



Neutral Citation Number: **[2023] EWHC 3092 (KB)**

Case No: QB-2022-000400

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 01/12/2023

Before:

MR JUSTICE JAY

Between:

SIR JAMES DYSON

Claimant

- and -

MGN LIMITED

Defendant

Justin Rushbrooke KC and Chloe Strong (instructed by Schillings) for the Claimant
Adrienne Page KC, Ben Gallop and Samuel Rowe (instructed by MGN Ltd) for the
Defendant

Hearing dates: 21st, 22nd and 23rd November 2023

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic. This judgment was handed down remotely at 10:30am on 1st December 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE JAY

MR JUSTICE JAY:

INTRODUCTION

1. Sir James Dyson (“the Claimant”), in the eyes of many but not everyone, is a national treasure. Iconic inventor, designer, entrepreneur and philanthropist, he is not just a household name in this country but has an increasingly prominent profile worldwide, particularly in east Asia. He is the founder and chief engineer of the Dyson group of companies. The Claimant has invested vast sums in the UK, he currently employs at least 3,700 people, and – despite the fact that his business may fairly be described as “global” – all research, design and development (“RDD”) continues to be undertaken in this country, at least from concept, to drawing board and then up to an advanced stage. The Claimant carries out important charitable work, including setting up the James Dyson Foundation in 2002. In order to begin to make up the deficit in engineers in this country, he inaugurated the Dyson Institute of Engineering and Technology (“DIET”) in 2017 as a magnet for some of the most promising talent in this particular discipline. In recognition of his excellence over a variety of fields, the Claimant was awarded the Order of Merit in 2016 by the late Queen.
2. The Claimant has never sought to be a recluse, at least in the context of his political opinions. In 2002 he was a keen promoter of the virtues as he saw them of joining the Euro, explaining that the relative strength of sterling hampered exports. Then, in 2016, he championed the merits of Brexit, explaining that this would be in the long-term economic interests of the country. By so doing, the Claimant could reasonably expect the *commentariat* to have their say.
3. The Claimant does not dispute the right of his detractors to take issue with him in a free society. Thus, the present case is not about free speech as such – that is common ground – but its permissible limits.
4. MGN Limited (“the Defendant”) is the owner and publisher of the Daily Mirror newspaper and the news website, The Mirror. It also owns a news app and runs a Twitter (now known as “X”) account. Online on 28th January 2022 the Defendant published an article under the headline, “Our government is making young people believe that cheats do prosper”. The following day the same article was published under the headline, “Message to young folks today is that cheats do prosper”. Mr Brian Reade, the Mirror journalist writing under the banner “frank, fearless ... (and funny)”, has a page in the Saturday edition of the Daily Mirror, and on this occasion the article in question appeared on page 19 of the print edition. I have counted seven separate pieces on that page although the article with which these proceedings is concerned was the main item.
5. The article runs to 13 paragraphs of which only two have any bearing on the Claimant. I set out the fifth and sixth paragraphs:

“Then there’s Robert Halfon, chair of the Commons Education Select Committee, claiming that if schoolkids want to succeed they need to follow the example of James Dyson. That’s the vacuum cleaner tycoon who championed Vote Leave due to the

economic opportunities it would bring British industry before moving his global head office to Singapore.

In other words kids, talk the talk, then screw your country, and if anyone complains tell them to suck it up. But what must really puzzle them now is why they need to be truthful. We teach them that honesty is the best policy and cheats never prosper, yet the man elected to the top job in the country is acknowledged by even his closest colleagues to be a liar and a cheat.”

6. According to para 11.8 of the Re-Re-Amended Defence, the relevant edition of the Daily Mirror had a print circulation of 420,411 and the website article received 4,521 unique page views via the Mirror website and the app.
7. The Claimant then brought proceedings claiming damages for libel in respect of these publications and associated further relief. The parties have drawn some of the pre-action correspondence to my attention but I do not propose to address any of it. Nor do I propose to address in this judgment the voluminous skirmishes in solicitors’ correspondence, some of which may have been of value but viewed overall would surely deserve to be characterised as excessive.
8. The first important step in the proceedings was the determination by Nicklin J of meaning and associated preliminary issues on 26th July 2022 ([2022] EWHC 2469 (QB)).
9. The natural and ordinary meaning that the Claimant contended the publication bore, in the context of the article as a whole, was:

“... the Claimant was a cheat and a person who sought to advance his own interests through dishonest means, who had screwed his country by voting for the UK to leave the European Union in the 2016 Referendum whilst subsequently moving Dyson’s global head office to Singapore.”
10. The natural and ordinary meaning pressed on Nicklin J by the Defendant was:

“The Claimant was a confusing choice of role model for schoolkids by the chair of the Commons Education Committee, being someone who talked the talk and then screwed his country, having championed Vote Leave due to the economic opportunities it would bring to British industry before moving his global head office to Singapore.”
11. It may be seen that both parties’ versions of the single meaning of the article contained the phrase, “screwed his country”.
12. Nicklin J’s conclusion was that the natural and ordinary meaning of the article is:

“(a) the Claimant has publicly supported the benefits of Brexit to British industry, yet following Brexit he had moved the global head office of his business to Singapore.

(b) by so doing, the Claimant was a hypocrite who had screwed the country and who set a poor moral example to young people.”

13. Item (a) is an allegation of fact that is not defamatory at common law. Item (b) is an expression of opinion, Nicklin J adding this:

“22. ... Overall, I am satisfied that the meaning is defamatory, but that is only because of the defamatory element of hypocrisy, harming the country and being a poor moral example that is supplied by meaning (b). As Mr Rushbrooke QC properly conceded, the basis of opinion was taken from the article in [5] and captured in meaning (a).”

14. Nicklin J rejected the Claimant’s case that the meaning included an allegation of dishonesty or cheating. He declined to gloss “screw the country”:

“25. I have considered whether I should attempt to give a meaning to the words “screw the country” that I have included in meaning (b). I have decided that I should not. Principally, that is because those words were included in both the Claimant’s and the Defendant’s meanings, and I am satisfied that this is an expression of opinion. I should be careful not to supply a definition of that phrase. Ultimately, it will be for the author, if a defence of honest opinion is advanced, to defend the publication of his opinion.”

15. Nicklin J’s abstinent approach in the context of a determination of meaning trial has been supported by the Court of Appeal in *Blake v Fox* [2023] EWCA Civ 1000, per Warby LJ at paras 56-60. However, at para 61, Warby LJ added this:

“For these reasons, the fact that the parties had set out very different views about the ordinary meaning of the word “racist” did not import a duty on the judge to resolve that aspect of the dispute *at this stage of the action*. The consequences will have to be worked out as part of the management of the case. I am not persuaded that any of them are intractable. It is not obvious to me why the form of the meaning identified by the judge should give rise to difficulty in applying s. 3(4)(a). But whatever the consequences may be they cannot determine the natural and ordinary meaning of the claimants’ words.” (my emphasis)

16. The term “racist” means different things to different people, particularly in its application to a specific factual structure. Warby LJ’s point is that the term could and should not be defined by the court in the context of a determination of meaning trial. He was not saying that the issue should be left hanging in the air at all material times.

17. The phrase “screwed the country” is more fluid in its possible range of meanings, or applications, than “racist”. This is because “screwed” is being used metaphorically and, these days, often with a vulgar undertone. One of the suggested meanings in a

dictionary I have consulted is “cheat” or “deceive” but Nicklin J has expressly ruled that out. At para 22 of his judgment, as we have seen, he did use the terminology, “harming the country”. I take this to be a parsing of “screwed” in this particular context, leaving open the question of what sort of harm is being comprehended.

18. Nicklin J also found that the factual basis of the defamatory opinion was indicated in the article. That is obvious both from the terms of the article itself and Nicklin J’s use of the prepositional phrase, “by so doing”.
19. Following Nicklin J’s judgment there was no appeal and the Claimant amended his pleadings to reflect the meaning accorded to the article by the court. The Defendant’s Defence has gone through four iterations and the Claimant’s Reply two. I will be examining the pleadings at an appropriate stage.

THE COURSE OF THE TRIAL

20. I heard oral evidence from the Claimant himself (three witness statements), Martin Bowen (two witness statements) and Richard Bevan (one witness statement).
21. My assessment of the witnesses is that each gave honest, if at times guarded, evidence. The Claimant and Mr Bowen were sometimes inclined to discern hair-splitting distinctions between X and Y where none existed, but I do not think that they were attempting to pull the wool over my eyes. Given that daily transcripts of the proceedings have been provided to me and the parties, a detailed exposition of the oral evidence is not required for the purposes of this judgment.
22. The Defendant called no evidence. Given that s. 3(5) of the Defamation Act 2013 had not been pleaded by the Claimant, Mr Reade’s subjective honesty was not at issue. It would not have assisted me to know what the journalist thought he meant by “screwed the country”.
23. This case has generated an excessive and disproportionate amount of documentation. In order to resolve what is in issue between the parties, the following synopsis is sufficient.

ESSENTIAL FACTUAL BACKGROUND

24. The Claimant developed and designed his novel, bagless vacuum cleaner over a number of years and he started his business in 1992, having persuaded a commercial lender to lend him £600,000 secured on his home. The business was originally based solely in Malmesbury in Wiltshire and sales were confined to the UK. Over time, the business has gone from strength to strength and its products and markets have diversified. By 2018 the turnover of all the Dyson businesses was in excess of £4.4 billion, over 51% of which was attributable to Asian, predominantly east Asian, markets.
25. The growth of the Dyson business depended on its ability to penetrate markets outside the UK. That much is, or ought to be, obvious to anyone. Seeking to develop the business in this fashion could in no sense be seen as unpatriotic or failing to fly the flag. Moreover, Dyson has been successful not just in Asia but in a number of countries in the EU and in the Americas.

