Neutral Citation Number: [2024] EWHC 2677 (KB)

Case No: KB-2023-002102

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22/10/2024

Before :

THE HON. MRS JUSTICE STEYN DBE

- -

Between :

MARTIN HIBBERT **EVE HIBBERT** **(by her mother and litigation friend Sarah Gillbard)**	**Claimants**
- and -	
RICHARD D HALL	**Defendant**

- -
- -

Jonathan Price (instructed by **Hudgell Solicitors**) for the **Claimants**
Paul Oakley (instructed by **Direct Access**) for the **Defendant**

Hearing dates: 22, 23, 24 and 25 July 2024

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Approved Judgment

This judgment was handed down remotely at 10.30am on 23 October 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HON. MRS JUSTICE STEYN DBE

Mrs Justice Steyn DBE :

Introduction

1. On 22 May 2017, a terrorist caused a bomb to explode at the Manchester Arena, at the conclusion of a concert performed by Ariana Grande, murdering 22 people, injuring many others, and killing himself ('the Manchester Arena attack' or 'the Attack'). The claimants, Martin Hibbert, and his daughter Eve, had attended the concert, and each suffered grave, life-changing injuries in the Attack.

2. This case concerns a false narrative, published by the defendant, an independent journalist and broadcaster, that the Manchester Arena attack was an elaborate hoax - carefully planned by elements within the state and involving ordinary citizens (including the claimants) in the deception as "*crisis actors*" - in which no one was injured or died. The essential question is whether through his publications, and the steps he took to investigate the claimants, the defendant has committed the statutory tort of harassment. A further cause of action relied on concerns alleged breaches of data protection legislation. Counsel for the claimants, Mr Price, described the data protection claim as subservient to the primary cause of action, the harassment claim, on which he focused.

3. Both parties were ably represented at the trial by Counsel, Mr Price and Mr Oakley, respectively.

The parties

4. Of those who survived the Attack, Martin Hibbert was closest to it. He suffered 22 shrapnel wounds, and his life was only saved by emergency surgery. As a consequence of the Attack, he is paralysed from the waist down, wheelchair-bound and suffers from post-traumatic stress disorder ('PTSD'). He has become an advocate for spinal injury victims, and describes himself as "*an outspoken campaigner for disability rights*". On 22 July 2021, Mr Hibbert gave evidence to the public inquiry chaired by Sir John Saunders ('the Inquiry'), and his evidence is summarised in Volume 2 of the Inquiry Report at §§17.53-17.61. Over the years since the Attack, Mr Hibbert has given many media interviews. He is also the author of a book about his ascent of Mount Kilimanjaro in a wheelchair, a feat he achieved when he reached the summit on 13 June 2022, raising £1 million for the Spinal Injuries Association, of which he is a Vice President.

5. Eve Hibbert is the daughter of Martin Hibbert and Sarah Gillbard. As Ms Gillbard has said in her evidence,

> "Until the attack Eve was a fit and healthy 14 year old girl, with a cognitive development trajectory well within normal bounds. The injuries she sustained in the attack, which so very nearly killed her, changed that permanently and she now lives with a very high degree of dependency and an uncertain future." (SG2, §6)

6. Eve attended the Ariana Grande concert with her father, and she was with him in the City Room at the Manchester Arena when the bomb exploded. A bolt from that improvised explosive device struck her in the head. As a consequence, Eve suffered very significant, permanent cognitive impairment, and will require full-time care throughout her life. She

is no longer able to walk unassisted, and she also suffers from PTSD and depression. Eve is a "*protected party*" within the meaning of CPR 21.1(2)(d) as she lacks capacity to conduct the proceedings. She lives with her mother, Ms Gillbard, who brings this claim on behalf of Eve as her litigation friend.

7. The defendant, Richard D. Hall, is an engineering graduate who worked as a professional engineer from 1986 to 2002. He ran a computer repair and website design business from 2002 until 2008. He states that:

> "From 2009 I became interested in journalism relating to specific subjects, in particular examining controversial incidents which involve the state in suspected cover-ups. At that time I wrote a weekly column in the Hartlepool Mail, and I also began a career producing television programmes for Edge Media Television who broadcast on the Sky Platform. Between 2009 and 2015 I produced and presented over 200 TV programmes which were aired on national TV on the Sky satellite network." (RH2, §4)

8. Since 2015, Mr Hall has worked as "*a fully independent investigative journalist*" (RH2, §5). Journalism has provided his sole income for over 10 years. Mr Hall has produced many films and online programmes, and he has written two books. Mr Hall works as "*a one man operation*". He states,

> "I do many distinctly different jobs within the business. I do the accounts, I design and build the website, I write scripts, I present TV shows, I film, I edit video, I do investigative journalism, and I am also the proprietor of an online shop which sells merchandise to the public" (RH2, §42).

