



Neutral Citation Number: [2023] EWHC 3198 (KB)

Case No: QB-2021-002780

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13/12/2023

Before :

MRS JUSTICE ELLENBOGEN

Between :

CAX
- and -
PQR

Claimant

Defendant

David McClenaghan (instructed by Bolt Burdon Kemp LLP) for the Claimant
The Defendant appeared in person

Hearing dates: 25 and 26 January 2023

APPROVED JUDGMENT

Mrs Justice Ellenbogen DBE:

1. On 4 November 2021, judgment was entered in these proceedings, in default of an acknowledgment of service and defence. This judgment assesses the damages due to the Claimant. By Order of Master Fine, sealed on 29 March 2022, the Defendant was ordered to make an interim payment on account of damages, in the sum of £10,000, by 14 April 2022, together with an interim payment on account of the Claimant's costs, by the same date. The Claimant was represented by Mr McClenaghan and the Defendant represented himself, appearing via video-link from HMP Peterborough.
2. By reason of the nature of the matters giving rise to these proceedings, the Claimant was granted anonymity, by Order of Master Dagnall, dated 27 July 2021. In order to preserve that anonymity and, by consent, at the outset of the quantum hearing, I extended that order so as to anonymise the Defendant. I also acceded to the Claimant's application to amend her claim form to indicate that the value of the claim would exceed £200,000 (rather than fall between £100,000 and £200,000), to which no objection was raised by the Defendant and which caused him no prejudice. In connection with that application, I ordered costs in the case.
3. The Claimant gave evidence and also called her mother, father, brother and husband as witnesses of fact. The name of each such witness is anonymised in this judgment. I received written and oral expert evidence from Dr Jane O'Neill, consultant psychiatrist. The Defendant elected not to cross-examine any such witness. He did so following my explanation of, and acknowledging, the consequences of adopting that course. To the extent appropriate, I asked such questions of the Claimant's witnesses as appeared to me to be relevant and necessary for the purposes of determining the issues in this case. The Defendant elected not to give evidence himself, or to call any other witness of fact, or expert witness. He also elected to make no closing submissions.

The facts giving rise to the claims

4. The Claimant was born in July 1992. Between 1995 and 2001, she was persistently indecently assaulted by the Defendant, her maternal grandfather, who also took indecent photographs of her. Following pleas of guilty entered at the Crown Court at Luton, he was convicted of three counts of indecent assault upon a child under 14 and one count of taking indecent photographs of a child, on 28 January 2021. He was also convicted of further sexual offences against two other children, receiving a total sentence of 13 years' imprisonment. These, civil, proceedings were issued in June 2021 and served in September of that year, seeking damages, including aggravated damages, for personal injury in the form of sexual, physical and psychological abuse, and past and future financial losses arising from the totality of the abuse which the Claimant alleges, which extends beyond the particular offences of which the Defendant was convicted. The causes of action advanced, so far as pursued, are for assault and trespass to the person. Damages are sought on the same basis for each such cause of action.
5. The Defendant's abuse, as pleaded, involved grooming and manipulation of the Claimant; inappropriate touching, both over and under her clothing; the fondling of her vagina; penetration of her vagina, both digitally and with objects; requiring the Claimant to sit on his lap and erect penis; attempts to force the Claimant to masturbate

him; requiring her to pose naked for photographs; the video-recording of his physical abuse; and inappropriate discussion of sexual matters with her.

The evidence of fact adduced for the Claimant

The Claimant

6. The Claimant's evidence was that her mother and father had separated when she was around the age of one or two (though they were subsequently to remarry, in 2013) and her mother formed a relationship with her step-father. Owing to their working demands and patterns, the Claimant's mother relied heavily on her own mother to care for the Claimant, who would spend the day at her grandparents' house, from the age of three onwards, and, from a time when she had been around the age of five or six, the Claimant and her siblings had taken it in turns to stay overnight with their grandparents, every third Friday. That arrangement had continued until the Claimant had been around 11 years old, when her family had moved to a different town. The Claimant described her grandmother as having been loving, caring and maternal. By contrast, the Defendant had been withdrawn and kept mostly to himself. The Claimant described him as having been old-fashioned; regimented; quite cold; unapproachable; and critical of her grandmother. Nevertheless, she had tended to gravitate towards him as she had wanted to feel as though she were 'someone's favourite', believing her brother to have been her mother's favourite and her sister to have been her grandmother's. She knew that her grandfather would give her attention.
7. The Claimant's evidence was that the abuse had started when she had been approximately three years of age. Whilst she was sitting on the Defendant's lap, he would put his hand up her skirt, or down her knickers, saying that he was 'having a fiddle'. He would pull her knickers to one side and rub the area around her vagina, before inserting his little finger. She would tell him that that hurt and he would then revert to rubbing her vagina. When her grandmother entered the room, he would immediately snatch his hand away, which she had considered to be 'weird', as his abuse had become so normalised for her and would happen every time she visited her grandparents' house, for up to thirty minutes at a time. By the time that she had been staying overnight at her grandparents' house, the Claimant had been left in her grandfather's sole care, as her grandmother had been working as a cleaner. On the first occasion on which the Claimant had been left alone with the Defendant, he had taken her into the living room, in which he had set up a chunky video-camera and a still camera. He had told her that he wanted her to pose naked and talk about herself whilst he filmed her. The Claimant said that he would tell her to say how old she was, how beautiful she was, and to talk about her vagina, which he would rub with his fingers, having pulled her legs apart. He would take still photographs of her, whilst she was naked, with her legs open and her genitals on display, or whilst she was standing up and posing. Though they now sickened her, at the time she had not realised how horrific his actions, which had taken place on every occasion on which her grandmother had not been present, had been. The Defendant would tell the Claimant that, whilst her grandmother was out, she could stay with him and earn some pocket money.
8. The Claimant told me that the Defendant's abuse had worsened over time. When she had been seven to eight years old, he had introduced 'the moneybox game', in which she would be made to take off all her clothes and the Defendant would lay out pound coins and fifty pence pieces, which he would insert into her vagina whilst filming her.

She would tell him that that hurt her, but he would insist on inserting the money, telling her that she could keep it and that she should try to keep it inside her whilst waving her legs around. The 'game' would end when the coin fell out and she would be allowed to keep the loose change. Whilst filming her, the Defendant would tell her that her vagina was a 'little moneybox' and that she was his beauty. When her grandmother returned to the house, the Claimant would be obliged to pretend that nothing had happened. This would happen approximately once a week, she said.