26. Dyson's products are no longer manufactured in the UK. The precise detail does not matter for present purposes, but my understanding of the position is that all Dyson's products are manufactured in Malaysia and Singapore. This shift occurred before 2016 and the Brexit referendum.
27. The Claimant's evidence is that by 2014 if not earlier Dyson's centre of operations was Singapore with its creative and innovative hub being the UK. Many of its executives were based in Singapore with its then COO, Mr Jim Rowan, moving there in 2012. He became the CEO in 2017.
28. The term "centre of operations" requires greater precision. As I will make clear, before 2019 the Dyson business was owned by holding companies registered in the UK and not in Singapore, with the Claimant and members of his family being the ultimate shareholders. I think that the term has validity in the looser commercial sense of Dyson's products being manufactured in SE Asia, with Singapore being the hub of that activity; and that Dyson's supply chains were in that region as were Dyson's most important markets. However, there may be a different way of interpreting the position. I will be coming to that in a moment.
29. In 2014 the Claimant decided to develop an electric vehicle ("the EV"). At the end of his evidence he explained to me why he embarked on this very risky project and why he had to pull out. In a nutshell, approximately £0.5 billion was invested in the UK over the five-year life of the project. The Claimant bought a historic former airfield at Hullavington in order to build facilities for the development and testing of the components and the finished product. On 23rd October 2018 Mr Rowan announced to staff in an internal memo that Singapore had been chosen as the place to manufacture the EV. The reasons he gave to staff were as follows:

"The decision of where to make our car is complex, based on supply chains, access to markets, and the availability of the expertise that will help us achieve our ambitions. ...

Our existing footprint and team in Singapore, combined with the nation's significant advanced manufacturing expertise, made it a frontrunner. Singapore also offers access to high-growth markets as well as an extensive supply chain and a highly-skilled workforce."

At one stage the UK had been in the running. My interpretation of the pleadings is that the Claimant does not dispute that. The EV project was abandoned in late 2019 for the reasons the Claimant explained in his evidence and are not relevant to the claim.
30. A closer analysis of the Dyson corporate structures is required. The Claimant's team helpfully prepared an organogram which sets out the position in pictorial form.
31. Before January 2019 there were two holding companies – Dyson James Group Ltd (described by some of the witnesses as "TopCo", but which I will call "DJGL") and above that Weybourne Group Ltd – both registered in the UK. DJGL owned various subsidiary companies in 26 countries, including the UK. Dyson Technology Ltd owned the intellectual property rights of all Dyson's products and Dyson Ltd was the

entity through which Dyson conducted its sales in this jurisdiction. The UK holding companies, through their subsidiary Dyson International Ltd, owned three Singaporean companies including Dyson Operations Pte Ltd, the employer of the CEO, the Global President and the Global Manufacturing and Procurement Director.

32. The consolidated financial statements for DJGL for the year ended 31st December 2018 show that the total turnover of the group was £4.401 billion. As Mr Bevan explains, DJGL was the consolidated reporting entity of Dyson in that year. My understanding of this figure is that it captures the entirety of Dyson's commercial activity on a worldwide basis. Given that these are private companies, the requirements under the relevant provisions of the Companies Acts are not the same as would be applicable to a public company. That said, the consolidated financial statements give an important insight into how these companies tick.
33. The intricacies of the tax position of DJGL and the various subsidiary companies were not explored in evidence. What is clear is that, in relation to the UK companies at least, corporation tax was, and is, payable on the taxable profits of the individual companies.
34. Returning to the £4.401 billion turnover figure, £3.905 billion was accounted for by Dyson Technology Ltd. This is because that company licenses the intellectual property rights of Dyson products to other Dyson companies at a commercial rate, and – at least for the period under consideration – approximately 88% of the turnover of companies such as Dyson Ltd appears to be reflected in the licence fee (I am dividing 3.9 by 4.4). However, exactly how the licence fee is calculated, and how the practical realities were reflected in the accounts, was not explored in evidence.
35. In January 2019 Dyson announced its intention to move the head office of the business to Singapore. Before I address how this was announced to the world at large, the second organogram, and the evidence of the Claimant and Mr Bowen, enable the following conclusions to be drawn.
36. First of all, three new Singaporean holding companies were created: Weybourne Holdings Pte Ltd (the ultimate holding company, and therefore the analogue of Weybourne Group Ltd, which may well have gone into liquidation); Dyson Holdings Pte Ltd (“TopCo”, and the analogue of DJGL, whose role changed); and Dyson Home Technologies Pte Ltd. Under TopCo were four companies already registered in Singapore but previously under the umbrella of DJGL, including Dyson Manufacturing Holding Pte Ltd (set up to build the EVs) and Dyson Technology Holding Pte Ltd (set up to carry out some of what the Claimant describes in his second witness statement as South-East Asia Research and Development (“SEA RDD”) on proven designs). Under Dyson Home Technologies Pte Ltd were all the worldwide subsidiaries previously owned by DJGL. The latter retained the UK subsidiaries although it passed into the ownership of Dyson Home Technologies Pte Ltd. And in due course DJGL changed its name to Dyson UK Group Ltd.
37. As a direct consequence of this restructuring, or to facilitate and/or implement some of its complex moving parts, the Chief Legal Officer, Mr Bowen, and the Chief Financial Officer, Mr Jørn Jensen, moved to Singapore, the former returning to the UK after a year. These individuals also had to resign from some if not all of their UK directorships. The Claimant himself became a non-UK resident for two years and he

moved to Singapore. The Claimant's understanding was that this was a requirement of the ultimate holding company, Weybourne Group Ltd.

38. Mr Bowen was asked in evidence where the Crown Jewels of the Dyson Group reposed. His answer was, Dyson Technology Ltd. That was a correct statement inasmuch as Dyson Technology Ltd still owns the IP rights of the Dyson brand and all its products, even if at all material times it has been owned by a holding company. The identity of the holding company has, of course, changed.
39. To my mind, it is clear that the head office of the Dyson group before the restructuring was the registered office of DJGL, namely Tetbury Hill, Malmesbury, Wiltshire. DJGL was "TopCo", in other words the main holding company of all the Dyson subsidiaries, even if technically Weybourne Group Ltd was the ultimate holding company. That is common ground between the parties. After restructuring the head office became the registered office of Dyson Holdings Pte Ltd in Singapore. Again, that is common ground between the parties.
40. It must also be apparent, as Mr Bowen explained in evidence, that the board meetings of TopCo took place in Wiltshire before restructuring and in Singapore thereafter.
41. These basic outline facts are clear. How they were, or could be, characterised by any honest commentator may not be quite as clear. The financial ramifications are, in my view, open to debate.
42. I turn now to the way in which Dyson itself characterised the corporate restructuring.
43. A paper was prepared for the purposes of a key board meeting on 21st January 2019. Only extracts of the document are available and I infer that the board will have been given a more detailed presentation. The Executive Summary explained the rationale for these changes:

"The board are finding it a challenge with key people, such as the CEO and the CFO, located in different places. Having the CEO, the CFO, International President (recently recruited in Singapore) and Group General Counsel located in the same place will assist in running the business in a more effective manner. It will allow the board to make decisions in a quick and efficient manner and respond rapidly to any developments in the business.

The obvious possibilities to resolve this difficulty are to locate all the relevant people in Singapore or the UK.

The UK is a good holding company jurisdiction from a tax perspective but Dyson/SJD are concerned by the IOF proposals and the effect they could have on the availability of capital to invest in the business. Further, an increasing majority of Dyson's sales are made in Asia and all Dyson's machines are manufactured there.

Singapore has therefore been chosen as the holding company location.”

44. It is also clear from the board paper that part of the rationale for relocating the holding company to Singapore was the demands of the EV business and the recent decision to manufacture these products in Singapore, as well as the need to transfer projects to the SEA RDD at an earlier stage than previously in order to get ahead of the competition.
45. A number of points may be made about this document. First, despite the tense of the final sentence, a decision to relocate the holding company had to be made by the DJGL board. That is what happened on 21st January. Secondly, the paper said nothing about the establishment of any global headquarters. Thirdly, there is nothing in the paper to suggest that there were any concerns about a no-deal Brexit. As Mr Rowan was to explain the following day, only 2-3% of Dyson’s supply chains were in Europe and the direction of travel was east and not west. Fourthly, the risks associated with the UK were perceived to relate to the Labour Party’s Inclusive Ownership Fund (“IOF”) proposals to force employers to give employees a stake in their business.
46. The board decision having been taken on 21st January, Dyson issued a press release embargoed to 16:00 GMT on 22nd January. According to this document the core creative and engineering parts of Dyson would continue to be in the UK. In a nutshell:

“An increasing majority of Dyson’s customers and all of our manufacturing operations are now in Asia; this shift has been occurring for some time and will quicken as Dyson brings its electric vehicle to market. As a result, an increasing proportion of Dyson’s executive team is going to be based in Singapore; positioning them to make the right decisions for Dyson in a quick and efficient way. This does not change any of our investment and recruitment plans; however we are now at a point where Dyson’s corporate head office will relocate there to reflect the increasing importance of Asia to Dyson’s business.”
47. Under the section “Notes to editors” some of Dyson’s various investments in the UK are listed although I do not read this text as suggesting that these were new as opposed to continuing investment decisions. Under the same rubric, “Key Investments”, the following appears:

“Singapore was chosen as the location of Dyson’s advanced automotive manufacturing site and plans were initiated to double the size of Dyson’s research and operations there to reflect the growing importance of the region.”
48. I will defer for subsequent consideration the issue of when and how the establishment of Dyson’s global HQ was brought about, and whether before the restructuring there was a Dyson global HQ, or any HQ, at Malmesbury.
49. Probably before the end of the embargo period, Mr Rowan conducted what appears to have been some sort of press conference with invited journalists. No transcript is available. He emphasised that Dyson remained committed to the UK, that tax and

Brexit had nothing to do with the decision, and that it was about “making sure we are future-proofed”. Mr Rowan also described Dyson as a “global technology company”.