9. Mr Hall operates and is responsible for a website accessible at www.richplanet.net ('the Website'). The description of the Website on the "*About RichPlanet*" page includes that it was initially intended to provide information about UFOs; and it then covered many other controversial topics, focusing on subjects not covered in a just or serious manner by mainstream media, "*and bringing objective analysis to some poorly understood areas*" including "*mind control, terrorism, hidden history, state lead [sic] cover ups, space exploration [and] alternative energy*". The same section stated that the defendant produces a series of 12 in-depth programmes annually, as well as regular films. I accept his evidence that his "*output of programmes has been somewhat less than this volume of programmes in recent years*", though his output was only marginally lower. For example, in June 2020 he said (in the 2020 Video) that over the past year he had produced "*only 11*" instead of the "*usual 12 or so programmes*", in addition to the Book and the Film.

10. Until late October 2022, Mr Hall also published his videos on YouTube; since YouTube closed his channel for breach of their policy, he has used the Odysee video sharing service, which is accessible via the Website. In the 2020 Video (Part 3), Mr Hall stated that he had "*multiple video streams that the Website can select from*", a measure he had taken to ensure he could "*flick a switch*" to ensure his videos remained online if his account on any channel was closed.

The claim in outline

11. The conduct complained of comprises: (i) the continuing publication, since 15 June 2018, of a video entitled "*Hiding from Terror 2018 UK Tour*" ('the 2018 Video'); (ii) the continuing publication, since 18 May 2019, of a video (in three parts) entitled "*Brexit, Jo Cox, Manchester Arena 'bombing'*" ('the 2019 video'); (iii) seeking out and attending Eve's home address on or about 1 September 2019, knocking on the door several times and then (secretly) recording footage of Eve, her mother and Eve's carer using a camera set up inside the defendant's vehicle; (iv) the continuing publication, since 27 March 2020, of a film entitled "*Manchester: The Night of the Bang*" ('the Film'); (v) the publication on 27 March 2020 of a book entitled "*Manchester: The Night of the Bang*" ('the Book'); (vi) the continuing publication, since 15 May 2020, of a video (in three parts) entitled "*Statement Analysis of Manchester Victims*" ('the Statement Analysis Video'); (vii) the continuing publication, since 13 June 2020, of a video (in four parts) entitled "Tommy Mair/Jo Cox, Manchester 'bombing', Rendlesham UFO" ('the 2020 video') and (viii) (inferentially) repetition of 'the Defendant's Assertions' (see below) in the defendant's in-person lectures.

12. In their Particulars of Claim, the claimants identify what they describe as "*the Defendant's Assertions*", made in the publications complained of, all of which they contend are assertions of fact:

> "a. The perpetrator of the Attack did not die at the scene but drove off, chased by the police and was subsequently arrested. Not only does the Defendant state this, but he claims that this is proved by police radio communications, police witness testimony, and 'the arrest video'. The import of this is that, if true, the person who caused the life-changing injuries to the Claimants remains secretly protected by the British Government and may or may not have faced justice for his actions.
>
> b. The Defendant denies that the explosive device consisted entirely of the substance TATP which was the testimony of an expert witness at, and accepted by, the Inquiry. The Defendant states that the expert's evidence to the Inquiry was false. He claims to be able to support that claim with numerous witness statements.
>
> c. Nick Bickerstaff, a witness, was acting when describing into his camera-phone the carnage around him whilst desperately searching for his daughter.
>
> d. Videos of the aftermath of the Attack showing injured and dying victims were staged.
>
> e. Those appearing in video footage running from the scene, or injured on the ground, were so-called crisis actors.
>
> f. Genuine concert-goers were turned away from the foyer where the Attack happened, and the foyer was being controlled and managed by staff prior to the explosion, because the Attack was staged.