9. The Claimant said that, over time, the Defendant would penetrate her digitally to increasing depth. On one occasion, she had cried out in pain for him to stop, but he had refused to do so. When she had been approximately nine years old, she had been sitting on the Defendant's lap and had felt his erection underneath her. He had told her that he could take his penis out and that she could give it a rub against her leg. The Claimant had immediately told him that she did not want to see it, but he had ignored her. She had never seen a penis before and had felt scared. The nature of this act of abuse had felt very different from that of earlier acts, which the Defendant had tried to turn into a game. The Claimant had thought that, as she got older, he would make her do things which she did not want to do. She had begun to feel confused, would try to avoid the Defendant and would cling to her grandmother when at their house, though the abuse would continue, including at times when her grandmother had gone to bed early.
10. As the Claimant had grown older, she had realised that her grandfather's behaviour had not been normal. She had asked him whether he was ever scared that he would be caught, but said that he would always say that the fault was hers because, when the abuse had started, she had been toilet-training, had wet herself and had therefore been walking around naked from the waist down. He told her that she had pulled his hand towards her genitals and made him touch her. The Claimant said that she had felt guilty for very many years and had felt that it had been her fault that he had abused her and that she had made him do so. The Defendant would frequently tell her that, were she to tell anyone about it, no-one would believe her, and that that, coupled with her belief that she had been at fault, had prevented her from doing so. She had felt ashamed and, now as an adult and mother of a young child, felt very angry and could not understand how the Defendant could have acted towards her as he had done.
11. At around the age of 11, when her mother had told her that they would be moving away, the Claimant had been happy at the opportunity to escape from the Defendant's abuse and had gained the courage to tell him that she did not want him to abuse her anymore. His response had been to tell her that that was fine, but that, if she were ever to change her mind, she had only to ask. That had made her feel confused and sick; that he genuinely believed that she had wanted him to abuse her and that she had done something to generate that belief. She would replay the conversation in her mind, trying to understand what she had done. Her family's relocation had put a stop to the abuse. Whilst there had been subsequent occasions on which she had stayed at her grandparents' house, she had clung to her grandmother and avoided the Defendant, such that he been unable to abuse her.
12. In July 2018, the Claimant and her husband married. The Defendant attended their wedding, and constantly stared at her, addressing a card to 'my favourite granddaughter', which had made her feel sick and 'knocked her for six'. In November

2018, the Claimant's grandmother died. At the funeral, the Claimant had gone to console the Defendant, who had called her his 'little beauty'; a phrase which had taken her straight back to his abuse. Thereafter, her mental health had deteriorated. She would feel really down and have constant thoughts of the Defendant's abuse. She had begun to drink a great deal, at any excuse. In August 2019, on an occasion when she had been very drunk, she had blurted everything out to a friend and had been overheard by her brother, who had, in turn, told her parents. The following day, the Claimant's parents had talked to her about it, she had confirmed that the Defendant had abused her and had told them some of what he had done. Her mother had encouraged her to report the matter to the Police, which she had eventually felt able to do in September 2019, by which point she had written everything down in a journal. She had found the ensuing criminal investigation emotional, exhausting, daunting and frightening. She had been required to relive everything and had found it very difficult to trust people, worrying that they would not believe her and would 'side' with her grandfather. When told that he would be pleading guilty to the criminal charges, she had felt a huge sense of relief. She believed that the evidence, including the video footage which he had taken, explained his willingness to enter guilty pleas. Following her disclosure of the abuse, the Claimant had felt really low, and had wet her bed on a couple of occasions. She had experienced difficulty sleeping, requiring sleeping tablets to be prescribed by her GP. Her ability to function, including as a parent, and to work, completely disappeared. She would cry for hours and had felt frustrated at her return to square one, after the work which she had put in to moving on.

13. The Claimant gave evidence of the effect which the Defendant's abuse had had on her mental health. On one occasion, at the age of nine or 10, she had tried to tell a teacher that the Defendant was abusing her, but the teacher had accused her of lying, reinforcing her view that she would never be believed, as her grandfather had told her would be the case. From the age of 12 or 13, having attended a personal, social and health education class at school, she had realised that she had been sexually abused. She had developed overwhelming feelings of anger and had begun to 'act out'. Considering that she would not be believed were she to tell anyone of the abuse, she had bottled up her feelings and her behaviour and personality had changed. Formerly sociable and upbeat, she had become timid, quiet, withdrawn and angry. She had found it hard not to tell anyone what had happened to her, but had been unable to bear telling her mother about the abuse. At the age of 14, she had been diagnosed with depression. Her life had entered a downward spiral and she had felt that everything was out of control. She had become addicted to alcohol and drugs, with a view to escaping intrusive thoughts and flashbacks of abuse, facilitating her consumption through shoplifting. She had experienced significant amphetamine-related weight loss (weighing only five stone) and had rarely attended school, such that her education had suffered. She had twice been excluded from school for fighting, or being high on drugs, leaving school with only two GCSEs and having attained the Duke of Edinburgh bronze award. She had put her mother and step-father through hell, she said. Later, when her mother and father had reunited, she had found it harder still, because she had been frightened of tearing her family apart. As a result, she had distanced herself from her entire family, who had not understood how to help or support her, and had felt unable to cope with the pain which the abuse had caused.
14. The Claimant said that her romantic relationships had been toxic and abusive. She had engaged in a sexual relationship with an 18-year-old male, at a time when she had

been 13 years old. She had lacked self-worth and would engage in relationships with much older people, becoming pregnant and miscarrying at the age of 14. She had engaged in unprotected sex because her then boyfriend had not wished to use a condom and she had lacked the confidence or self-esteem to push back. She would never engage in sexual activity when sober. Her belief that everyone hated her and worry over what people thought of her are said to persist and to continue to affect her. She struggles to trust her partners and described herself as very needy and wanting reassurance. She finds it difficult to show any affection, or express her feelings. When engaging in physical intimacy, she has not prioritised her own wishes, but gone along with those of her partner at the relevant time, in order to please him.