50. Perhaps not entirely unpredictably, the announcement attracted a considerable amount of unfavourable comment. For example, Ms Layla Moran MP said, amongst other things:

“It is utterly unbelievable that the business face of Brexit is moving yet another part of his business out of the UK.

James Dyson can say whatever he wants but he is ditching Britain. This can only be seen as a vote of no confidence in the idea of Brexit Britain.”

The Daily Mail’s business editor described this as a “body blow” and:

“... whatever the rationale, it is an appallingly ill-timed move: the symbolism is dreadful. Sir James is far too astute not to realise that critics will interpret it as the hypocrisy of a rich Brexiteer. He will be branded as a man who delivered an almighty snub to Britain at a time when the country needs him most, as we seek to build our economy from outside the EU.”

Mr Jonathan Freedland, writing in The Guardian, suggested that Dyson was “jumping ship” and put the matter in these terms:

“... Dyson’s decision is inevitably rolled in with all the others that suggest UK companies, and those based here, are now guarding themselves against Brexit, especially a Brexit of the no-deal, crash-out variety. How else are we to interpret Dyson’s admission that it’s moving to Singapore to be “future-proofed.” What future exactly does it wish to be proofed against?

...

So why then might James Dyson be so coy? Why would he not admit it if he is shipping out to avoid Brexit, rushing to Singapore, whose trade agreement with the EU, signed in October, could well give Dyson better access to European markets than the company would have if it stuck around in no-deal Brexit Britain.

Perhaps he feared the charge of hypocrisy ...”

51. The BBC’s interpretation of the press release was that Dyson had announced that it was moving its headquarters to Singapore from Malmesbury. Mr Rowan was reported as saying that Dyson would be spending £200M in new buildings and testing facilities in Hullavington, and £44M in refreshing office space and adding new laboratories in Malmesbury as well as investing £31M in the Dyson institute on the same site. A BBC business correspondent’s “take” on the announcement was as follows:

“In practical terms, the change is a minor one. Two senior executives will be transferred to the Singapore office, where the company itself will now be registered.

There will be no impact on its 4,000 workers in Britain, and according to Mr Rowan, little impact on its tax affairs either.

It will continue to invest in its UK research and engineering sites in Malmesbury, London and Bristol, as well as a new centre in Hullavington, where it plans to develop a groundbreaking electric car.

But the change is still highly symbolic.

Dyson has made it clear its centre of gravity now lies in Asia, where it sees the biggest opportunities for growth.

There may be business logic in the move – but as the UK struggles to define a coherent vision for its own future, it is unlikely to be applauded here.”

52. On 23rd January 2019 the Claimant in an article in The Daily Telegraph answered the charge of hypocrisy stating that “we are determined to invest post-Brexit”. The decision to move Dyson’s head office was characterised in this way:

“The most recent – and much discussed – decision is that of moving our Chief Legal Officer and Chief Financial Officer to Singapore to join our Chief Executive resulting in the movement of our head office.”

53. The Claimant was responsible for the terms of the article although his evidence was that he had not written it. He was not responsible for the caption under a photograph, “British electronics firm Dyson is moving its corporate headquarters to Singapore”. Although I will be returning to this topic, no announcement was made that Dyson’s new global headquarters would be in Singapore until November 2019 when a lease for the former St James Power Station was signed.

THE PLEADINGS

54. The pleadings join issue on the question of whether the Claimant has suffered serious harm for the purposes of section 1 of the Defamation Act 2013.
55. Para 12 of the Re-Re-Amended Defence pleads the defence of honest opinion. Given Nicklin J’s ruling that the first and second conditions of the defence are satisfied in respect of the defamatory statement at issue (he was foreshadowing that the defence would be pleaded), the sole remaining question was whether an honest person could have held that opinion on the basis of the facts set out subsequently, including paras 14 and 19.
56. Para 14 of the Re-Re-Amended Defence pleads that Malmesbury became famous as the headquarters of the Dyson group of companies. That part of para 14 is admitted by the Claimant at para 18 of the Amended Reply.

57. Para 19 of the Re-Re-Amended Defence pleads the following:

“After Brexit the Claimant moved parts of his business, including the global head office of his business, out of the jurisdiction:

19.1 On 23 October 2018, Dyson announced to staff in an internal memo, reported in the Guardian, that it had chosen Singapore over the UK as the place to manufacture its proposed electric car. The news came after it had been reported that Dyson had previously identified and shortlisted a UK site for manufacturing. This announcement involved a move of advanced product development to Singapore.

19.2 In January 2019 Dyson announced its decision to relocate the company by establishing a global headquarters in Singapore. Its de facto “global headquarters” had hitherto been in the UK and so, for the avoidance of doubt, the Defendant contends that by Dyson establishing this new “global headquarters” the Claimant “moved the global head office of his business to Singapore” within the meaning found by Nicklin J. In announcing the move, and in response to being asked if Dyson could still be called one of Britain’s best success stories, Jim Rowan, Dyson’s CEO, said it should now be called a “global technology company”.”

58. Para 24 of the Amended Reply does not take issue with the para 19.1 allegation save to seek to contextualise it and to aver that there was no “move” of any automotive business out of the jurisdiction. This was because there was no automotive manufacturing or assembly business to move: the project had not reached that point, and it never did. The contextual matters relied on by the Claimant are those I have already summarised.

59. Para 25.1 and 25.2 of the Amended Reply plead as follows:

“25.1 it is admitted and averred that (a) on 22 January 2019 Dyson announced that it had decided to establish its global headquarters in Singapore, and (b) this decision was made by the respective boards of Dyson James Group Ltd and its then parent company, Weybourne Group Ltd.

25.2 it is denied, however, that this was a “decision to relocate the company” in the sense alleged. Although as a result of the restructuring that followed two newly-registered Singapore-registered companies ... became the top holding companies of the group in place of the UK holding company ... and the UK company [DJGL] became an intermediate holding company within the Dyson group, its two main operating UK entities (Dyson Technology Ltd and Dyson Ltd) did not change their functions in the UK and they were not moved to Singapore.”

60. The Claimant has now resiled from para 25.1. He points out in his evidence that there was no announcement on 22nd January 2019 to the effect that Dyson had decided to establish its global HQ in Singapore; and that in any event there was no relocation of any global HQ from the UK.
61. Para 26 of the Amended Reply seeks to contextualise the decision to establish the global HQ in Singapore. Many of the relevant contextual matters, assuming that they are relevant, have already been summarised. In addition:
- (1) there has been no material change in the number of Dyson employees in the UK.
 - (2) Dyson has continued to invest heavily in its sites at Malmesbury and Hullavington: a total of £177M over 2020-2022 as compared with £162M over the previous three year period.
 - (3) Dyson has continued to invest heavily in DIET.
 - (4) in the three years before 2019 Dyson paid £169M in corporation tax in the UK whereas in the three subsequent years it has paid £174M.
62. Overall, the Claimant pleads (see para 14 of the Amended Reply) that:
- “An honest person could not have held the opinion that the Claimant “was a hypocrite who had screwed the country and who set a poor moral example to young people” on the basis of the purported facts relied on by the Defendant, let alone the true facts, set in their full and proper context.”
63. The Defendant has not served a Rejoinder. Its position is that the so-called contextual facts are irrelevant and/or are argumentative, and that the para 26 matters, although not challenged, are also irrelevant.
64. Much metaphorical ink has been spilled by both parties over the state of the other’s pleadings. I steadfastly refuse to embroil myself in any of this dialogue, much of it rather aggressively conducted, save to make the gentle observation that it would have been helpful had the Claimant answered the Defendant’s Request for Further Information dated 6th June 2023.

THE ORAL EVIDENCE

65. The Claimant’s first witness statement explains his rationale for bringing these proceedings:

“I have taken serious personal financial risks, made huge investments in this country and have worked incredibly hard to benefit my country. Through my actions, I have prioritised setting a good moral example to young people ... So to be accused by the Defendant in the Articles of being a hypocrite who had screwed the country and who set a poor moral example to young people is not only wrong but incredibly harmful to my reputation. These allegations represent a

personal attack on all that I have done and achieved in my lifetime and are highly distressing and hurtful.”

