuracy of the account given by the claimant. As will be clear from my findings of fact above, and for the reasons that will be explained below in the liability section, I found the claimant and his family members to be reliable and credible witnesses and I accepted the claimant's account as both truthful and accurate, without any exaggeration or embellishment.
48. It is therefore safe to rely on the claimant's evidence to assess the medical findings and both doctors had based their expert opinions on the presumption of the accuracy of the claimant's evidence, and they were correct to do so. Doctor Taylor agreed with Professor Morgan's diagnosis of post-traumatic stress disorder and complex post-traumatic stress disorder from the documents and the mental state examination that had been undertaken by Professor Morgan, and that the claimant's condition meets the diagnostic criteria of both DSM-5 and WHO ICD-11.

49. He has sensory olfactory and auditory flashbacks of the assaults, which are accompanied by reliving somatic anxiety. He has dreams and nightmares of the assailant. He has avoidance responses, and he expresses hypervigilance and hyperarousal. The flashbacks had increased in frequency prior to the assessment by Professor Morgan. The flashbacks have not been continuous through his entire adult life and have been fluctuating.
50. In the opinion of Professor Morgan, with which Dr Taylor did not disagree, the avoidance responses adopted by the claimant included self-medicating with alcohol and drugs and addictive behaviour. The severity of the post-traumatic stress disorder had increased in response to the legal process itself and the susceptibility to take solace in drugs and alcohol had also increased in the run up to important legal hearings and during the legal process.
51. Both medical experts agreed that the claimant's symptoms included depressive episodes fluctuating between moderate and mild severity. Professor Morgan assessed that 80 per cent of the depressive episodes fall within the mild category and 20 per cent were moderate. He reached his conclusion because the claimant was able to work most of the time, but this was punctuated by periods of his not coping.
52. In his oral evidence, Doctor Taylor agreed that the claimant exhibited five or possibly six symptoms consistent with depressive episodes that met the ICD-11 criteria but considered that these were more on the mild than moderate side. Doctor Taylor agreed that Professor Morgan would be in a better position to make the assessment having met the claimant, whereas Doctor Taylor had not had a face-to-face examination.
53. The dispute between the doctors such as it was, resolved in the course of the evidence. The issue had been whether on the one hand, the depressive symptoms were part of or secondary to CPTSD, or on the other hand a separate and freestanding diagnosis of depression. Both doctors agreed, in response to various questions, that this was really only a matter of labelling and would be relevant to treatment but not relevant to the level of psychiatric injury.

54. In other words, the harm and the impact were the same whatever label one gave the cause of the depressive episodes. Nothing therefore turned on it in relation to the issues in this case as both Professor Morgan and Doctor Taylor said the feelings and effects are the same whatever category of impairment is given to them by psychiatrists.
55. In his defence and the statement of case, the defendant challenged causation and said that there were other potential causes of the claimant's psychiatric problems. In cross-examination, Doctor Taylor accepted that applying the civil standard on the balance of probabilities, all the claimant's psychiatric injuries are attributable to the assaults. He accepted that the other life events relied on such as the tragic death of HXB, the claimant's cousin, some possible confusion about sex orientation and family dynamics were not causative of the CPTSD.
56. For the record, I find that the claimant's family is not homophobic. Anyone would be anxious about telling their parents of their sexual orientation or discussing sexual activity. It is entirely normal, just as it is when introducing a girlfriend or boyfriend to the family. A single reference in all the notes of both the life coach and a counsellor, to a cousin once using the term "Shirt lifter" as banter is not good evidence of a homophobic home environment. There are some gay extended family members who are fully accepted and integrated into the family.
57. Similarly, a passing reference to a macho culture in the life coach's notes and that many family members are amateur boxers, cannot support an inference of either homophobia at home or of an oppressive or aggressive home life. It was agreed by the doctors that there was no psychiatric injury whatsoever prior to the assault. It was also agreed that there was no psychology reason for the claimant's delay in issuing proceedings after disclosure to the counsellor. When I say psychology reason, I mean no disability in the psychiatric sense.
58. It was also agreed by both doctors that the evidence was of intermittent harmful use of psychoactive substances which had been in intermittent remission for a number of years, with only occasional lapses in abstinence in the recent past. Professor Morgan's evidence -- which was not contradicted and which I accept -- is that it is devastating for the claimant to be cross-examined about these allegations, and it is also devastating for

him to hear the defendant's denial, which would be likely to add to his psychiatric injury, if true.