15. Describing her relationship with her husband, the Claimant said that she had always sought his reassurance regarding her appearance, having low confidence and self-esteem. Romantic relationships had failed because she had rushed into them and sought commitment straightaway, overwhelming the other party. Following her disclosure of the abuse which she had endured, her relationship with her husband had come under significant strain. She had not talked to him about what was then happening, the progress of the criminal proceedings, or her feelings. Her mood had been volatile and he had borne the brunt of her upset and frustration. She had shut down. Intimacy between them was very rare. Intercourse, and foreplay in particular, would trigger flashbacks of the abuse and she would tend to avoid it, placing a strain on their relationship. The Claimant said that she struggled with friendships, having only one close friend other than her mother, and becoming anxious in social situations, considering that people are judging her, and overthinking everything. She tended to cancel social engagements at the last minute and worried that she was being excluded from others, albeit that she would have been unlikely to attend, had she been invited. Her relationship with her children had suffered because she struggled to show them affection and was overprotective. The volatility of her moods created difficulties for her children and she struggled to avoid snapping at them. She did not trust others to care for them, which had resulted in Family Court proceedings, and associated costs, relating to her oldest child, whom she had prevented from having contact with her (the child's) father and grandparents.
16. The Claimant described her ongoing intrusive memories and flashbacks of abuse; very low self-esteem and poor body image; and continued harbouring of feelings of shame and guilt for not having disclosed the abuse at an earlier stage. She believed that those feelings would never go away — the flashbacks had worsened — and her discovery that the Defendant had also abused his nieces, at a time when they had been, respectively, six months and 18 months old, had broken her heart. She felt that, had she disclosed the abuse to which she had been subjected, at an earlier stage, the abuse of her nieces would not have taken place. She had focused on protecting her own children and had not realised that she had needed to protect her nieces as well. In short, the Claimant's evidence was that the Defendant's sexual abuse had left her traumatised and had affected every aspect of her life. Whilst wanting to reach a point where she could feel happy, secure and able to live the life which she wished to live, that goal felt impossible to achieve.
17. The Claimant's belief was that the above-described events and experiences had been the product of the Defendant's abuse, but for which and its effect on her mental health she considered that she would have attained significantly better qualifications. From

an early age, she had wanted to be a social worker and had planned to attain a degree in social work. However, she had lacked the qualifications required to progress to university at the age of 18, as had been her intention. In any event, she told me, her then state of mental health would not have enabled her to cope with attending university at that time.

18. She had worked very hard to obtain qualifications as a carer, completing an NVQ Level 1 and 2 in Health and Social Care and completing a Level 3 in children's care placements, in record time. At the time of the hearing, she had been working for a year, for the local authority, with children in residential care, a role to which she had moved because caring for elderly men had caused her to have flashbacks, in particular when assisting them with their personal hygiene. The Claimant told me that she really enjoyed working with children and young adults, to whom she could relate as a result of her own experiences. She had experienced no difficulty in passing Disclosure and Barring Service checks and envisaged none in the future. She had always worked full-time and shared childcare responsibilities with her husband. She said that she was someone who liked to push herself and, as a care assistant, had been team leading after a few years, acquiring greater responsibility for paperwork and medication. She had acquired management responsibilities, undertaken many care plans, and dealt with GPs and social workers. Her goal for the future was to specialise in helping children and adolescents who had been through trauma similar to her own.
19. On day two of the hearing, the Claimant learned that she had been accepted to read for a degree in social work, a place which she intended to take up in September 2023, were she not also to receive an offer from her first choice of university. It was a source of frustration to her, she said, that, absent the poor mental health which the Defendant had caused her to suffer, she could have qualified as a social worker at a much earlier stage. Her final schedule of loss, setting out the bases for the damages claimed, bore a signed statement of truth. I shall return to consider the basis upon which that claim is advanced following my summary of the witness evidence.

The Claimant's mother

20. The Claimant's mother, 'MAX', gave evidence supportive of the Claimant's account, stating that the Claimant's behaviour had really begun to change when she had been around 13 years old. MAX had been unable to understand the cause and their relationship had deteriorated significantly. She gave evidence of occasions on which the Claimant had stopped using drugs, when she had hallucinated regularly, and had experienced frequent nightmares and twitching. On one occasion, the Claimant had pulled out her own teeth and, consequently, had passed out. By the age of 15 or 16, MAX stated, the Claimant had undertaken work experience, been asked to stay on during the school holidays and begun to get her life back on track. Her own relationship with the Claimant had begun to improve by the time the Claimant had been 16 or 17. MAX's evidence was that, excepting her husband, the Claimant had generally entered into unhealthy relationships with individuals who had dominated her and treated her badly, but that she (the Claimant) had lacked the self-esteem to walk away. That had been a source of sadness and frustration for MAX, who described the Claimant as being an intelligent, kind and articulate person. She stated, that, following her mother's funeral, the Claimant would react with hatred and negativity whenever MAX mentioned the Defendant. MAX told me that she felt sick at the thought of the Claimant being abused by her grandfather. She described the

Defendant as being a deeply unpleasant man whom she considered to be evil, who had treated his wife appallingly, and had also abused his great grand-daughters and secretly filmed the Claimant's sister at a time when she had been living with her grandparents, aged 14. She gave evidence of further abusive behaviour by the Defendant towards her sister and her maternal aunt. MAX stated that, once she had learned of the abuse, the Claimant had opened up to her regarding her past behaviour during her teenage years. She had explained that she had been running away from the Defendant's abuse by taking drugs and alcohol and that she had not known how else to cope. MAX described how the Claimant had continued to work throughout the pandemic, including during lockdown, even taking on additional shifts. She (MAX) considered that the Claimant would never be able truly to put the abuse behind her.

The Claimant's father

21. The Claimant's father, 'DAX' also summarised the effect which the Defendant's abusive behaviour had had on their family, and his own reaction to it. He considered that the criminal proceedings against the Defendant had taken their toll on the Claimant's mental health, though she had continued to work long shifts and to look after her children. He said that the Claimant had had counselling and that he believed her still to be taking anti-depressant medication. He considered that, over time, she had slowly begun to cope and to manage better. Having buried her emotions for many years, all her memories had resurfaced when the Defendant had hugged her at her grandmother's funeral. Whilst DAX considered the abuse to be something which the Claimant would never fully get over, she had managed to get on with her work and family life and had continued to strive forward. Their own relationship was stronger than ever, he said.