66. Paras 51-54 of the Claimant’s first witness statement cover the decision to establish Dyson’s global headquarters in Singapore. My reading of this section of the Claimant’s evidence was that he was linking that decision to the events of January 2019. The point that the Claimant proceeded to make under para 57 was that the establishment of a global headquarters did not amount to him moving part of his business out of the jurisdiction: this was because the global HQ was new and none had not existed previously, and “Dyson made its largest ever investment in the UK in 2018, and that investment was going to continue irrespective of what was happening in Singapore”. Moreover, there was no impact on Dyson’s two main operating companies in the UK.
67. The Claimant’s second witness statement is directed to paras 19.1 of the Re-Re-Amended Defence. He points out that there was no “shift of advanced product development to Singapore” and provides a detailed explanation. I interpose my summary of the evidence to note that this issue was not explored in oral evidence and in my view nothing really turns on it. The remainder of para 19.1 has not been put in issue although its relevance is denied and the Claimant also complains that these averments have not been given their proper perspective.
68. In cross-examination the Claimant emphasised that what should be notionally underlined in the January 2019 press release was the adjective “corporate” in apposition with “head office” (my paraphrase of his evidence). The Claimant’s quarrel with the terminology of the Defendant’s article, in particular the epithet “global”, was that it implied “something big”. The Claimant’s contention was that the article should have said that “the corporate head office”, or even “the global corporate head office”, had moved. Although the Claimant’s recollection was that the decision to call Singapore the global headquarters came after January 2019, he assented to the proposition, after his attention had been drawn to para 25.1 of the Amended Reply, that the corporate restructuring was the mechanism by which Dyson became headquartered in Singapore. The Claimant never thought that Malmesbury was the head office of Dyson, or indeed its HQ, but he accepted that the decision entailed moving the head office from the UK to Singapore.
69. The Claimant’s attention was also drawn in cross-examination to paras 35 and 37 of his third witness statement, including page 49 of his book “Invention: A Life, Sir James Dyson”. The book extract, and the final sentence of para 37, accepted that Dyson’s global headquarters were moved to Singapore.
70. It is clear from contemporaneous documents that the site of Dyson’s global HQ in Singapore was not announced until November 2019 when the company – presumably one of the Singaporean entities – signed a lease of the St James’ Power Station.
71. The Claimant was asked a series of detailed questions about the corporate restructuring. Understandably, he was not on top of the fine detail: the Claimant is an engineer and not a lawyer. He was not sure whether on 8th and 9th May 2019 he resigned his directorships in all the Dyson companies registered in the UK. When asked why he moved his residence to Singapore, the Claimant did not accept that this was symbolic. He said that he was very concerned by IOF. In answer to my question,

the Claimant said that it was a requirement of UK and not Singaporean company law that in order to effect the move of the ultimate holding company, Weybourne, to Singapore he had to be non-resident in the UK. I have no doubt that this is the Claimant's understanding of the position although the parties have not drawn my attention to the relevant provisions of the Companies and the Taxes Acts.

72. As I have already said, I consider the Claimant to be an honest witness albeit one with a particular world view.

73. Mr Martin Bowen, the CLO of the Dyson group of companies, was better placed than the Claimant to explain the corporate restructuring, and §§35-38 above have been written with the benefit of his evidence. Para 16 of Mr Bowen's first witness statement did not squarely accept that Dyson's corporate head office was moved from Malmesbury to Singapore. This was because Dyson's CEO and other senior executives were already based in Singapore, many of them for years. Thus, the term "Dyson's corporate head office" when referred to in the press release was:

"... a generic description that is likely to have been used simply for convenience and by way of shorthand, to refer to the movement of the CFO and me from the UK to Singapore in consequence of the establishment of the global headquarters, as I describe in more detail below."

74. Further:

"Secondly, and most importantly, MGN's defence takes no account of all the other information that the January 2019 press statement contains."

75. To my mind, paras 25-27 of Mr Bowen's second witness statement contain a more helpful, and revealing, explanation of the position:

"25. As I explained in paragraph 14 of my first witness statement, in January 2019, the boards of Dyson James Group Limited (now 'Dyson UK Group Limited') and its then parent company, Weybourne Group Limited, decided to restructure Dyson in 2019. This led to the movement or 'relocation' of the corporate head office from the UK to Singapore, by which I mean the corporate functions carried out by the CFO and me (which I discuss in more detail below) were moved, albeit some of the back-end work relating to those functions still takes place in the UK. We decided to establish a global headquarters at the same time.

26. Before I say more about this, it is important to understand that I am talking about two different things that were happening at the same time: first, the group restructure (and the subsequent movement of the corporate head office) and secondly, the establishment of the global headquarters in Singapore (which was set up for the first time in 2019). They are separate but very much connected.

27. ... We wanted to put key people in one place so that there was a centralised operational hub for the day-to-day running of the business.”

76. Mr Bowen’s comment on all of this was as follows:

“28. So, to put it another way, the establishment of the global headquarters evolved naturally out of the discussions we were having at the time about the restructure. We never set out at an earlier stage to establish a global headquarters and, up to that point, we never felt that we needed one. We never had that way of thinking.”

77. In September 2016 Mr Bowen gave an interview with a legal journalist. In it he described Malmesbury as where Dyson was based and as its HQ. When pressed about this in cross-examination, Mr Bowen said that he did not think that he would have expressed himself in that way. Mr Bowen said that the interview would have taken place over the phone, and he could not say – at this distance at least- whether the call was being taped.

78. Earlier, in December 2015, Mr Bowen gave an interview with The Lawyer newspaper. He described Dyson, no doubt entirely accurately, as a worldwide business. Under the heading “Patents”:

“As well as his legal team in the UK, Bowen has a group of lawyers around the globe. The commercial legal team is made up of five lawyers based at the UK HQ as well as three in the US with two paralegals, three in Singapore and Malaysia, two in China and one in Japan.”

79. This information clearly came from Mr Bowen but he did not accept that he was being quoted verbatim. As far as he was concerned, it was not his habit to describe the Malmesbury campus as anything other than Malmesbury.

80. The supplementary bundle contains other references to Malmesbury as being Dyson’s HQ but some of these could be the author’s interpretation rather than the precise words of anyone within the company.

81. Finally, I come to the evidence of Richard Bevan, the Group Finance Director of the Dyson group of companies. Although Mr Ben Gallop notched up a series of perfectly fair points in his well-prepared cross-examination of Mr Bevan, I believe that I may do justice to his evidence in the following way, avoiding irrelevant *minutiae*. First, Dyson has continued to invest in the UK post-restructuring at the same levels as before and arguably even greater. Secondly, for the year ended 31st December 2019 the corporation tax paid by Dyson in the UK totalled £51.2M, for the year ended 31st December 2020 it was £62.5M and for the year ended 31st December 2021 it was £60.1M. The figures have not fallen post-restructuring.

82. Mr Bevan’s evidence travels only a certain distance, in my view, for the following two reasons. First, it is not the Defendant’s case that the relocation of Dyson’s global head office (or however the restructuring is described) caused direct and quantifiable

financial harm to the UK. If that were the Defendant's case, a rather different intensity of financial inquiry would have been required, one even more disproportionate to the issues at stake. To be clear: the available evidence does not show that what happened in 2019 *did* cause direct and quantifiable financial harm to the UK. Secondly, the picture I have given is far from complete. The tax position of the new Singaporean companies has not been explored, not least because Dyson has availed itself of an exemption which removes the need to make financial information publicly available. Dyson has continued to grow rapidly after 2019 and its corporation tax liabilities would be expected to increase. But we do not know, nor can we infer, what the UK tax position would have been going forward had the Dyson holding companies remained in the UK. In addition, given Dyson's assessment that this restructuring would be of commercial advantage to the group, if Dyson's growth post-2019 was greater than it would have been without these corporate changes, any comparative evaluation of the tax position before and after 2019 would be a complex exercise.

THE ISSUES

83. In my judgment, there are two issues to be determined: first, whether the defence of honest opinion succeeds; secondly, whether the Claimant has established that he has suffered "serious harm" for the purposes of section 1 of the Defamation Act 2013. A purist would say that the second issue should be addressed first of all because here the burden is on the Claimant and, contrary to the view I expressed during oral argument, "serious harm" cannot depend on whether the defence has been made out. However, both parties began with the statutory defence, and in my opinion there is good sense in following their lead.
84. The defence of honest opinion may be atomised into the following sub-issues:
- (1) whether the Defendant is entitled to raise, and prove, facts which were not indicated in the article.
 - (2) whether whatever fact or facts the Defendant may rely on for these purposes is or are substantially true.
 - (3) whether the Defendant was required to place the facts in their full and proper context; and, if so, has failed to do so.
 - (4) whether, in the light of the foregoing, an honest person could have held the opinion expressed in the article.
85. The Defendant has also pleaded that these proceedings are an abuse of process on *Jameel* principles even if it loses the two main issues. I very much doubt whether *Jameel* abuse is available in circumstances such as these, but as will be made plain the issue does not arise for consideration and I therefore say no more about it.

HONEST OPINION

86. Section 3 of the Defamation Act 2013 provides:

"Honest opinion

(1) It is a defence to an action for defamation for the defendant to show that the following conditions are met.

(2) The first condition is that the statement complained of was a statement of opinion.

(3) The second condition is that the statement complained of indicated, whether in general or specific terms, the basis of the opinion.

(4) The third condition is that an honest person could have held the opinion on the basis of—

(a) any fact which existed at the time the statement complained of was published;

(b) anything asserted to be a fact in a privileged statement published before the statement complained of.

(5) The defence is defeated if the claimant shows that the defendant did not hold the opinion.

...

(8) The common law defence of fair comment is abolished and, accordingly, section 6 of the Defamation Act 1952¹ (fair comment) is repealed.”