59. To the extent that any differences remain between the two medical experts, I prefer the evidence of Professor Morgan, as he had the benefit of the mental state examination as well as all the notes and records and he had also conducted a number of tests to assess the psychology and psychiatric state of the claimant and his history, unlike Doctor Taylor. Doctor Taylor accepted that Professor Morgan was in a better position than him, because he had not examined him.
60. In spite of the mental health difficulties, the claimant has succeeded in building a career as a tennis coach and maintaining work and employment, albeit switching from job to job and continent to continent and his anxiety and PTSD has undoubtedly held him back to some extent. It is impossible to know by how much exactly. It is certainly the case that he has not fulfilled his early promise academically and in sport, and his teenage personality of being a happy, popular, gregarious young person is not an accurate description of his current state, but he is still only 32 and has most of his life ahead of him. His emotional life is where the damage has been most evident. He is distressed at not yet having maintained a stable relationship, but perhaps in this time this will change, and he will be able to start a family of his own.

**Analysis and conclusions:** limitation point

61. The law is not in dispute and this is well trodden territory. The claim is outside the primary limitation which expired in 2013, three years after the claimant achieved his maturity. The civil proceedings were issued nine years later in October 2022. The chronology is set out above. Section 33 of the Limitation Act 1980 is well-known. It is for the claimant to prove that it would be equitable to allow a late claim to proceed, having regard to all the circumstances in the case and in particular, the matters set out in section 33(3). I was referred to the usual line of authorities and the lead case of *A v Hoare* [2008] UKHL 6. It is necessary to consider the relative prejudice whilst always bearing in mind that it is the claimant's burden to prove.

62. Taking each of the matters listed in section 33(3) in turn, in terms of the reason for the delay, there are six relevant factors in the period 2013 until 5 March 2018. Firstly, the claimant's inability to speak of what had happened to him through shame. Secondly, his fear of being disbelieved. Thirdly, his coping mechanism of seeking to bury the information and keep it locked up. Fourthly, the manipulation of the claimant by the defendant at the time of the assaults, which resulted in the claimant thinking that the fact that these things had happened to him might somehow be his fault: he wrongly blamed himself. I am referring in this regard to the contrived debt that the defendant constructed in order to gain the claimant's ostensible acquiescence, which was not real.
63. Fifthly, the time needed before the claimant had the confidence to disclose to the therapist, which was 16 months into the weekly therapy sessions. It took him that long to feel safe enough to make the disclosure. Sixthly, the worsening symptoms, self-medication through drug and alcohol misuse and his feelings of desperation that led the claimant to try a different strategy of dealing with the impact of the assaults. Together all of the six reasons account for the delay before he felt able to disclose the abuse to his counsellor on 5 March 2018. They are entirely understandable and justified as Professor Mogan and Doctor Taylor agreed.
64. The next period is between 5 March 2018 and April 2021, being the date of the defendant's sentence. The claimant was unaware of the possibility of a legal claim until after that date. That of course is not the same as date of knowledge in the legal sense, but it is a relevant factor. He was also not thinking about compensation and was not motivated by a possible financial claim. His purpose in reporting to the police was to prevent others from being subjected to what he had endured, to obtain justice and to hope that the defendant would acknowledge and apologise for what he had done.
65. The fact of the long period of time from his reporting to the police to the outcome of the criminal trial exacerbated the claimant's symptoms, as recorded by Professor Morgan. I find that it was entirely reasonable for him to wait until the outcome of the criminal case before deciding whether, and if, any other steps could be explored. Concurrent civil and criminal proceedings may also have risked jeopardising the criminal trial.