> g. Nobody died in the Attack. Those who it is claimed died fall into one of three categories: 'previously deceased', 'no ties', or 'apprentice child'. Those in the second two categories, who were alive on the night of 22 May have either been adopted out (if children) or relocated so as to start a new life elsewhere, for money.
>
> h. The Inquiry's findings are false to the extent they are premised on the fact that, or have concluded that, a genuine terrorist attack took place, because in fact no such genuine terrorist attack took place.
>
> i. Martin and Eve did not attend the concert on the night of 22 May 2017 at all, and were not injured there then."

13. Mr Price summarised the defendant's conduct, of which the claimants complain, as: alleging that the event which catastrophically and fundamentally changed both of their lives simply did not happen; making those allegations concertedly, publicly and commercially; alleging that the claimants (and many hundreds of others) are committing the most heinous dishonesty, a deception upon the whole world; taking each and every public statement made by Martin Hibbert and subjecting it to purported statement analysis; gathering together, and making it clear he will gather together, any snippet of the claimants' information that happens to come into, or close to, the public domain; and seeking out and finding Ms Gillbard on social media, visiting her and Eve's home, and taking video footage of them. He said that the claimants feel suffocated and permanently surveilled by the defendant, and his followers who believe his theory.

14. The defendant denies the claim. In short, he contends that what may or may not have occurred at the Manchester Arena on 22 May 2017 is a matter of significant public interest, and it was lawful and reasonable for him to publish his opinions. He went to Eve's home only once, for the purpose of his investigation as a journalist. He never published the video footage he took (from the public street) on that occasion, and he deleted it after he had viewed it.

Summary Judgment on four issues

15. On 8 February 2024, Master Davison gave summary judgment for the claimants on certain issues: [2024] EWHC 227 (KB). His order dated 13 March 2024 (and sealed the following day) records at paragraph 1:

> "There be summary judgment for the Claimants on the following issues which are found proved:
>
> a) On 22 May 2017 22 innocent people were murdered in a bomb explosion carried out by a terrorist at the Manchester Arena at the conclusion of a concert performed by Ariana Grande;
>
> b) The claimants were present at the Manchester Arena at the time of the bombing;

> c) They were severely injured rendering Martin Hibbert paralysed from the waist down and Eve Hibbert brain damaged; and
>
> d) The cause of these injuries was the explosion of the bomb."

16. Master Davison observed at [1]:

> "In addition to the inquests into the deaths, these events have been the subject of a public inquiry conducted by Sir John Saunders pursuant to section 26 of the Inquiries Act 2005 and a criminal trial at the Central Criminal Court at which the bomber's brother, Hashem Abedi, was convicted of 22 counts of murder, one count of attempted murder and one count of conspiracy to cause an explosion likely to endanger life."

17. In relation to the death of the perpetrator of the Attack, Salman Abedi, the Master stated at [38]:

> "There was, as required by law, an inquest into Salman Abedi's death, the findings of which are publicly available. Those parts relating to the fact, date and cause of death are admissible in evidence: see *Daniel and another v St George's Healthcare NHS Trust and another* [2016] EWHC 23 (QB) [2016] 4 WLR 32 at paragraphs 39 & 40. Salman Abedi was found to have died on 22 May 2017. The cause of death was 'blast injuries'. Hashem Abedi's convictions for murder rest on evidence that his brother was the bomber and died in the attack. It is fanciful to propose that Salman Abedi did not die. It is still more fanciful to propose that he escaped, was apprehended and then 'cleared' (on the basis, as the defendant explained, that he was an intelligence asset)."

18. In respect of Issue 1 (which led to finding (a)), the Master noted that this was obviously made out by the fact that Hashem Abedi was, as the defendant accepts, convicted of 22 counts of murder in respect of the bombing. Applying s.11 of the Civil Evidence 1962 and *CXX v DXX* [2012] EWHC 1535 (QB), the Master held that the conviction is a "*weighty piece of evidence*", and the defendant had no real prospect of discharging the burden of proving the contrary. In his judgment, at [25], Master Davison described the defendant's theory that the Attack was an operation staged by government agencies in which no one was killed or injured as "*absurd and fantastical*" ([25]).

19. The Master addressed the evidence adduced by the parties concerning the other three issues at [30] onwards. Each of the findings at (b)-(d) was supported by Mr Hibbert's evidence. Among other matters, Mr Hibbert gave evidence that there are photographs contained in his "*Sequence of Events*" put together by Greater Manchester Police for the Inquiry that show him and Eve entering the City Room at 20:03 and re-entering the City Room at 22:30:53 after the concert, just before the explosion.