87. As I have already pointed out, Nicklin J held that the first condition (s. 3(2)) is satisfied as well as the second (s. 3(3)). Section 3(5) has not been relied on by the Claimant. The present focus must therefore be on the third condition and s. 3(4)(a). I have pondered whether the Defendant’s pleaded case as to the saliency of additional facts raises an issue under s. 3(4)(a) *simpliciter*, or under s. 3(4)(a) read in conjunction with s. 3(3). It is arguable that the Defendant is seeking to recruit additional indicated facts for the purposes of s. 3(3). Ultimately, however, this is an academic question which makes no practical difference to the outcome. I note Warby LJ’s view (see §101 below), endorsing Nicklin J, that additional facts fall within the ambit of s. 3(4) (a).
88. Addressing the sub-issues in the sequence I have set forth under §84 above, the first question is whether the Defendant is entitled to go beyond the single fact mentioned in the article, namely that the Claimant moved his global head office to Singapore.

¹ “6 Fair comment

In an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.” Section 6, unlike s. 3 of the Defamation Act 1952, does not set up a statutory defence. It predicates a defence at common law and then qualifies it.

89. The answer to that question is not immediately apparent. Section 3(4)(a) refers to “any fact which existed at the time the statement complained of was published”. Plainly, “any fact” casts the net very wide indeed. On the other hand, s. 3(3) demands that the basis of the opinion, in other words its factual basis, be indicated in general or specific terms. This suggests a narrower net. The policy of the statute in this regard appears to be two-fold: first, in the absence of any fact indicated, the opinion, being bare comment, acquires the status of fact (with the consequence that, if it is to be defended, the defendant must prove it). Secondly, there is obvious value in the relevant factual substratum being spelled out for the reader so that she or he is in a position to judge.
90. Fortunately, I am not being required to reach a concluded view on this question on the basis of first principles alone and without the benefit of any authority.
91. In *Lowe v Associated Newspapers Ltd* [2007] QB 580, Eady J was examining the ingredients of the defence of “fair comment” at common law. At that point, one of the leading authorities was *Tse Wai Chun Paul v Albert Cheng* [2001] EMLR 777, a decision of the Privy Council where the sole reasoned judgment was given by Lord Nicholls of Birkenhead. Addressing what he called the “objective limits” of the defence, Lord Nicholls’ fourth proposition was as follows:
- “Next, the comment must explicitly or implicitly indicate, at least in general terms, what are the facts on which the comment is being made. The reader or hearer should be in a position to judge for himself how far the comment was well founded.”
92. This proposition was assailed by Miss Victoria Sharp QC (as she then was), acting for the Claimant, as too narrow and inconsistent with the decision of the House of Lords in *Kemsley v Foot* [1952] AC 345. The issue for determination in that case was whether the defence was available only in circumstances where the comment was accompanied (in the article complained of) by a statement of the facts on which it was made. Their Lordships held that Mr Foot could rely on additional facts provided (on my reading) that they pertained to the subject matter of the comment. Eady J’s reading in *Lowe* was the same as mine:

“42. I am also required by the Human Rights Act 1998 to take into account article 10 and the jurisprudence associated with it. Having regard to those considerations, I am left in no doubt that the right to comment freely on matters of public interest would be far too circumscribed if it were a necessary ingredient of the English common law's defence of fair comment that the commentator should be confined to pleading facts stated in the words complained of. It would be more consonant with article 10, and the rights of a free press in a democratic society, if the restriction were expressed in terms of the "subject matter", as did Lord Porter ([1952] AC 345). He did so not only at p. 358 (already quoted) but also at p 357, where he formulated the nature of the inquiry as being:

"Is there subject matter indicated with sufficient clarity to justify comment being made?"

So too (in the passage ([1951] 2 KB 34) at p.51 cited above) did Birkett LJ in the Court of Appeal. I am therefore inclined to adopt his statement of the law in these terms (as cited above); namely that comment may be made, if the matter is already before the public, without setting out the facts on which the comment is based - provided the subject matter of the comment is plainly stated.”

Here, Eady J was dissenting from Lord Nicholls’ fourth proposition in *Tse*. That case is only of persuasive authority.

93. I respectfully agree with Eady J’s analysis. I also agree with these following further paragraphs of Eady J’s judgment:

“55. I conclude, after considering these older authorities in some detail, that they are consistent with two particular principles which I have already highlighted in the House of Lords’ speeches in *Kemsley v Foot* ([1952] AC 345):

- i) If facts are stated in words complained of, and are wrongly stated, this will undermine the defence of fair comment;
- ii) A defendant is not precluded from pleading extrinsic facts in support of a plea of fair comment.

They also appear to support the proposition that the readers need to be able to distinguish facts from comment for the defendant to be permitted to rely upon the defence of fair comment. A bald comment, made in circumstances where it is not possible to understand it as an inference, is likely to be treated as an assertion of fact which will only be susceptible to a defence of justification or privilege.

56. Where facts are set out in the words complained of, so that the reader can see that an inference or opinion is based upon them, then the defence of fair comment will be available; but the defendant is not tied to the facts stated in the article. He may invite the jury to take into account extrinsic facts "known to the writer" as part of the material on which they are to decide whether a person could honestly express the opinion or draw the inference.

57. Whilst it is necessary for readers to distinguish fact from comment, it is not necessary for them to have before them all the facts upon which the comment was based for the purpose of deciding whether they agree with the comment (or inference). I draw that conclusion with all due diffidence, since Lord Nicholls has twice expressed the opposite view, but it does seem consistent with principle and, in particular, with the undoubted rule that people are free to express perverse and shocking opinions and may nevertheless succeed in a defence

of fair comment without having to persuade reasonable readers, or the jurors who represent such persons, to concur with the opinions. It is difficult to see why it should matter whether a reader agrees; what matters is whether he or she can distinguish fact from comment. Sometimes that will be possible, as it was in *Kemsley v Foot*, without any facts being stated expressly, because either they are referred to or they are sufficiently widely known for the readers to recognise the comment as comment.”

94. My assent to the accuracy of these statements of principle does not mean that I am holding that they necessarily apply with equal force to s. 3 of the Defamation Act 2013. We have already seen that s. 3(8) abrogates the common law. I will be returning to this.
95. In *Joseph v Spiller* [2010] UKSC 53; [2011] 1 AC 852, Lord Phillips of Worth Matravers PSC revisited the taxonomy, preferring “honest” over “fair” comment. That preference has found its way into the language of section 3. Lord Phillips, in common with Eady J, could not reconcile the fourth proposition in *Tse* with *Kemsley v Foot* (see para 98 of *Joseph*), and sought to summarise the position in these terms:

“94. My reading of the position is as follows. The House [in *Kemsley*] had held that the defence of fair comment could be raised where the comment identified the subject matter of the comment generically as a class of material that was in the public domain. There was no need for the commentator to spell out the specific parts of that material that had given rise to the comment. The defendant none the less had quite naturally given particulars of these in order to support the comment. Lord Porter held that it was not necessary to prove that each of these facts was accurate provided that at least one was accurate and supported the comment.

95. This passage does not support the proposition that a defendant can rely in support of the defence of fair comment on a fact that does not form part of the subject matter identified generically by the comment. Even less does it support the proposition that a defendant can base a defence of fair comment on a fact that was not instrumental in his forming the opinion that he expressed by his comment. The last sentence of the passage that I have cited makes this plain.

96. I can summarise the position as follows. Where, expressly or by implication, general criticism is made of a play, a book, an organ of the press or a notorious course of conduct in the public domain, the defendant is likely to wish in his defence to identify particular aspects of the matter in question by way of explanation of precisely what it was that led him to make his comment. These particular aspects will be relevant to establishing the pertinence of his comment and to rebutting any question of malice, should this be in issue. Lord Porter's speech

indicates that the comment does not have to refer to these particular aspects specifically and that it is not necessary that all that are pleaded should be accurate, provided that the comment is supported by at least one that is.”

96. Lord Phillips also made it clear that the subject matter of the comment had to be identified at least in general terms, whether or not it was not within the public domain (paras 97-100). In addition:

“101. ... The underlying justification for the creation of the fair comment exception was the desirability that a person should be entitled to express his view freely about a matter of public interest. That remains a justification for the defence, albeit that the concept of public interest has been greatly widened. If the subject matter of the comment is not apparent from the comment this justification for the defence will be lacking. The defamatory comment will be wholly unfocussed.

102. It is a requirement of the defence that it should be based on facts that are true. This requirement is better enforced if the comment has to identify, at least in general terms, the matters on which it is based. The same is true of the requirement that the defendant's comment should be honestly founded on facts that are true.”

97. Thus far, I have been addressing the pre-2013 Act jurisprudence. The leading post-2013 Act case is *Riley v Murray*, both at first instance ([2021] EWHC 3437 (QB); [2022] EMLR 8, Nicklin J) and in the Court of Appeal ([2022] EWCA Civ 1146; [2023] EMLR 3, Warby LJ giving the main judgment). *Riley* may be described as a single fact case whose truth or falsity could be expressed in plain, simple and binary terms. Nicklin J rejected the defence of honest comment in these clear and robust terms:

“99. In my judgment, the section quoted from *Blackstone’s Guide* correctly summarises the position. The subsection has not revolutionised the defence of honest opinion. In line with the development of the common law, s. 3(4)(a) permits a degree of latitude in the proof of facts upon which an honest person could have held the expressed opinion (and it was this latitude which meant that s. 6 Defamation Act 1952 could be repealed without replacement: see paragraph 28 of the Explanatory Note). It does not provide an escape route for defendants who have expressed an opinion on stated facts they cannot prove to be true.”

98. Warby LJ agreed. He pointed out that if “any fact” bore its literal meaning then it would be open to a defendant to defend the comment on some entirely different factual basis even if the indicated fact were false (para 53). That would be both odd and unfair, and Ms Adrienne Page KC for the Defendant did not so submit.