66. The period from April 2021 to issue is a further 18 months. I find that this period was a reasonable period of time to decide to embark and then issue proceedings in light of all the facts and circumstances of this case. It was reasonable because it takes time to find a suitable doctor and for the claimant to have the courage to come forward and pursue the matter as a civil matter and for the solicitors to obtain the relevant information from the police and to complete their investigations.
67. I turn next to the cogency of the evidence. The defendant accepted that there is no real prejudice to him from the lateness of the claim given the fact of the conviction. There is also to be observed that a fair trial could take place in the crown court with all relevant evidence before it in 2021, which is evidence that these matters can and have been tried fairly, notwithstanding the passage of time. The medical experts were able to reach confident conclusions. If anything, the passage of time has assisted in achieving a more accurate diagnosis and prognosis as we have the benefit of hindsight in considering issues of causation.
68. There is no evidence that the defendant identified that he could or would have been able to deploy if the claim had been brought earlier. The next matter is the conduct of the defendant. As already noted, the defendant continues to deny these offences, which is tantamount to a form of gaslighting given his conviction. His refusal to acknowledge what took place and his questioning of the claimant's memory and the claimant's accuracy of what had occurred, has been a deterrent factor to the claimant. I accept however there have been no further steps beyond denial. There are in this case for example, no overt threats in this case, but subtle manipulation after grooming to try and secure silence nonetheless.
69. Once the criminal trial was over the claimant instructed specialist personal injury lawyers in the field, and they acted sufficiently quickly to avoid any unnecessary further delay. I bear in mind the PTSD and distress for the claimant caused by dwelling on what happened, and the unpleasantness having to explain it all again to lawyers, parents, in preparing his statement and so on. His solicitors acted quickly and efficiently. It takes time to instruct a suitably qualified consultant psychiatrist, they all have waiting lists (particularly the good ones), and there are many other steps to take

such as obtaining documents in the criminal trial amidst all the other pressures of work. The short delay such as it was fully accounted for.

70. The claimant has therefore proved that it is equitable for the claim to proceed. The explanations for the delay are reasonable and justified and there is no prejudice to the defendant. I am satisfied that the claimant has successfully rebutted the presumption of prejudice to the defendant by the delay and satisfied the statutory test. Section 33(3) is not exhaustive, but no other factors have been referred to or relied on and I do not need to cast the net further. I therefore allow the claim to proceed and will consider the substantive issues.

### **Liability**

71. Liability continued to be denied. However, the defendant has not proved to the civil standard that he did not commit the two incidents of sexual assault for which he was convicted. From the evidence before me, I can go further. This is not just a case where the defendant has failed to prove a negative. The claimant has established that the two assaults occurred exactly as described by him.
72. My reasons for reaching this conclusion are as follows. Firstly, the claimant was a plausible, consistent and demonstrably honest witness. He was measured and fair in his account. He was reflective and self-questioning. He did not exaggerate and was careful to be accurate and precise, saying for example that he remembers that he was hit on each occasion at least three times but was unsure if there had been more strikes. There was no embellishment. He accepted matters that others might not have done. For example, accepting the tickets to the Carling Cup Final in 2008 and the limited contact that he had with the defendant thereafter.
73. There was corroborating evidence that supported his claim such as the similar fact evidence of JK's allegations and the defendant's conviction, with whom the claimant could not have colluded. There were the allegations of JK's brother for which the defendant was initially convicted, but exonerated on appeal. What were the chances of identical allegations being made, even if they turned out not to be proved to the criminal standard? I rejected Mr Morrell's submission that I should ignore the evidence

of the Facebook conversation with Filipino boys which were remarkably factually similar. It was evidence of a similar pattern of grooming and manipulation in the Facebook exchanges of a contrived debt, of abuse and power and of seeking to control the young Filipino boy, asserting that there was some payment that needed to be repaid. The fact that there were no criminal proceedings does not make it inadmissible in the civil trial. It was in the bundle and the defendant had the opportunity to put in rebuttal evidence had he wished to, or to deal with it in his witness statement, but he chose not to. But even without the Filipino evidence, there was more than sufficient corroborating evidence of similar facts such as the striking of the bare behind of JK and his younger brother, the similar age of JK and his younger brother to the age at which the assaults took place against the claimant.