20. Mr Terry Wilcox, a solicitor of Hudgells Solicitors, who was instructed by the families of two of the deceased in connection with the inquests into their deaths explained that

images of a distressing nature were not put into the public domain by the Inquiry "*to respect the privacy and dignity of the victims and those bereaved by their deaths, as well as to protect the public more generally from the distressing images*". Mr Wilcox confirmed in his evidence that he had personally viewed the Sequence of Events for both claimants, averred that they were both present at the Manchester Arena on 22 May 2017, and that they were viewed on the CCTV pre- and post-detonation. His evidence was that Eve was seen being covered on several occasions by materials, such as a poster and a t-shirt, including initially by an employee of the medical company of the owners of the Arena, who apparently believed that she was dead or that her chances of survival were minimal.

21. In addition, Mr Hibbert provided the invoice for the tickets to the concert and two medical reports that were produced for the purpose of the claimants' claims to the Criminal Injuries Compensation Authority.

22. The Master concluded that the claimants' evidence more than satisfied the burden on them to produce credible evidence in support of their summary judgement application on Issues 2, 3 and 4, and so an evidential burden fell on the defendant to demonstrate that he nevertheless had a real prospect of contesting those Issues, which he failed to do. The Master observed at [37]:

> "…I have already referred to the inherent implausibility of the defendant's 'staged attack' hypothesis. Whilst acknowledging that issues as to the claimants' presence at the attack and the attack itself are separate and distinct, once the defendant's general hypothesis has been rejected (as I have rejected it) it is unrealistic to maintain that the claimants were not there and were either not severely injured at all or acquired their injuries earlier and by a different mechanism than the bombing. Indeed, the latter points are simply preposterous."

23. On 15 April 2024, for the reasons given in my order, I refused the defendant's application for permission to appeal Master Davison's Order.

24. On 28 June 2024, Julian Knowles J refused the defendant's renewed application for permission to appeal at an oral hearing: [2024] EWHC 1665 (KB). Julian Knowles J observed that the defendant's evidence did "*not come close to establishing any sort of case whatsoever*"; remarking that he would let the "*ridiculous absurdity*" of the section of the defendant's first witness statement headed "*summary of what I believe happened*" "*speak for itself*" ([36]-[37]).

25. I have referred above to the various descriptions of the "*ridiculous absurdity*" of, and "*far-fetched*", "*absurd*" "*preposterous*" and "*fantastical*" nature of, the narrative maintained by the defendant in this case, which have been given by the judges who considered his Defence earlier in these proceedings. Those epithets are apt to describe Mr Hall's maintenance in defence of this claim that the Attack was a hoax in which no one was killed or injured, and in particular that the claimants' life-changing injuries were not sustained in the Attack. But I have borne in mind that those judges were considering the position taken by Mr Hall in his Defence (not in the publications complained of), in circumstances where Hashem Abedi has been convicted and sentenced, the Inquiry has

reported, and the inquests have taken place (which, to a large extent, was not the case when the publications were first put into the public domain).

The evidence

26. Martin Hibbert and Sarah Gillbard have each made three witness statements, and each has been cross-examined. The claimants also called Daisy Burke, Eve's Teaching Assistant and Support Worker and formerly her home carer, and Steven Lloyd, a close friend of Mr Hibbert. Ms Burke made two witness statements, Mr Lloyd made one, and each has been cross-examined. Naturally, given her cognitive injury, Eve did not attend the trial or give evidence. Richard Hall made two witness statements, and he too was cross-examined. He did not call any other witnesses.

27. All witnesses gave evidence in person, save Ms Gillbard who was given permission to give evidence via the Cloud Video Platform from her home address using a laptop computer. Where I give references to the witness statements, they are in the form of the deponent's initials and the number of the statement e.g. 'SG2'. MH1, MH2, SG1 and RH1 were statements adduced in support of, or response to, the summary judgment application.

28. The confidential third witness statement of Ms Gillbard is subject to the following order, made by Aidan Eardley KC (sitting as a Deputy Judge of the High Court) at the pre-trial review on 8 July 2024:

> "Under CPR r.32.13(iii) and because it is strictly necessary to protect the Second Claimant's private information including her private medical information, the Confidential Third Witness Statement of Sarah Gillbard shall not be open to inspection during the course of the trial unless the trial judge otherwise directs."