99. *Riley* in the Court of Appeal is authority for a much narrower proposition. In a case where, as here, the opinion that had to be defended was expressly tethered to a specific fact, the defence failed if that fact were untrue. Thus:

“59. In this case, however, it is not necessary to resolve the issue. The appeal on this aspect of the case fails on the short and simple basis that the Opinion that had to be defended was that “*by so doing the claimant has shown herself to be a dangerous and stupid person who risked inciting unlawful violence and “people should not engage with her”* (emphasis added). “By so doing” is shorthand for “by publicly stating in a tweet that Jeremy Corbyn deserved to be violently attacked.” As the Judge held, the fact that the Opinion was expressly (and I would add exclusively) premised on the truth of the Factual Allegation means that it cannot survive the failure of the defendant’s case on the issue of truth.”

100. The issue that it was unnecessary to resolve was whether, in a case which was not a “by so doing” case, the defence of honest opinion could succeed on the basis of additional facts not all of which were true: see para 58. That is not the instant case because this *is* a “by so doing” case. Nor was Warby LJ addressing Ms Page’s submission that, on the premise that the indicated fact is true, a defendant is entitled to rely on additional proven facts to support the honest opinion.

101. My reading of para 62 of Warby LJ’s judgment is that he was opening the door to that latter possibility:

“62. Besides, this will not be the position in every case. The basis for a statement often includes more than one alleged fact, sometimes a range. The basis for an opinion may be indicated implicitly and very broadly. A well-known example is *Kemsley v Foot* [1952] AC 345, where the words complained of were “Lower than Kemsley” and the name of the claimant, an active newspaper proprietor, was considered a sufficient allusion to the entire journalistic output for which he was responsible. A more modern example is provided by *Lowe v Associated Newspapers Ltd*. Eady J held it was enough for the subject matter of the opinion to be indicated, and that a commentator may (within certain limits) seek to support the opinion on the basis of relevant extraneous facts. In cases of these kinds s 3(4) (a) is likely to have a role to play, whatever its true construction. There may be cases where a multiplicity of facts is indicated in one of these ways, of which just one would be enough to support the s 3 defence. Trial judges will need to be alert to attempts artificially to force such cases into the category we are dealing with here, with a view to imposing a straitjacket on the honest opinion defence. But I am confident that can be done.”

102. In my view, Warby LJ was endorsing Nicklin J’s conclusion that the enactment of s. 3 of the Defamation Act 2013 was not intended to effect a fundamental change to the

common law. The pre-2013 authorities remain relevant. In order to determine whether Ms Page's submission is correct, it is necessary, therefore, to return to my analysis of the earlier jurisprudence.

103. The reason Ms Page seeks to go beyond the bare terms of the article is as follows:

“The justification for 19.1 is that if the court thinks, as it has been portrayed, that the opinion expressed was extreme on the basis, when you see that, actually, what happened in moving the global head office was a culmination of a moving out starting with going to Singapore with the car three months before that, it just allows more headroom to the commentator to say why this is what it is, in terms of a defamatory opinion, so it's to, as it were, lend momentum, if it requires, to 19.2. (Day 1, pages 114-15 of the transcript)”
104. As it happens, para 19.2 of the Re-Re-Amended Defence may go further than the article. Whereas the latter states that the global head office was moved, para 19.2 refers to the global headquarters in the context of the wider averment that the Claimant moved parts of his business out of the jurisdiction. I therefore need to decide not merely whether the para 19.1 averments are admissible but also those pleaded under para 19.2. If I were to rule against the Defendant on these matters, it would be left with the bald terms of the article and nothing more.
105. Although the outcome is the same even on the narrowest and most austere factual substratum (viz. what the article says and nothing more), I accept Ms Page's submissions on this topic. They are clearly supported by the various authoritative dicta I have set out, as well as by logic and principle.
106. The defence cannot succeed if the fact indicated in the article were false. On the assumption that it is true, there is no basis for confining the Defendant to that bare fact, excluding from account related and connected facts. The allegation that the Claimant's head office moved to Singapore means that one or more of Dyson's "top" companies moved to Singapore. What the article means, or is getting at, is that some sort of corporate restructuring took place, and that a head office that was previously in the UK was transferred to Singapore. To my mind, "global head office" and "global HQ" probably mean one and the same thing; but on the assumption that they do not it would be artificially narrow and wrong to ignore the latter for these purposes. Not merely are these facts pertaining to the same subject matter, these are public domain facts which are, at the very least, closely interconnected. As I go on to find at §§113-114 below, the decision was made on 21st January 2019 to establish Dyson's HQ in Singapore. The Claimant cannot rely on the fact that this was not announced in the press release.
107. The para 19.1 facts are slightly further away from the terms of the article than those pleaded under para 19.2. However, when Ms Page submitted to me that the centre of gravity of this business was gradually moving away from the UK (not that she put it in exactly those terms), she was saying nothing particularly contentious. Putting aside the location of the head office, it is the Claimant's case that since around 2014 the operating hub of his business was Singapore and that by 2019 it could certainly be described, in the words of its then CEO, as a "global technology company". Mr Reade

had previously written in *The Mirror* about the EV business, and if it were necessary for the Defendant to prove that this commentator was aware of the para 19.1 facts, which I doubt, then this criterion is fulfilled. The key factor here is that para 19.1 is not changing the subject matter of this discourse. We have seen that part of the rationale for the restructuring was that Dyson had decided in October 2018 to manufacture the EVs in Singapore.

108. Accordingly, my conclusion on the first sub-issue is that the Defendant is entitled in the circumstances of this case to rely on all the para 19 facts. Any different approach would be artificially narrow as well as inconsistent with House of Lords (*Kemsley*), Supreme Court (*Joseph*) and valuable first instance (Eady J in *Lowe*) authority.
109. The second sub-issue is whether those facts are substantially true.
110. I have to say that this is not a point of any real difficulty. The basic facts have been admitted by the Claimant in his Amended Reply, but lest he feels that it would not be right for the court to be hamstrung by his lawyers' pleadings I may assure him that I have carefully examined the available evidence bearing on the essential facts of this case and have come to my own conclusions.
111. In October 2018 Dyson decided to manufacture the EV, assuming that it proceeded to production, in Singapore. Whether this also amounted to a move of advanced automotive development to Singapore does not matter for these purposes. The para 19.1 averment is substantially true and I am prepared to accept that what the Claimant has had to say about the SEA RDD aspect is also true. The Claimant was not cross-examined on the basis that this decision was made on account of Brexit and it is not the Defendant's pleaded case that it was. All that is said is that this decision was made after Brexit.
112. The Claimant's argument that there was no EV business to move because production had not started is, with respect, without merit. Dyson had invested a vast amount in this business and would continue to do so between January and October 2019, when it was announced that the EV business would be closed. Putting to one side the change in identity and locale of the Dyson holding companies, the EV business existed and possessed a commercial value before the decision to manufacture in Singapore was announced. It cannot sensibly be argued that this was a new business which was suddenly created in or just after October 2018. Finally in this regard, I refer to the terms of the January 2019 press release set out at §47 above.
113. On 21st January 2019 the boards of the two UK holding companies decided to effect a corporate restructuring which entailed the setting up of three new holding companies in Singapore. The role of DJGL was significantly reduced. I find as a fact that as part and parcel of the same process a decision was made in principle, albeit one not announced to the outside world, that the global headquarters of Dyson would be moved to Singapore. The Claimant accepted in evidence that the corporate restructuring was the mechanism to achieve this, and I have already drawn attention to relevant paragraphs in Mr Bowen's second witness statement.
114. The head office of Dyson before restructuring was Malmesbury. That is where the Dyson holding companies were registered. Dyson was a global company well before 2019 and so for someone to say that the global head office was in Malmesbury would

not have been a misnomer. Frankly, I cannot see the difference between “corporate head office”, “global corporate head office” and “global head office”. All are references to the registered seat of the Dyson holding companies, the legal and physical location of which changed.

115. Further, and as I have already said, I do not think that there is any real difference as a matter of substance in the corporate world between “head office” and “headquarters”. On the facts of this case, there is no material difference. On 21st January 2019 Dyson decided to establish a global headquarters in Singapore. That decision was inextricably bound up with the restructuring. Further, I find as a fact that Mr Bowen did tell two journalists, not that it was any particular revelation, that Dyson was headquartered at Malmesbury. There are several other documents in the supplementary bundle which provide reliably convergent evidence and cannot be explained away.
116. I cannot accept the Claimant’s characterisation that all that really happened was that two highly ranked executives moved to Singapore, or that the corporate restructuring took place simply to facilitate their relocation to Singapore. That significantly understates the reasons for, and saliency of, the move.
117. Nor can I accept the argument that there was no relocation because the two main operating companies remained in the UK with the same functions as before. Again, that is too narrow a depiction. It is true as far as it goes but it ignores the position of the three new holding companies and the fact that DJGL no longer had subsidiaries in 26 countries worldwide. The fact that the two main UK operating companies did not move does not mean that part of the Dyson business did not move.
118. I therefore conclude that the fact indicated in the article was true. Further, the para 19 facts, to the extent that these travel more widely, are also substantially true.
119. I asked Ms Page whether I could, or should, make a finding of fact as to Dyson’s real reasons for the para 19 decisions. Ms Page strongly submitted that I should not. Mr Justin Rushbrooke KC for the Claimant submitted that it was open to me to make certain findings on this topic but he did not suggest that I was required to. Until Ms Page advanced the submission that she did I was minded to set out my conclusions as to Dyson’s reasons for the para 19 decisions, not least because these, albeit multifactorial, seem clear – at least on the information contained in the voluminous trial bundles. However, I have been persuaded by Ms Page that I should be careful not to express any comment beyond that which is absolutely necessary to determine the issues in this litigation. It is not my function to undermine Mr Reade. Furthermore, I have said “at least on the information contained in the voluminous trial bundles” because I recognise that *all* the financial, accounting and tax implications have not been evidenced and explored.
120. The third sub-issue to be addressed is whether the Defendant was required to place the facts in their full and proper context; and, if so, has failed to do so.
121. Mr Rushbrooke’s submission, in a nutshell, was that Mr Reade has cherry-picked his way through the available evidence and has provided a completely one-sided, tendentious, and distorted picture. At the very least Mr Reade should have provided some of the relevant context set out in the report on the BBC website.