The Claimant's brother

22. The Claimant's younger brother, 'BAX', said that they had been really close whilst growing up, but that the Claimant's behaviour had changed when he had been around the age of 12 or 13 and she had been a year older. She had started to drink and to hang around with the 'wrong crowd'. There had been times when she had been so drunk that he had almost had to carry her home. She had also started to take drugs and it had been almost as if she had 'hit a self-destruct button'. BAX had witnessed the Claimant in a 'horrible state', on numerous occasions when she had consumed alcohol or drugs. She had become increasingly aggressive, devious, and sly, and would lie about her whereabouts and activities. She had sold her jewellery, might also have stolen money from MAX, and had a history of shoplifting, all in order to pay for drugs and alcohol. By the age of 16 or 17, she had gained a reputation for going from relationship to relationship, and people would take the mickey out of her, which he had not liked. BAX characterised his sister's life at that time as having been chaotic. He described the party at which he had overheard her disclose to a friend that she had been sexually abused by her grandfather, the fact that he had then relayed that information to his parents and that they had all visited the Claimant the following day, when she had gone 'crazy and had a meltdown. She was bouncing off the walls and did not want to speak to our parents about any of it'. BAX said that, thereafter, the Claimant had distanced herself from him, believing that he had sided with his grandfather, which he had not. Their relationship had since improved but their former closeness had not been restored. He said that the abuse had shattered his family and that he believed that the Claimant would always be affected by it.

The Claimant's husband

23. The final witness of fact was the Claimant's husband, 'HAX'. He described the circumstances in which they had come to meet, had a child and then married. He stated that, at an early stage in their relationship, the Claimant had opened up to him about the Defendant's abuse, though she had not gone into detail and he had not wanted to pry, or push her into taking action if she did not feel ready to do so. Following her grandmother's funeral, the Claimant had really started to struggle with her mental health. HAX told me that, once she had spoken to her parents and reported the abuse to the Police, it had been as though a switch had flicked in the Claimant's head. She had become distant, empty and, at times, short-tempered and angry. He felt that he had borne the brunt of that behaviour. She had slowly begun to shut out everyone, including him. There had been many arguments and she had tried to end their marriage on two occasions. Their relationship had really suffered and it had felt as though they were simply co-existing in the same house for the sake of their children.
24. HAX told me that the Claimant had started to drink more frequently and to stay out overnight, without telling him where she was going, or when she would return. Without seeking his view on the matter, there had been an occasion on which she had told him that she was pregnant and would be having an abortion. He did not know whether the baby had been his. He had remained in their marriage mostly for the sake of their children and had not felt comfortable leaving them with her whilst she had been in an emotionally unstable state. Her behaviour, as described, had endured for months and he had been desperate for her to commence therapy or counselling. She had eventually attended weekly therapy sessions, which had made a notable difference, and had begun to change the way in which she viewed matters, realising that lashing out at HAX had been a reaction to the abuse which she had experienced and its effect on her mood. Things had slowly improved since the Defendant's criminal convictions.
25. HAX described the Claimant's lack of self-esteem and poor body image. He said that, prior to her disclosure of the Defendant's abuse, there had been no issues with their sex life. Now, they were hardly ever intimate. If he initiated sex, he would inevitably be rejected, such that he waited for the Claimant to do so, which would very rarely happen and made him feel lonely and as though the Claimant did not care. HAX stated that the Claimant loved working with children in residential care, but that she had always aspired to qualify as a social worker.

The expert evidence adduced on behalf of the Claimant

Dr Jane O'Neill

26. Dr O'Neill is a consultant psychiatrist in full-time clinical practice, a position which she has held since 1996. For the purposes of these proceedings, she had prepared two reports, respectively dated 6 August 2021 and 19 June 2022. She also gave oral evidence.
27. Dr O'Neill told me that she works with a full range of psychiatric conditions, including severe mental illness; depression; post-traumatic stress disorder ('PTSD'); personality disorder; and substance abuse. Her primary area of interest is historical child sex abuse. In Dr O'Neill's opinion, the Claimant had complex PTSD ICD11 6B41, defined as a disorder which may develop following exposure to an event, or

series of events, of an extremely threatening or horrific nature, from which escape is difficult or impossible. All diagnostic requirements for that condition had been met, she said. It was characterised by persistent affect dysregulation; beliefs that one was diminished, defeated or worthless, accompanied by feelings of shame, guilt or failure in relation to the traumatic events; and difficulties in sustaining relationships and feeling close to others. Those signs and symptoms significantly impaired personal, familial, social, occupational and other areas of function. In addition to describing such difficulties, the Claimant had presented with classic symptoms of PTSD, namely hypervigilance; reliving and avoidance. The impact on her personality had been that she had very low self-esteem; poor body image; profound feelings of shame and worthlessness; and instability of mood. She greatly struggled to trust others. The Claimant's behaviour as a child and in the immediate aftermath of her abusive experiences, as she had described it, had displayed features which were very common in someone who had been abused by a person in a position of trust or authority, or a carer — anger and rebelliousness; truancy; substance abuse; increasing distrust of those in a position of authority; behavioural changes; and anti-social behaviour. Distrust, anger and anti-authoritarian attitudes were engendered by abuse, Dr O'Neill told me.

28. Dr O'Neill stated her opinion that, on the balance of probabilities, the following evidence was supportive of the Claimant's abuse by the Defendant as being causative of her PTSD:
- a. the content of her intrusive memories; flashbacks and nightmares, all relating to that abuse;
 - b. the triggers which precipitated such events, in particular the Defendant's use of the epithet 'Little Beauty' at her grandmother's funeral; and
 - c. the Claimant's pattern of avoidance of internal and external cues reminiscent of her abuse.

There had been other contributory aetiological factors, including a distant relationship with her mother; a poor relationship with her step-father; and a lack of contact with her biological father. It was not possible, scientifically, to identify the percentage contribution which, collectively, those factors had made, but it had been minor and would not have had the past or future impact on the Claimant's life which had been caused by the Defendant's abuse. Adopting a common sense approach, informed by her comprehensive, detailed assessment of the Claimant and her clinical experience, it was Dr O'Neill's opinion that the vast majority of the Claimant's psychological difficulties had been caused by the severe and persistent emotional, physical and sexual abuse carried out by the Defendant.

29. It was also Dr O'Neill's view that, in the absence of that abuse, on the balance of probabilities, the Claimant would have been able to form better interpersonal relationships; to have gained GCSEs some 10 years earlier in life and to have progressed to college in a timely fashion, enabling her to have pursued a career as a social worker. Acknowledging that she was not an employment expert, Dr O'Neill stated her view that her psychiatric expertise qualified her to reflect on the impact of an individual's psychological state on his or her relationships, education and

employment. It had been the Claimant's rebellious and anti-authoritarian behaviour, itself the product of her grandfather's abusive behaviour, which had delayed her attainment of qualifications and available opportunities. The Claimant was of at least average academic ability, such that it was reasonable to conclude that, had she not been struggling with her mental health, her performance at school would have been better. She had subsequently demonstrated the ability to gain NVQs. Nevertheless, Dr O'Neill stated her worry that working in childcare, with children who had had similar experiences to her own, might have a re-triggering effect and precipitate intrusive memories, flashbacks and difficulties associated with the Claimant's own abuse. That itself would be a product of the abuse which she had suffered. That said, a social worker could work with children in different areas. The Claimant was able and appeared to be motivated; Dr O'Neill could see no reason why she could not gain a degree in social work and stated that she (O'Neill) was accustomed to commenting on the impact of a psychological condition on an individual's occupation; it was not beyond her expertise to do so.