29. I have not made, nor been asked to make, any direction opening the confidential third witness statement to inspection. It was not necessary to hear any evidence or submissions in private. There was only one passage of the confidential third witness statement on which Mr Oakley wished to question Ms Gillbard, and he was able to do so in terms which enabled the whole hearing to proceed in open. Nor is it necessary for me to refer in this judgment to the evidence in Ms Gillbard's confidential third statement, although I have, of course, considered it.

30. I have also been provided with 36 media files, 32 of which are video or audio files, and the remaining four are articles by Iain Davis, who describes himself as "*The Disillusioned Blogger*", all of which I have viewed, listened to and/or read (as appropriate). Most notably, these include the 2018 Video, the 2019 Video, the Film, the Statement Analysis Video and the 2020 Video. I have also been provided with a transcript of the 32 video or audio files. In addition, I have a quantity of documentary evidence, including the Book, all of which I have also read.

The main issues

Harassment

31. In respect of the harassment claim, the main issues for trial agreed by the parties (leaving aside remedies) were:

    a) Did the defendant pursue a course of conduct amounting to harassment of the first and/or second claimant (s.1(1)(a) of the Protection from Harassment Act 1997 ('PHA'))?

    b) Did the defendant know or ought he to have known that such conduct amounted to harassment of the first and/or second claimant (ss.1(1)(b) and 1(2) PHA)?

    c) Was the pursuit of the course of conduct by the defendant in the particular circumstances reasonable (s.1(3)(c) PHA)?

    d) Have the claimants suffered from anxiety and/or distress as a result of the defendant's conduct?

32. As I have identified in paragraph 147 below, (a) breaks down into two questions, namely, (i) did the defendant engage in a course of conduct? And (ii) did any such course of conduct amount to harassment? As noted in the agreed list of issues, the claimants say that the defendant has pursued a course of conduct ('the Campaign') amounting to harassment of them which involved publishing material about the Attack and about them, and visiting the second claimant's home. The defendant "*largely admits the factual elements of the alleged conduct but disputes that it amounts to harassment*".

33. Although overlooked in the agreed list of issues, there is also a pleaded defence of preventing or detecting crime (s.1(3)(a) PHA) which it is necessary to address.

Data protection

34. In respect of the data protection claim, the main issues for trial agreed by the parties (again, leaving aside remedies) were:

    a) Were the claimants data subjects within the meaning of article 49(1) of the UK GDPR?

    b) Was the defendant a relevant data controller in respect of personal data processed in relation to the publication and activities complained of insofar as those involved the personal data of the claimants?

    c) If so, did the defendant process the claimants' personal data in the Campaign?

    d) Was the processing by the defendant of the claimants' personal data in breach of the Data Protection Principles ('the Principles')? The allegations of breach are that: (i) the processing of the video recording of the claimant at her home was unfair, excessive and not for a lawful purpose; (ii) the processing of the images and information about the claimants' medical conditions was unfair, excessive and inaccurate and not for a lawful purpose; and (iii) the defendant's processing of the assertions that the claimants were not injured in the Attack and are lying about their experiences was unfair, excessive, inaccurate and not for a lawful purpose.

35. The defendant requires the claimants to prove that they were data subjects, avers that at all relevant times he complied with the Principles, and relies upon the Journalism Exemption in the UK GDPR.

Misuse of private information

36. No issues arise in respect of misuse of private information. There is a pleaded claim for misuse of private information in the Particulars of Claim, but that cause of action is not pleaded in the Claim Form and Mr Price made clear at the outset of the trial that a misuse claim is not pursued.

Procedural history

37. It is unnecessary to do more than briefly summarise the key features of the procedural history.

38. The claimants' solicitors sent a pre-action protocol letter to the defendant (who was then representing himself) on 22 December 2022, in which their clients' allegations of harassment and breach of data protection legislation were raised for the first time.

39. The defendant responded on 11 January 2023. With respect to the proposed harassment claim, he stated that he believed his actions were "*reasonable in the particular circumstances*". Mr Hall wrote, "*I also believe that my actions could ultimately help prevent a crime. That crime being fraud and the mis-use of public funds.*" Nevertheless, he stated that he had "*no intention to gather data or process data on your clients in future*"; "*I am not currently, nor do I intend to in the future pursue any activity that could amount to harassment of your clients*"; and he offered to remove "*the images of your clients, that are contained within videos currently hosted on my website*".

40. The claimants issued the claim on 17 April 2023, supported by Particulars of Claim. The defendant filed and served his Defence on 2 June 2023.