122. The way in which Mr Rushbrooke advanced the argument in final submissions was as follows:

“... if you want to take advantage of the latitude provided for freedom of expression in relation to defamatory opinions, you cannot so airbrush out of the picture vitally important points which fundamentally undermine the factual proposition you have given to the reader. (Day 3, page 114)”

123. The Defendant’s skeleton argument helpfully collects the balancing or contextual facts most if not all of which the Claimant submits should have been included:

- (1) Dyson was already a global technology and manufacturing company whose centre of operations was in Asia.
- (2) The relocation to Singapore was a good business decision and reflected the reality on the ground.
- (3) The practical significance of that relocation was minor.
- (4) The relocation had “no adverse impact upon the size of Dyson’s UK workforce, its UK operations, its investment in or commitment to the UK” (see the Amended Reply, para 26.2).
- (5) Dyson has continued to pay corporation tax in the UK at around the same level.
- (6) The Claimant has done various unrelated good works, namely producing ventilators during the Covid 19 pandemic and donating considerable sums to his old school in Norfolk and to a cancer centre.

To Item (2) above could be added the consideration, already touched on under §25 above, that a good business decision for the Dyson group as a whole would or might indirectly benefit the UK.

124. Mr Rushbrooke’s submission brings into scope the common law as it was expressed before the coming into force of the Defamation Act 2013 and in my opinion continues to flourish. Here, the following paragraphs in the decision of Eady J in *Branson v Bower* [2002] QB 737 are germane:

“36. Mr Price argues that the objective test for fair comment cannot be fulfilled (at any point) if the facts pleaded by the defendant might take on a different significance when set against other facts not referred to in the words complained of - at least if the defendant either knew about or could have discovered them. This raises a new clutch of problems for analysis.

37. The simplest example would be where a man has been charged with child abuse and a newspaper article calls for him to be suspended from his teaching post for so long as this question-mark remains over him. On the face of it, that would

be a legitimate instance of fair comment *if* those facts stood alone. Suppose, however, that there are facts, not mentioned by the defendant, which throw a different light on matters. For example, the proceedings had been dropped by the Crown Prosecution Service, or he has been acquitted at trial, because it transpired that it was a case of mistaken identity, or because he had an alibi, or because DNA testing excluded him as the culprit. In those circumstances, the underlying factual substratum of the comment (*viz.* there are reasonable grounds to suspect that he may be guilty of child abuse) would have collapsed.

38. The existence of such extraneous circumstances would be relevant in dealing with the question of whether the facts were truly stated (*Question 1*). They would also be relevant if it turned out that the defendant had suppressed the exculpatory evidence deliberately. That would be evidence of malice - if the case ever got that far (*Question 3*). Where I would part company with Mr Price is over the question of whether such extraneous facts could also be relevant for answering *Question 2*. The question would simply be "Could someone honestly express the opinion that the claimant should be suspended on the footing that he was currently facing charges of child abuse?" The answer to that would almost certainly be in the affirmative. It does not need to be confused with the other two questions I have identified. This is because the objective test for fair comment is concerned with whether the defendant is able to show that a hypothetical person could honestly express the relevant comment on the facts pleaded and/or proved *by the defendant*. I do not understand Mr Price to challenge that as a proposition of law.

39. If the claimant, by way of rebuttal, proves truly exculpatory circumstances which negate the suspicious circumstances raised by the defendant, that will undermine the accuracy of the factual substratum for the comment. The defendant would therefore fail at *Question 1*."

125. Eady J's second question was whether someone (i.e. the honest, hypothetical commentator, applying an objective test to such a person) *could* express the relevant comment on facts demonstrated to be objectively true.
126. I think that it is clear from Eady J's analysis that when consideration is being given to this second question the scope for any requirement to include so called contextual facts is extremely limited. Provided that the facts relied on by the commentator are true, and that he has not acted maliciously in making his selection (which is not alleged in the present case), an obligation to set out additional facts arises only if those facts remove "the underlying factual substratum" of the comment. Para 37 of *Branson* provides a clear example.

127. In short, I consider that the law is correctly stated in *Gatley on Libel and Slander*, 13th edition, at para 13-016:

“The omission of a highly relevant fact may amount to a misstatement of the supporting facts:

“it is not comment ... grossly to misrepresent the conduct of a public man, and then to hold him up to execration for his alleged wrong-doing.” (per Windeyer J in *Christie v Robertson* [1889] 10 NSWLR 157, at 163).

At common law a defence of fair comment would fail if the defendant omitted from the statement of facts on which the comment purported to be based some important fact that would falsify or alter the complexion of the facts that are stated]and then *Gatley* refers to Eady J’s example in *Branson*].”

128. *Gatley* also references by way of footnote the decision of the Court of Appeal of British Columbia in *Creative Salmon Co Ltd v Staniford* [2009] BCCA 61, at para 61, although in that case the court was not claiming to do much more than rely on the summary in *Gatley* itself:

“... the requirement to state the facts truly means in the present context that the commentator may not omit to state important or material facts that would falsify or alter the complexion of the facts stated in the commentary. It is not necessary to state all facts of a nature that may influence the opinion of the person hearing or reading the commentary. In order to defeat the defence, the omitted facts must be sufficiently fundamental that they undermine the accuracy of the facts expressed in the commentary to the extent the stated facts cannot be regarded as a true statement of the facts.”

129. Were the position otherwise the honest commentator would have to be more than honest. He (and I am using the male personal pronoun because this case is about Mr Reade) would also have to be fair-minded, intellectually honest and balanced. But, in the same way as there is no requirement for the comment to be fair and balanced, there is no obligation for the selection of the facts justifying the comment to be so. The position changes if and only if either the commentator deliberately suppresses relevant facts, and thereby acts maliciously, or – deliberately or not – the omitted fact places a wholly different complexion on the stated fact.
130. Mr Rushbrooke’s submission, if correct, would have important ramifications for freedom of speech. A journalist would struggle to say anything potentially controversial without conducting assiduous research, and even that may not avail him. It would also place an unattractive burden on the court in having to make a judgment as to the facts which must be included to ensure a fair balance. I use the adjective “unattractive” because the court should be slow to enter the arena in matters of general interest to the public, especially those which are not free from controversy. This burden does not exist when applying the straightforward test expounded by Eady J and the authors of *Gatley*.

131. Applying the relevant legal principles to the facts and circumstances of the present case, I have no hesitation in rejecting the Claimant’s argument. The contextual facts whose inclusion the Claimant presses are no more than precisely those: contextual facts. Their inclusion would arguably, perhaps even probably, give the reader a fairer picture of the overall position but that is not the test. Their omission does not falsify or contradict the basic factual allegation: that Dyson moved part of its business out of the jurisdiction. To the extent that their omission alters the complexion of the allegation, the alteration is far from being fundamental enough as to invoke the narrow exception.
132. I should not be understood as saying that the Claimant’s version of what happened is the only fair way of characterising the restructuring. For example, I have already said that it was something of an understatement to claim that the move entailed little more than transferring two executives from Wiltshire to Singapore. It would, I think, be a mistake to believe that just because something is put out in a press release it must be true.
133. The fourth sub-issue is whether an honest commentator could have held the opinion expressed in the article.
134. In *Merivale v Carson* [1887] 20 QBD 275, Lord Esher MR held:
- “What is the meaning of a “fair comment”? I think the meaning is this: is the article in the opinion of the jury beyond that which any fair man, however prejudiced or however strong his opinion may be, would say of the work in question? Every latitude must be given to opinion and to prejudice, and then an ordinary set of men with ordinary judgment must say whether any fair man would have made such a comment on the work.
- ...
- Mere exaggeration, or even gross exaggeration, would not make the comment unfair. However wrong the opinion expressed may be in point of truth, or however prejudiced the writer, it may still be within the prescribed limit. The question which the jury must consider is this – would any fair man, however prejudiced he may be, however exaggerated or obstinate his views, have said that which this criticism has said of the work which is criticised?”
135. In *Turner v MGM Pictures Ltd* [1950] 1 All ER 449, Lord Porter accepted Lord Esher’s dicta as correctly stating the law, although he preferred the adjective “honest” over “fair”. Comment could be honest even if “irrational, stupid or obstinate”.
136. In *Telnikoff v Matusевич* [1992] 2 AC 343, at 354, Lord Keith of Kinkel encapsulated the test as follows:
- “... whether any man, however prejudiced or obstinate, could honestly hold the view expressed by the defendant.”