30. In Dr O'Neill's opinion, the Claimant would benefit from psychological treatment for complex PTSD, being trauma-focused CBT by a psychologist trained in the treatment of trauma. In her first report, she had advised 18 months of weekly one-hour sessions, at an average cost of £150 to £200 per hour, following which, she anticipated, the Claimant's classic symptoms of PTSD would abate, though she would always struggle with low self-esteem; issues with trust; fear of abandonment; and instability of mood. As at the date of Dr O'Neill's second report, the Claimant was said to continue to fulfil the criteria for diagnosis of complex PTSD. It was noted that, since Dr O'Neill's first report, the Claimant had not undertaken any meaningful intensive psychological therapy, though she had attended nine counselling sessions and sought support from the wellbeing programme at work. In oral evidence, Dr O'Neill stated her opinion that it was 'totally reasonable' for the Claimant to choose a time at which her life would be relatively stable, because CBT was very challenging. Dr O'Neill's prognosis had been based upon the therapy which she had recommended, which would be the only basis upon which the Claimant's symptoms would improve, but the Claimant would have to pick the right time to undergo it.
31. As I have observed, none of the evidence which was called by the Claimant was challenged by the Defendant. I am satisfied that each witness of fact gave evidence in a thoughtful and balanced way and that there is no basis for rejecting the evidence which s/he gave, which I accept and adopt as my findings of fact.
32. Similarly, I accept Dr O'Neill's unchallenged clear expertise, and reasoned diagnosis and prognosis. I am also satisfied that, whilst she is not an employment expert, the matters on which she opined in that connection fall within her expertise and experience, for the reasons which she gave, though it is for this court to form its own view on the losses claimed and the bases on which they have been calculated.

The Claimant's Schedule of Loss

33. The Claimant's schedule of loss has been through a number of iterations, the most recent of which being provided shortly in advance of closing submissions and following discussion in the course of the hearing. In that document, the Claimant seeks to recover:

- a. general damages, for pain suffering and loss of amenity;
 - b. an award for injury to feelings/aggravated damages;
 - c. past loss of earnings, said to be reflected in a 13-year delay to her pursuit of her chosen career as a social worker, in the sum of £94,628, plus interest (giving credit for her earnings during that period);
 - d. past travel costs, related to her counselling sessions;
 - e. the increase in university tuition fees payable since the period over which she would otherwise have attended university;
 - f. future loss of earnings, for a period ending with the date on which she will complete her university course, in the total sum of £83,652.89;
 - g. the cost of CBT, as recommended by Dr O'Neill, in the sum of £11,653.93 and the projected associated cost of travel at £776.93; and
 - h. interest on past losses.
34. Her primary case is that it is appropriate to adopt a multiplier/multiplicand approach to the calculation of both past and future loss of earnings. In the alternative, her position is that it would be appropriate to adopt the approach set out in Blamire v South Cumbria Health Authority [1993] PIQR Q1, to both past and future lost earnings, inviting me to apply a discount to the losses claimed on a multiplier/multiplicand approach no greater than 33%, resulting in a total award for both heads of financial loss of £119,448.26 (exclusive of interest on past losses).
35. In *Blamire*, considering future financial loss, Steyn LJ held:

'It is clear, in my judgment, that the judge took the view that the conventional measure was inappropriate. He had ample material to take that view. First, there was uncertainty as to what the plaintiff would have earned over the course of her working life if she had not been injured. It is not necessary to mention all the difficulties which confronted the plaintiff. One was the possibility that she might have more children. Another was the fact that she clearly would have liked to have done part-time work rather than full-time work. It is true that it was necessary for her to assist with the payment of the mortgage, but, as the judge pointed out, that particular figure would become less of a burden through the years. The second aspect was the uncertainty as to the likely future pattern of her earnings, and here the uncertainties were very great. Bearing in mind that the burden rested throughout on the plaintiff, it is in my judgment clear that on the materials before him the judge was entitled to conclude that the multiplicand/multiplier measure was not the correct one to adopt in this case.

...

*It seems to me that the judge carefully assessed the prospects and the risks for the plaintiff. He had well in mind that it was his duty to look at the matter globally and to ask himself what was the present value of risk of future financial loss. He had in mind that there was no perfect arithmetical way of calculating compensation in such a case. Inevitably one is driven to the broad brush approach. The law is concerned with practical affairs and, as Lord Reid said in *British Transport Commission**

v. Gourley [1956] A.C. 185 at page 212, very often one is driven to making a very rough estimate of the damages.

Looking at the picture that emerged from the evidence and the judge's careful and balanced findings of primary and secondary fact, I am of the view that the judge's estimate of the risk of loss of future earnings, pension benefits and the plaintiff's vulnerability in the market, are fairly reflected in his award. In my judgment there is no ground for interfering with his decision. Moreover, I go further. In my judgment on the evidence before him a higher award would not have been justified.'

36. In *Ward v Allies and Morrison Architects* [2012] EWCA Civ 1287, the Court of Appeal considered (at [20] to [26]) whether the judge at first instance had erred in adopting the *Blamire* approach when awarding damages for loss of future earnings. Aiken LJ, with whom Kitchin LJ and Sir Richard Buxton agreed, held:

'20. *It is common ground that the multiplicand/multiplier methodology and the Tables and guidance in the current edition of Ogden should normally be applied when making an award of damages for future loss of earnings, unless the judge really has no alternative²⁵. However, in order to carry out the conventional exercise a judge has to deal with two aspects before a multiplicand figure can be calculated. First, he has to make findings on the likely pattern of the claimant's future earnings if she (or he) had not been injured; secondly, the judge has to make findings on the likely pattern of the claimant's future earnings given the fact that he/she has now been injured as a result of the defendant's negligence. As Steyn LJ pointed out in the *Blamire* case itself²⁶, in respect of both those issues the burden is on the claimant.*

21. *This means that in this case it was for the appellant to satisfy the trial judge, on a balance of probabilities, first, what career path it is likely that she would have taken and so what she would have earned over the period for which a claim for future loss of earnings could be made, which period would, itself, be a matter of proof on a balance of probabilities. This exercise would involve establishing both the type of work the appellant would have undertaken had there been no accident and also the level of remuneration that she would have obtained from it. Secondly, the appellant would have to satisfy the trial judge on what work she was going to be able to undertake following the accident, whether that would be less remunerative than the work that she would have undertaken had there been no accident and, if so, by how much.*

22. *The judge's findings of fact, in particular those at [38] and [40], are clear. First, he was not satisfied, on a balance of probabilities, that the appellant had demonstrated that she would have been able to establish herself or would have been able to retain a position over a long period as a theatrical model maker. Secondly, he was not satisfied that the appellant had proved what she would do now,*

following the accident. More importantly, it is clear from [40] that the judge was not satisfied that the appellant had proved that she would actually suffer a loss of earnings as a result of the accident.