41. On 16 June 2023, the claimants made a request for further information or clarification under CPR Part 18. On 29 June 2023, the defendant made a Part 18 request. The claimants and the defendant responded to these requests on 13 and 14 July 2023, respectively.

42. The stance taken by the defendant in his Defence and Part 18 request and response prompted the claimants to make an application for summary judgment on four issues, which resulted in the judgment and order of Master Davison (in respect of which permission to appeal was refused on the papers and at a renewed oral hearing) to which I have referred above.

43. The claimants filed a reply on 2 April 2024.

44. The trial took place over the course of four day from 22-25 July 2024.

The facts

45. On 22 May 2017, at 6:53pm, Mr Hibbert posted on Twitter a photograph of himself and Eve at the San Carlo restaurant in Manchester, not far from the Arena ('the San Carlo photograph'). He had taken her out for a meal that evening before they attended the concert. It is readily apparent from the photograph that when it was taken Eve was the fit

and healthy 14-year-old described by her mother, not yet having suffered brain damage. In cross-examination, Mr Hall accepted that Eve was obviously injured after this photograph was taken, but he conjectured that it was possible it was taken *before* 22 May 2017.

46. The Attack took place that evening in the City Room at Manchester Arena, as I have said.

47. On 12 August 2017, Mr Hall published a video in which he said that "*in recent months the UK has seen three alleged terrorist attacks*". Mr Hall said:

> "I would state that at this point in time, I have no opinion on Westminster or Manchester other than I don't trust the mainstream media and I wouldn't trust an inquest. That's my only opinion at this point in time because I haven't done a personal investigation."

His reference to "*Westminster*" was to the terrorist incident on Westminster Bridge which had occurred a few months earlier, and "*Manchester*" referred to the Attack.

48. A documentary, "*Manchester: 100 Days After the Attack*", was broadcast on ITV in August 2017, on the 100th day after the Attack. In the broadcast, it was said that "*the family*" had asked the programme makers not to identify Martin Hibbert's daughter (Book p.220). Mr Hibbert featured in the documentary. He said that he had attended the Ariana Grande concert with his teenage daughter. A single bolt from the bomb had struck his daughter's head, and she was still in hospital. He had sustained 22 separate injuries from "*shrapnel or nuts and bolts that were in the bomb he made*" (Book p.219). In evidence, Mr Hibbert said that "*they filmed my rehab and recovery*".

The Kerslake Report

49. On 27 March 2018, the "*Kerslake Report*" was published (Book, p.7). This was the report of an independent panel, chaired by Lord Kerslake, which had been set up by the Mayor of Greater Manchester, Andy Burnham, following the Attack. Mr Hall noted that the Kerslake Report "*provides a narrative of what it claims happened on the night of the bang and in the days following*" i.e. that a suicide bomber detonated an improvised explosive device, killing 22 people and injuring many others. Mr Hall noted that "*the report claims that the authors of the report have viewed CCTV footage of the arena foyer to establish what happened*".

The 2018 Video

50. On 15 June 2018, Mr Hall published the 2018 Video. This video lasts just over 55 minutes. Following a brief introduction, the bulk of the video is a recording of Mr Hall giving a live presentation to an audience. Mr Hall told the audience that he would speak for about 3 hours, with a 15-minute break halfway through. The 2018 Video covers the first part of the show, prior to the interval. Mr Hall also told the audience, "*I am doing a series of 12 of these shows around the UK*". I find that in 2018, prior to the Covid-19 pandemic, he did 12 live shows, and I infer that the content would have been essentially the same on each occasion.

51. The 2018 Video addresses a range of topics including the deaths of Jo Cox, Jill Dando and Madeleine McCann, and the "*alleged Salisbury poisoning*". The 2018 Video and the show begins with Mr Hall, and the audience, laughing at a person who appears to have been present in the aftermath of the Westminster Bridge attack, for carrying a piece of plywood. He tells the audience that anyone who believes that Osama Bin Laden was killed or that two people were targeted with a nerve agent in Salisbury "*is clearly mentally ill*".

52. It is in this context that Mr Hall then turns to address what he describes as "*three contrived terror attacks*". These words appear on the video:

> "Three 'contrived' UK Terror Attacks
>
> Post 2000
>
> 2016 Jo Cox Assassination
>
> 2017 Manchester Arena 'Attack'
>
> Pre 2000
>
> 1999 London Nail Bombings".