74. Thirdly there was no possibility of collusion. The timeline was fully explored in evidence as the defendant had suggested that the claimant knew of the arrest and the Filipino allegations before disclosure to the counsellor. I find that he did not know as is apparent from his evidence, the timeline of events, the notes from the therapist and all the evidence.
75. Fourthly, the claimant had accurate knowledge of the inside of the defendant's house including his kitchen. It would not have been possible for him to have known of the old-fashioned nature of the inside of the house unless he had been there and it was old-fashioned. There was no evidence of a modern kitchen makeover shortly before the alleged incident.
76. I also take into account that the defendant lied to the police in his interview under caution. He told the police that the claimant would not know where he lived. To this court, he said that the claimant did know where he lived and would have known that it was an old-fashioned house from looking from the outside. The defendant lacked reliability as a witness.
77. Fifthly, the limited continued contact between the claimant and the defendant after the assaults, such as the business venture opportunity, the marathon sponsorship on which were relied on by Mr Morrell is not inconsistent with the offences having happened. Rather, it demonstrates that the claimant was trying to keep up with the pretence that

these things have not happened and to act normally, consistent with his strategy of trying to bury the whole thing. This pretence is all the more explainable in light of the defendant's pretence that nothing had happened. The outward appearance of the faux normality is being dictated by the defendant's behaviour. By that I mean that the defendant is seeking to control the narrative of nothing ever having happened, and part of his manipulation of the claimant, which involved the claimant going along with that fiction, which is the true explanation of why the claimant was willing to occasionally have contact with the defendant, notwithstanding what the defendant had done to him.

78. Sixthly, the delay in reporting to the therapist is explained not, as submitted by the defendant because he had made it up, but by the difficulty of disclosing such a matter and the need and the time to build a space safe enough for him to make the disclosure to his therapist.
79. Seventh, the unlikelihood of the claimant lying to the therapist (whom he is paying to help him), to all his family members, to FXB and also to his former tennis coach with revelations that caused all of those people such distress from learning of what had happened to their family member and friend.
80. For the above reasons that I find that the incidents as described by the claimant, took place.

### **Causation**

81. It is apparent from my findings of fact on the medical evidence that the claimant has proved that the entirety of his CPTSD including the depressive episodes (whether considered as freestanding or part of the CPTSD) is attributable to the assaults. In addition to the medical evidence, the point can be well illustrated in other ways. The tragedy of a completely unexpected death of a teenager such as HXB, is sadly not so very rare and exceptional. It is however very unusual for it to result in PTSD, let alone CPTSD unless a close family is present at the scene of the accident, but even then, it is unusual. No other family members developed PTSD after the death of HXB.

82. Similarly most thoughtful teenagers question their sexuality and is perfectly natural and normal. It demonstrates a natural desire to understand oneself, healthy curiosity and exploration. Again, it is most unlikely to result in PTSD, especially where, as in this case the claimant's family is not homophobic but open and loving. There was also no evidence of family conflict and tension, and Mr Morrell could only point to one or two words which have been taken out of context in the therapist and life coach records.
83. Drug and alcohol abuse as a form of self-medication to block out unpleasant thoughts of what had happened, is sadly not unusual after assaults of the type which occurred in this case. It was the conclusion of the medical experts that the sexual assaults caused the claimant to turn to drink and drugs. The explanation of the assault causing the drug and alcohol issues is also consistent with the history. Look at it this way, the claimant came from a very sporty family, and he excelled a competitive sport where fitness and mental acuity are important and are not associated with drug and alcohol abuse. It might have been a different matter if the claimant had shown depressive, emo or goth tendencies at a young age, then one might think that someone exhibiting those tendencies before any abuse occurs could lead to depression and drug use in later years, absent any abuse. The claimant was a very well adjusted, happy, popular child who loved playing lawn tennis outside, so was not a natural candidate for becoming a drugs casualty in later life. I therefore attribute those problems entirely to the abuse that he was subjected to by the defendant.