23. *Mr Huckle had to attack those findings of fact and conclusions if he was to make any progress on Ground 5. He pointed to the appellant's first class degree, the high regard of her tutor, Mr Tindall, her placement with the respondents and Mr Yates' offer, during his evidence, to take the appellant on placement again and also to his evidence that the market for model makers was "buoyant". Mr Huckle drew our attention to the evidence of earnings levels in particular forms of employment and the appellant's evidence that she was not attracted to teaching but was motivated to carry on as a model maker.*
24. *Mr Huckle submitted that the Blamire approach was principally used where the claimant was in business and there was "wholesale uncertainty" as to the future earnings of the claimant; or where the claimant had failed to establish his former or subsequent earning capacity. He argued that neither situation applied here.*
25. *I cannot accept Mr Huckle's submissions. In my view the judge was entitled to reach the conclusion that there were too many imponderables to enable him to hold, on a balance of probabilities, what the likely career pattern and earning capacity of the appellant would have been but for the accident and what it was likely to be as a result of the accident or that she would be likely to suffer a loss of earnings in the future. The evidence before the judge entitled him to conclude that it was uncertain (a) whether the appellant would have succeeded in becoming a theatrical model maker; (b) whether she would have remained in that position throughout her working career., (c) what the levels of remuneration in that occupation would have been; (d) as to whether the physical and psychiatric recovery of the appellant was such that she could do either the job of a theatrical model maker or other jobs as a model maker after the accident. The judge also held that it was likely that she would earn at least as much as a theatrical model maker in the future...*
26. *In these circumstances it seems to me that the judge was "driven" to adopting the Blamire approach. As I read the judgment at [42] – [43], the judge was not even actually convinced that the appellant had proved that she would suffer any loss of earnings in the future at all, but he was prepared nonetheless to award a sum to enable her "to retrain if she so chooses and to take the time to do so and to be compensated for that exercise". The respondents do not object to that approach, so I say no more about it.*

25 See, eg. remarks of Ward and Keene LJJ in *Bullock v Atlas Ward Structures Ltd* [2008] EWCA Civ 194 at [17] and [21] respectively. Richards LJ agreed with both judgments.

26 At Q5'

Discussion and conclusions

37. I turn to consider each head of loss.

38. It is convenient to consider the claims for general damages and aggravated damages together.

General damages

39. It is the Claimant's case that the approach to be followed is that set out in *KR v Bryn Alyn Community Holdings Ltd* [2003] QB 1441, CA [112]:

'There is no doubt that awards in cases such as this should take account of the nature, severity and duration of the abuse itself and of its immediate effects, as well as of any long term psychiatric harm that it may have caused, even though the latter may be the primary motivating and much the more serious injury giving rise to the claim.'

40. Mr McClenaghan submits that, in this case, the award made must take appropriate account of:

- a. the nature of the Defendant's assaults on the Claimant and the physical and psychological injuries thereby caused;
- b. the frequency and prolonged duration (seven to eight years) of those assaults;
- c. the Claimant's inability to avoid, or escape from, the Defendant's abuse;
- d. her lost childhood;
- e. the ongoing reminders of the abuse caused by the Defendant's continued contact with the Claimant;
- f. the severe nature of the Claimant's psychological difficulties and her poor prognosis;
- g. the disastrous impact which the abuse has had upon her education, career and relationships; and
- h. the upheaval caused to the Claimant's family life.

41. As a starting point, he submits that, having regard to the abuse which she suffered and the resultant psychiatric injury, the Claimant falls within the 'severe' category of Chapter 4.C of the Judicial College Guidelines, such that an award for general damages should fall within the bracket of £40,000 to £120,000. Acknowledging that

each case will turn on its own facts, he points to a number of earlier cases, relating to a range of sexual abuse over different periods, by reference to the awards variously made in which contending that, in this case, the appropriate award for pain, suffering and loss of amenity is £85,000.

Aggravated damages

42. Mr McClenaghan submits that the tort of assault affords protection from the insult which may arise from interference with the person, such that a claimant bringing an action for assault is able to recover for any injury to feelings caused by that assault (i.e. the indignity, mental suffering, disgrace and humiliation felt), even if no physical or psychological injury is sustained. In addition, aggravated damages may be awarded where the injury to feelings is increased by the flagrancy, malevolence, and particularly unacceptable nature of the defendant's behaviour. In practice, it is said, many court awards run together the awards for these two heads of damage.
43. Mr McClenaghan submits that an award of aggravated damages in the sum of £20,000 is justified in the present case, particularly having regard to the latest guidance contained in the Judicial College Guidelines, having regard to the following factors:
- a. the flagrant nature of the Defendant's abusive behaviour;
 - b. the Claimant's age at the time of the abuse;
 - c. the degrading and deplorable nature of the acts of abuse;
 - d. the gross breach of trust entailed, given that the Defendant is the Claimant's grandfather;
 - e. the Defendant's lack of remorse;
 - f. his manipulation and blaming of the Claimant, in order to silence her; and
 - g. his conduct in the course of these proceedings, which had required her to give evidence. That conduct is said to include the Defendant's refusal to have engaged with the Claimant's legal representatives; persistent assertion of a difficulty in obtaining legal representation (despite the Claimant's solicitors attempts to offer assistance in that connection), that he is confused and has not received any correspondence from the Claimant's solicitors, and that he was at a loss as to how to participate in earlier interim hearings; blatant disregard for the Claimant; and continued protestation of his innocence by declaring, at an earlier interim hearing, that he had '*only fiddled with her because she asked me to*'. Furthermore, the Defendant had failed to answer a single piece of correspondence from the Claimant's representatives and, as an affront to the Claimant, when ordered to make an interim payment to enable her to commence treatment, he had sent two cheques to her representatives, both of which unable to be cashed as the first had been made out to the wrong person and the second had not been signed. None of those matters could be considered to derive from his advanced age, the fact of his imprisonment, or his status as a litigant in person, it is said.