53. Mr Hall states on the 2018 Video that he has done "*fairly extensive investigation*" (15:26) into the Jo Cox assassination. In contrast, in relation to the Attack, Mr Hall states "*I haven't really done a detailed investigation*" (15:45). He states that he is "*mainly pointing out anomalies and asking questions*". He shows a photograph of the aftermath of the Attack, after paramedics had arrived and bodies of those were killed had been removed, and compares it with video footage of an obviously staged bombing, said to be in Iraq, in which a car explodes and then several people run from out of shot to lie down and pretend to be injured. In light of this, Mr Hall says, "*So we have the right to question and we have the right not to believe what they're telling us about Manchester*".

54. Mr Hall then compares the single photograph of the aftermath of the Attack with a photograph of the aftermath of the "*1974 Birmingham Pub Bombings*" (in which he believes that 10 people died). With respect to the photograph of the Arena he says,

> "I don't think you can identify any casualty in here which you would say the evidence suggests it's certainly a fatality. There's no detached limbs or heads, etc. Right? So I'm not suggesting this is true, but from that image, they could just be people lying down in an exercise, right? I'm not saying that is true though, I'm just analysing the evidence."

55. Mr Hall showed the photographs and names of all the 22 deceased. On the video, he states that after the BBC named them, and published their photographs, he "*put out an appeal for information*" about them. He said he had received information about three of them, and he described the circumstances in which one of those people came to be in the foyer as "*fishy*" but, he said, "*I don't want to go too far with it because I don't want to identify the person just yet*". Mr Hall states that the photograph does not appear to show the epicentre of a powerful suicide bomb. He then shows photographs of people leaving

the Arena, some of them visibly injured, and the audience laugh as he says, "*and here's a man in his underpants*" (referring to a man leaving the Arena without his trousers, and with bandages and blood on his legs) "*and a woman with one trouser leg*" (referring to a woman with one bare, bandaged leg, and blood running down her arm, who was being supported to walk by two police officers).

56. In the 2018 Video, Mr Hall continues:

> "So were 22 people really killed by an explosion? Let me just reiterate, I do not know what happened in this attack, but we need to bear in mind that we've been lied to in the past. So I'm just going to hypothesise and give some possible scenarios to account for the lack of carnage. One of these might be true, or none of them might be true."

57. The 2018 Video then shows the following words, which Mr Hall read out and discussed:

> "**Possible scenarios to account for lack of carnage?**
>
> The event was a simulation / training exercise and nobody died
>
> The bomb was real, but nobody died from the blast
>
> The bomb was real, some people died, but lower than 22
>
> 22 people did die, but were not killed by a conventional explosive device.
>
> 22 people did die, but were not killed by the blast, and were killed afterwards".

58. Mr Hibbert gave evidence that:

> "It was around the first anniversary of the bombing that I first became aware of conspiracy theorists accusing Eve & me of lying about being involved in the attack and/or faking our own injuries. Lee Freeman, who had done the Great Manchester Run that year, was accompanying me to media interviews. On the journey home from an interview with Good Morning Britain in early May 2018, Lee was scrolling through his social media accounts. He came across a YouTuber who stated that the arena bombing had never happened: that it was a carefully orchestrated exercise carried out by the government to enable them to introduce more stringent restrictions of public rights. He told me that the person's name was Richard D. Hall. According to the videos, all of the 'survivors – including Eve and me – and deceased victims had been actors, paid for our services." (MH3 §§5-6)

59. Mr Hibbert said of this, in cross-examination:

> "… I remember it well … I had just come back, I think we had just done an interview on Good Morning Britain because it was coming up to the … first anniversary and we had done … the run was about to be done, I was doing it so I was in training with Lee and … the one bit I remember of it was Richard seemed to have an issue with me talking about the number 22 … in that it, the bomb, happened on 22 May, there were 22 deceased victims, I had 22 shrapnel wounds, 22 staples … it was around that."

60. In the same witness statement Mr Hibbert said:

> "The first video I had watched was a 'body language expert' who ripped my entire interview apart. This was around November/December 2018. They called me a liar …" (MH3 §11)

61. In cross-examination, Mr Hibbert said the latter paragraph was a reference to:

> "December '18 … when I had been on *This Morning* with Phillip Schofield and Holly Willoughby and he had … done one of those videos ripping, ripping the interview apart".