137. My only glosses on the foregoing expressions of high authority are that the honest commentator does not have to be logical and he does not have to be evidence-based.
138. Mr Reade's opinion was that by relocating his head office to Singapore the Claimant as a self-proclaimed Brexiteer was a hypocrite who had screwed the country and represented a poor moral example to young people. In my judgment, it has not been shown that the relocation of the head office to Singapore, taken alone or in conjunction with the other facts pleaded under para 19 of the Re-Re-Amended Defence, which I have found to be substantially true, has caused direct and quantifiable damage to the economy of this country. The Defendant has eschewed the burden of demonstrating as much. My approach, in line with Nicklin J's steer, is to ask myself whether an honest commentator could think that the Claimant has screwed the country, in other words has harmed it *in some way*, by acting as he did. In order to answer that question, a precise analysis of the financial materials is not required. The scope of the inquiry is at a far higher level of generality. Acting in a fashion which in the eyes of some could represent a lack of faith in a post-Brexit UK would suffice.
139. Harming the country *in some way* is, in my view, within the scope of the concept, "screwing the country". I am not defining the term; what I am doing to seeking to ascertain its permissible limits.
140. It follows that whereas I may agree with Mr Rushbrooke that some connection between the fact indicated and the comment made is required, I cannot accept the implicit basis of his submission that there must be a clear and established evidential link in the sense of causing demonstrable economic harm. A loose, symbolic nexus will do.
141. What Mr Reade may be taken to have said is something along the lines that the Claimant got what he wanted, namely Brexit, and one would have thought that he would now be signed up lock, stock and barrel to the future of the UK. Instead, by moving part of his business to Singapore, or even just by relocating the head office to Singapore, he has hardly cast a vote of confidence in UK Plc. Given the Claimant's status as a leading inventor and entrepreneur, his hypocritical and highly symbolic actions could undermine the confidence of others in the UK and harm the country thereby, and hypocrisy of this sort does not set one up as other than a poor moral example to young people.
142. Now, I must strongly emphasise two matters which ought to be obvious. First, the preceding paragraph is not an expression of my opinion; I do not have one for these, and probably, all purposes. To be clear: were it my role to express a view of this nature (and it most emphatically is not), I would wish to do so in more balanced terms and on the basis of more financial, accounting and tax information having come into these proceedings from Dyson. Secondly, Mr Reade did not express himself in the terms of the preceding paragraph but chose his own language voicing the idea more pithily in his no doubt inimitable style. However, I do not doubt that this is the sort of message that Mr Reade was seeking to get across, and I must add that others have communicated the same or a similar idea, using their own modes of expression of course.
143. Mr Reade was not attempting to offer a window into or shine a light on the Claimant's thought-processes or motivation. He could not, and did not, claim to do that. Rather,

the “screwed his country etc.” remark was Mr Reade’s “take” on how people would or might envisage the Claimant’s actions.

144. Given that Mr Reade fell short of accusing the Claimant of dishonesty, the scope for honest comment, however wounding and unbalanced, was very considerable indeed. In my judgment, the Defendant has proved that Mr Reade did not travel beyond the wide margin available to him but kept within it; and the defence of honest comment has been made out.

SERIOUS HARM

145. Section 1 of the Defamation Act 2013 provides:

“**Serious harm**

(1) A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant.

(2) For the purposes of this section, harm to the reputation of a body that trades for profit is not “serious harm” unless it has caused or is likely to cause the body serious financial loss.”

146. The *locus classicus* on “serious harm” is *Lachaux v Independent Print Media Ltd* [2019] UKSC 27; [2020] AC 612. In that case Lord Sumption JSC explained that “serious harm” introduced a new or additional threshold which did not previously exist in the common law. “Serious harm” is a proposition of fact which:

“... can be established only by reference to the impact which the statement is actually shown to have had. It depends on a combination of the inherent tendency of the words and their actual impact on those to whom they were communicated ...”
(para 14)

147. Further, Lord Sumption envisaged a case where “serious harm” might be made out even though there might not be actual evidence from those who read the defamatory remarks and might have been impacted by them. Specifically:

“The judge’s finding was based on a combination of the meaning of the words, the situation of Mr Lachaux, the circumstances of publication and the inherent probabilities. There is no reason why inferences of fact as to the seriousness of the harm done to Mr Lachaux’s reputation should not be drawn from considerations of this kind.” (para 21)

148. In *Sivananthan v Vasikaran* [2022] EWHC 2938 (KB); [2023] EMLR 7, Collins Rice J held, at para 53:

“I start with some general observations about how Dr Sivananthan seeks to establish his case on serious harm. The first is that a *purely* inferential case, while in principle available, is not an *alternative* to an evidential process for

establishing serious harm – it must *be* an evidential process for establishing serious harm. There is a difference between inference and speculation. The components of an inferential case must themselves be sufficiently evidenced and/or inherently probable to be capable of adding up to something which discharges a claimant's burden.”

149. In the same case Collins Rice J added that an inferential case would be harder to establish if direct publication were to a limited class of publishees. Although she had in mind what she called “publication by percolation” (see para 55), which is not the instant case, one may appreciate the obvious force of and common sense in the point that direct publication to a mass audience will more likely satisfy the test.

150. Finally on this feature of *Sivananthan*, Ms Page drew my attention to para 72 of Collins Rice J’s judgment. There, having carefully considered the nature of the allegation under scrutiny, she pointed out:

“So while, at its most literal, an allegation of misleading a future Prime Minister, on so fundamental a matter to Tamil activists as their desired UK foreign policy to Sri Lanka, does touch on grave subject matter, I am not persuaded that this particular allegation was *serious* in the sense of raising an inference that it was likely to be have been taken seriously or had a serious reputational impact on [the Claimant]. It was hot-headed, rhetorical and patently incredible.”

151. Moving to a slightly different issue, *Dingle v Associated Newspapers Ltd* [1964] AC 371 remains good law. It is authority for the proposition that a defendant cannot seek to reduce its damages by proving the publications of itself or of others and inviting an inference that these have injured a claimant’s reputation. However, in a multiple publication case a particular defendant is responsible only for the harm it has caused, and post-2013 that harm must transcend the “serious harm” threshold. As Collins Rice J pointed out in *Sivananthan* at para 56, “the serious harm test is about the impact of an individual publication by a defendant on its readership”.

152. I attempted to draw these various strands together in *Napag Trading Ltd v Gedi Gruppo Editoriale Spa* [2020] EWHC 3034 (QB), [2021] EMLR 6, at para 41:

“It is common ground that [section 1] has intensified the common law and requires proof of harm which is actually or likely to be serious rather than proof of substantial harm and a tendency to cause it. “Serious harm” may be established by inference from such matters as the extent of the publication, the gravity of the allegation, and whether the statement was read by people who knew the Claimant or will come to know him in the future.”

153. In the present case the Claimant cannot demonstrate that he has suffered financial loss as a result of these publications. Nor can he show that his philanthropic work, particularly directed to young people and schools, has been harmed in any way. These factors are by no means fatal to his claim (see, for example, para 43 of *Napag*), but

they mean that the Claimant is constrained to advance an inferential case based on the gravamen of the words used and the inherent probabilities flowing from these being mass publications.

154. Here, not all the *Lachaux* factors point in the same direction. I take the Claimant's point that Mr Reade's piece goes further than others in accusing him not merely of being a hypocrite but as one who has screwed the country. The suggestion that he represents a poor moral example to young people is particularly wounding in the context of someone who has, in the Claimant's language, worked so hard to promote the interests of youngsters in the UK, especially in the educational field.
155. However, the *Lachaux* factors - tailored as appropriate to the circumstances of the present case - militating against the inference of "serious harm" are as follows.
156. First, Mr Reade's Saturday page in *The Mirror* is intended to be light-hearted. The claim is made on his behalf that he is funny, but that as ever must be a matter of personal taste. This particular piece was not really about the Claimant but about the character of others who in the estimation of the writer were (and perhaps still are) liars and cheats. Insofar as there is a common theme, that theme is hypocrisy which is not at the gravest end of the scale.
157. Secondly, Mr Reade was writing in January 2022 about something that was very much old news and had already been much debated at all levels of the press and the *agora*. Although no inferences can properly be drawn about the opinions of those reading *The Mirror* (see *Banks v Cadwalladr* [2023] EWCA Civ 219; [2023] 3 WLR 167, per Warby LJ at paras 55 and 56), it would be fair to say that by the date of this particular publication most people must already have formed a view about the merits or demerits of what Dyson did three years previously, and Mr Reade was not adding to that debate. In my judgment, most readers would see "screwed the country" as a comment expressed in crude, rhetorical and hyperbolic terms and would not think that Mr Reade was making any particularly illuminating observation. The same applies to the reference to the Claimant setting a poor moral example to young people, which is more firmly anchored in the notion of hypocrisy. I have to say that few people would take that particularly seriously. My overall conclusion about the defamatory words complained of, seen in their proper context, is that the present case is not at the serious end of the spectrum.
158. Thirdly, and connectedly, I consider that this claim faces real difficulties on causation in the context of the application of *Dingle* to the post-2013 landscape. These difficulties are not surmounted by the submission that what Mr Reade said was more defamatory than others. As a piece of invective, maybe, but my assessment is that Mr Freedland's piece in *The Guardian* would have to be regarded as a more damaging. In this regard, I was warned by counsel during oral argument not to be patronising. I hope and believe that I have heeded that warning. The point I am making is that Mr Freedland advances a sustained, detailed series of arguments targeting the Claimant which the reasonable reader would surely consider to be more compelling, and damning, than the publication under consideration.
159. For all these reasons I have concluded that the Claimant has not discharged the burden of proving "serious harm".

DISPOSAL

160. The Claimant having failed on the issue of “serious harm” and the Defendant having succeeded on its honest opinion defence, this claim must be dismissed.
161. There will be judgment for the Defendant.