44. In Mr McClenaghan's submission, this is a case in which either the award of general damages should reflect the above aggravating features and be uplifted accordingly, or a separate award of aggravated damages should be made; it matters not, but the appropriate total sum is said to be £105,000.
45. Having regard to the Judicial College Guidelines relating to psychiatric and psychological damage caused by sexual and/or physical abuse, I accept Mr McClenaghan's submission that the Claimant has suffered both serious abuse and severe and prolonged psychiatric injury, bringing her case within the definition of 'severe'. I also accept that the factors which Mr McClenaghan identifies as warranting an award of aggravated damages should lead to the award of an additional sum. Such an award could equally be made as one for injury to feelings. Incorporating an award of the latter by reference to factors which would, alternatively, warrant an award of aggravated damages, the bracket for severe cases in the Guidelines is said to be £45,000 to £120,000, with the majority of cases said to fall within the range of £55,000 to £90,000.
46. I bear in mind the dicta of Auld LJ, in *KR & Others v Bryn Alyn Community (Holdings Ltd) and An'r* [2003] EWCA Civ 85 [116], citing the earlier dicta of the Court of Appeal in *Sutherland v Hatton* [2002] EWCA Civ 76, to the effect that many stress-related illnesses are likely to have a complex aetiology having several different causes and that, in principle, a wrongdoer should pay only for that proportion of the harm suffered for which, by his wrongdoing, he is responsible. I further bear in mind Dr O'Neill's unchallenged evidence to the effect that the (unquantified) 'vast majority' of the Claimant's psychological difficulties have been caused by the Defendant's abuse. Recognising that the exercise inevitably lacks precision, it is my duty to adopt a principled and logical approach to assessment. I have had regard to the young age at which the abuse began; its nature, severity, and duration; and to Dr O'Neill's expert evidence to the effect that the Claimant's behaviour and personality changes are commonplace amongst those who have sustained such abuse. In those circumstances, I consider it appropriate to proceed on the basis that some, albeit relatively minor, adjustment ought to be made to the award for general damages which would have been made had the Claimant's psychological injury resulted entirely from the Defendant's actions. Dr O'Neill declined to assess the percentage contribution made by factors other than the Defendant's abuse and, in such circumstances in particular, I do not consider it appropriate for me to do so.
47. What, then, would have been the appropriate award for pain suffering and loss of amenity, had the Defendant been entirely responsible for the Claimant's psychological injury? Given the Claimant's very young age at the time at which the abuse commenced, it is difficult meaningfully to compare the pre- and post-abuse position, but it is clear from all of the unchallenged evidence which I have received that the Defendant's abusive behaviour has profoundly altered the course of her life and that its effects will never be eradicated. I bear in mind the fact that the period over which she has endured PTSD to date has been significant, but also that her prognosis, with CBT, is positive. Of the previous cases to which I have been referred by Mr McClenaghan as 'benchmarks', I consider the most helpful to be *FKB v Lampitt* [2015] EWHC 3368 (QB) and *GLB v TH* [2012] EWHC 3904 (QB):

- a. In the former case, an award for general damages of £65,000 and aggravated damages of £15,000 was made. Informing the latter was the fact that the defendant had denied the allegations and the associated need for the claimant to undergo cross-examination in the criminal proceedings, on the basis that her allegations were untrue. Over a period of four years, at a time when the claimant had been between 10 and 14 years of age, her step-father had sexually abused her. He had adopted a regular, recurring pattern of watching her whilst she bathed; forcibly restraining and pinning her down; tying her hands behind her back; inappropriately kissing her; inappropriate touching of her breasts, bottom and genitals, both over and under her clothing; and digital penetration of her vagina. He would expose his naked body to her and force her to touch his genitals and masturbate him. On occasions, he had placed his penis against her face. Abuse in one such form or another had taken place several times a week and had increased in severity over time. It was said to have occurred over a critical period in the claimant's education and to have had an effect on the latter and on her relationships and employment similar to that seen in this case. Allowing for an uplift, per *Simmons v Castle* [2012] EWCA Civ 1039, and for inflation, the combined award would equate with approximately £112,000, as at today's date.
- b. In *GLB v TH*, when between the ages of 10/11 and 16, the claimant had been sexually abused by her paternal grandfather. Her earliest memory was of having been forced to perform oral sex on him. The abuse had extended to: forcing her to look at pornography, undress and assume provocative poses whilst being photographed by the defendant, take inappropriate photographs of herself, with her abuser telling her that his friends would be interested in the photographs taken; touching her inappropriately, both over and under her clothing; getting into bed with her and touching her over and under her clothing, including on her breasts and vagina; forcibly kissing her; forcing her to masturbate in front of him, including by use of a gear stick in his van, and to use sex toys on herself; forcing her to masturbate him and masturbating her; rubbing his penis on her legs; forcing her to perform oral sex on him; and attempting to rape her. He would take any opportunity to see her naked and would walk into the bathroom when she was showering. He would tell her that she would get into trouble were anyone to know what was happening. The abuse would occur once every one to two months, over the relevant five-year period. It had an adverse effect on the claimant's ability to sustain intimate relationships and enjoy physical intimacy and on her enjoyment of being a mother, given her preoccupation with anxieties relating to her daughter. To some extent, it also had an impact upon her employment. She had been diagnosed with adjustment disorder, with some depressive, anxious and post-traumatic symptoms and low mood. With completion of CBT, the prognosis was guarded but optimistic; there ought to be a substantial improvement in her symptoms of PTSD, but she would retain some instability of mood and continue to experience difficulties in her relationships, as well as remaining overprotective towards her daughter. The judge was referred to the then JSB guidelines (which, at that time, did not include a separate category of psychiatric damage related to sexual abuse), noting that the bracket was said to be £39,000 odd to almost £83,000. He made an award of £67,500 for pain, suffering and loss of amenity and of £15,000 for aggravated damages.

Informing the latter was the defendant's breach of trust; the emotional upheaval born of the conflict in the claimant's feelings; the defendant's persistent denial of guilt and then liability; his spiteful correspondence with the claimant's employer; and the need for her to endure the trial. Allowing for the *Simmons v Castle* uplift and inflation, the combined award would equate with approximately £133,000, as at today's date.