### **Quantum**

84. Turning next to quantum. As described by the claimant and as recognised by both medical experts as entirely plausible, the abuse was devastating for the claimant. The defendant was someone who he trusted and looked up to, who was in a powerful and prominent position in the club as captain of the men's team. His boasting of his wealth and his success at online gambling and share trading would have made him seem even more powerful and glamorous and as someone to be looked up to and venerated by a young boy.
85. The claimant treated the club as his second home and it was where his family, understandably, thought he would be safe. The defendant groomed and manipulated

the claimant. He let it be known to the young boys at the club that he was wealthy and generous, a big man, dispenser of largess and treats who could get hold of tickets as rare as hen's teeth for important sporting events. He manipulated the claimant into thinking he was somehow indebted to him when he was not indebted to him at all – the money etc. had been gifts that the claimant had been entitled to understand were given without strings attached - and it was the defendant who used those gifts to try to make the claimant compliant and to bend him to his will.

86. It has resulted in a double burden for the claimant. The fact of the assault themselves and his self-questioning of why these things happened to him, and his fear -- groundless I stress -- that he was somehow in part to blame. For the record, the claimant was not in any way to blame for what happened to him, and it is only the effect of the manipulation and grooming that leads him to fear otherwise.
87. Under the *Judicial College Guidelines*, these matters fall within chapter 4(c)(b) psychiatric and psychological damage, sexual abuse, moderately severe. Although the abuse was not as serious as many cases that come before the courts, the effect of the abuse has been severe/moderately severe and has caused prolonged psychiatric injury. Although his academic performance would have likely been even better but for these assaults, the claimant has coped pretty much with work and education.
88. The psychiatric injury has been prolonged and serious. It has particularly affected his ability to sustain and maintain sexual and romantic relations. It is because of the claimant's resilience, his determination and the support and love of his family that he has coped as well as he has, both educationally and with managing to work much of the time. Despite the extent of the injury, the prognosis is relatively optimistic. The open wounds will, in time, become scars in Professor Morgan's opinion. He will continue to be aided by the strength and love of his supportive and most impressive family, and his own resilience and determination.
89. The scars will be deep and the claimant has lost over 15 years in a crucial period of his life when he could have hoped for romantic and emotional happiness, confidence and a contented life of a successful tennis coach or whatever other area of work he might have chosen to go into. It should have been the prime of his life. His late teens,

twenties and early thirties have not been how they should and would have been, absent the abuse. His life would have had a different trajectory. Instead, it has been a period racked by symptoms of complex post-traumatic stress disorder, and time lost to drug and alcohol abuse caused by these assaults. It is an aggregating factor that the defendant continues to deny what happened, and his failure to acknowledge and accept any accountability in spite of the overwhelming evidence increases the claimant's suffering.

90. As described by Professor Morgan, it is exacerbated by the groundless assertions by the defendant that the allegations are fabricated, and it has meant that the claimant has twice had to give evidence in public and have his account questioned.
91. I therefore found that this matter falls towards the top of the bottom half of the bracket that I have identified. Inclusive of the facts of the assaults and the pain and suffering at the time that they were committed, the subsequent psychiatric impact set out above and the aggravating features that I have listed, I find that the assessment of the damage caused by the pain, suffering and loss of amenity amounts to £70,000.00.
92. I understand that the parties hoped that they would be able to agree special damages in light of the court's findings and conclusions on general damages.

**Epiq Europe Ltd** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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