48. As Mr McClenaghan acknowledges, the above cases are informative, but not determinative of the appropriate award in this case. Every case is fact-sensitive; each claimant's experience is personal to him or her; and no award can truly compensate for the abuse sustained, or the enduring psychological damage to which it gives rise. Having regard to all of the matters to which I have referred above, I consider that, prior to adjustment, the appropriate award for general damages would have been £85,000. Adjusting that sum to take account of the contribution made by factors unrelated to the Defendant's conduct, I award the sum of £80,000 for pain suffering and loss of amenity.
49. Aggravated damages are intended to be compensatory rather than punitive. Any such award falls to be considered alongside that for pain, suffering and loss of amenity, to ensure that the total sum awarded will not exceed that which is fair when considering the case as a whole and will avoid the risk of double recovery. Whether considered as an award for injury to feelings or aggravated damages, I am satisfied that, having regard to those principles, the appropriate award is one of £15,000, to which no adjustment need be made, as all of the factors on which Mr McClenaghan properly relies, and which I have taken into account, relate to the Defendant's abusive behaviour and/or conduct of these proceedings. As to the latter, whilst, in the event, the Defendant raised no challenge to the evidence adduced on the Claimant's behalf in the course of the hearing, he obliged the Claimant to prepare for that hearing and to come to court to give evidence. I am satisfied that the points made by Mr McClenaghan regarding the Defendant's conduct of proceedings are well-founded. They are exacerbated by the Defendant's comment, made in the course of the hearing before me: *'She should have objected to what I was doing and I would have stopped. I did stop anyway.'*
50. Thus, I make awards for pain suffering and loss of amenity and for aggravated damages in the combined sum of £95,000.

Past loss of earnings

51. It is for the Claimant to establish the losses which she seeks to recover. I accept her unchallenged evidence as to the cause of delay in pursuing her chosen career. She has abandoned an earlier position that past (and future) losses ought to reflect the likelihood of promotion in the field of social work. I also acknowledge Dr O'Neill's evidence that there is no reason why the Claimant should not have been capable of pursuing her chosen career path at a stage 10 years earlier than has in fact been the case, and that any inability to work with traumatised children would itself be a product of the Defendant's abuse. From around the age of 17, the Claimant has demonstrated a track-record of determination and full-time work, relating to the care of others. That has included a period during which she has had caring responsibilities for her own young children, with the benefit of assistance from her husband, and in the context of the psychological injury which the Defendant has caused, without the

benefit of CBT. She has shown herself capable of being accepted on a degree course in social work, notwithstanding the considerable difficulties which she has been forced to confront, over a protracted period. Having given the matter very careful consideration, I am satisfied that, on the balance of probabilities, the Claimant would have attended university and pursued her chosen career path 10 years earlier than she has in fact been able to do. I am also satisfied that she has established her claim for past losses on the primary basis upon which it has been advanced, in which the figures for lost earnings have been drawn from the Annual Survey of Hours and Earnings ('ASHE' – Code 2442 - Social workers - All female workers - Annual pay – Gross) and credit has been given for residual earnings achieved over the same period. Having regard to the considerations mentioned earlier in this paragraph, I am satisfied that the imponderables and uncertainties in this case are not such as to require the application of a discount to the sums claimed. The award for past loss of earnings is, therefore, £94,628.09.

Past travel costs

52. The Claimant is entitled to be reimbursed for the cost of travel to the counselling appointments, attended between January and March 2020. She has claimed at the rate of £0.50 per mile, but I consider it appropriate to adopt the HMRC mileage rate of £0.45, applicable over the relevant period. Thus, the sum to be awarded under this head of loss will be £126.00.

Increased university tuition fees

53. The deferment of the Claimant's tertiary education has resulted in the need for her to pay tuition fees at a higher level than would otherwise have been the case. Had she attended university in ordinary course, annual fees of £8,000 would have been payable for each year of the course, whereas she will now be obliged to pay fees of £9,250 per year. I accept that, as a matter of principle, the additional £1,250 per year is recoverable, but not, as claimed, that that sum should carry interest on the basis that it is a past loss; the expenditure has yet to be incurred. Thus, the total award will be £3,750.

Future loss of earnings

54. Here again, the Claimant's primary case is that future losses ought to be awarded adopting a multiplier/multiplicand approach reflective of the delay in her pursuit of her chosen career as a social worker. ASHE 2022, Code 2461 is the source of the earnings on which Mr McClenaghan's calculations have been based. The losses claimed do not extend beyond a date when the Claimant will be 34 years old, just over four years from the date of the assessment hearing. In those circumstances in particular, and, once again, following careful consideration having regard to the factors previously identified, I am satisfied that the imponderables and uncertainties in this case are not such as to require a *Blamire*-type approach to future losses, for the reasons canvassed when addressing the Claimant's past financial losses. On the balance of probabilities, I am satisfied that the likely pattern of her future earnings, respectively with and without the Defendant's abuse, over the relatively short period to which her claim is confined is as advanced by Mr McClenaghan. Under this head of loss, I therefore award the sum of £83,652.89.

Cost of future treatment and associated travel

55. The costs of CBT treatment have been calculated at the rate of £150 per session, over the period recommended by Dr O’Neill. In the course of her evidence, the Claimant told me that, to date, she had not undergone CBT, for lack of funding – therapy was not cheap. One also had to be in the right frame of mind to start therapy, or it would ‘fall on deaf ears’, she said. She believed that she had not, thus far, been in a place in which she had been ready to open herself up to it. She had felt a lot of shame and self-loathing and been in a ‘very dark space’, but had now realised that she could not let that feeling take over the rest of her life; she was not still in that dark space; knew that the abuse had not been her fault and was not going to let it take any more of her. She stated her belief that, once she had received the appropriate help and support, as advised, she could overcome anything. I am satisfied that the Claimant is both genuine and motivated in her desire to undertake and complete the advised course of CBT and accept the reasons given for the delay in commencing it. I note Dr O’Neill’s view that, for such therapy to be beneficial, the participant needs to feel ready to undertake it. I award the sum claimed, being £11,653.93. I also award the projected cost of travel associated with attending those appointments — once again, adopting a rate per mile of £0.45 — in the sum of £982.80.

Summary and conclusion

56. In summary, the total award which I make, exclusive of interest, is £289,793.71, comprised as follows:

Pain suffering and loss of amenity:	£80,000
Aggravated damages:	£15,000
Past loss of earnings:	£94,628.09
Past travel costs:	£126.00
Additional university tuition fees:	£3,750
Future loss of earnings:	£83,652.89
Cost of future treatment:	£11,653.93
Future travel costs:	£982.80

57. I shall hear from the parties in relation to interest, costs, and all other matters arising, at a hearing to be convened for that purpose.