62. Although Mr Hibbert was undoubtedly an honest witness, it seems probable that his recollection of when he first heard of Mr Hall and the content of the first video that he saw is, understandably, in some respects disordered. The first anniversary of the Attack was on 22 May 2018. There is only one video in evidence that Mr Hall published after the Attack and prior to the first anniversary (to which I have referred in paragraph 47 above), in which he discusses what occurred on 22 May 2017. His guest, Dr Nick Kollerstrom, refers to "*funny numbers*" (such as "*a 22 year old killing 22 people on the 22nd*"). It is possible that that is the video that was drawn to Mr Hibbert's attention in May 2018, but there is no reference in that video to the claimants, or to Mr Hibbert's 22 shrapnel wounds, and the thrust of it does not match Mr Hibbert's recollection of the video he saw.

63. By the time Mr Hibbert appeared on *This Morning* in December 2018, the 2018 Video had also been in the public domain for several months. However, the 2018 Video does not refer to the claimants by name or show any images of them. Nor does it address the number of shrapnel wounds Mr Hibbert received. I note that it was in the 2020 Video that Mr Hall addressed "*numerology*", reading out "*Appendix 2, 'Twenty Two'*" to the Book:

> "The Manchester Arena opened in 1995, **22** years before a concert took place on **22**nd of May 2017. The set list for the Ariana Grande concert that night consisted of **22** songs.
>
> At **22**:31, a **22** year old male, Salman Abedi detonated a homemade nuts and bolts bomb which resulted in the deaths of **22** people.
>
> <u>Martin Hibbert, one of the injured, was hit by **22** pieces of shrapnel.</u>

> On the **22nd** of June 2017, the figure given for the number of injured was revised by the police to 250.
>
> Darren Coster, a member of the public who entered the foyer had **22** years of military experience.
>
> A total of **22** people were arrested in connection with the attack but were all released without charge.
>
> On the **22nd** of July 2019, **22** year old Hashem Abedi, the brother of Salman Abedi appeared at Oxford Crown Court charged with **22** counts of murder, attempted murder and conspiracy to cause an explosion.
>
> He then appeared at the Old Bailey on the **22nd** of October 2019 and pleaded not guilty to the charges.
>
> On the **22nd** of October 2019, it was announced that a public enquiry will be held to investigate the deaths of the victims.
>
> On the **22nd** of November 2019 it was reported that the public inquiry may be delayed because police have failed to provide statements more than two years after the attack." (Underlining added, bold in the original.)

64. I accept Mr Hibbert's evidence that it was in 2018 that he first heard of Mr Hall and saw one of his videos, but the content of the video he recalls seeing in December 2018 more closely matches those which were published in 2020, and it is probable that he has misremembered the content of the first video he saw, confusing it with content that he saw later.

The 2019 Video

65. The 2019 Video was published on 18 May 2019. It is in three parts, each of which runs for about 40 minutes. The bulk of the video appears to be from a live show performed on 12 April 2019 in Birmingham. Part 1 of the show was entitled "*Everyone's an Extremist Nowadays*". Mr Hall informed the audience, and these words appear in Part 1 of the 2019 Video:

> "Staged terrorism is one of the tools of state craft in the modern era.
>
> Staged hate and extremism is one of the tools of state craft in the modern era."

66. Mr Hall said:

> "The vast majority of terrorism that we see reported in our mainstream media is not carried out by the groups that they claim it on. The vast majority of terrorism is carried out by governments and government agencies. It's as simple as that."

67. He referred to what he called "*the issue of fabricated terror*". Mr Hall said:

> "… if you look at the fabricated terror that's happened in the UK and in the EU, they are both extensive. So I've gone back to Lockerbie in the UK. All of these terrorist incidents have been covered, some of them in great detail on Rich Planet, such as the London Nail Bombings, the London Tube Bombings, the Cumbria shootings, the Jo Cox attack, which I'm going to talk about, the Manchester Arena bombing, which I'm going to talk about later. So there's no doubt in my mind that most, if not all of these are fabricated terrorist incidents. In other words, the public have been duped into believing who perpetrated them. And the same applies for all of these European fabricated terrorist incidents."

68. The statement above was spoken by reference to, and against the background of, this table:

"LEAVE	REMAIN
1988 Lockerbie [270]	2004 Madrid Tube Bombings [193]
1999 London Nail Bombings [3]	2009 Amsterdam Airport Bombing [0]
2005 London Tube Bombings [56]	2011 Anders Breivik Shootings [77]
2010 Cumbria Shootings [13]	2015 Charlie Hebdo Shootings [12]
2013 Lee Rigby Attack [1]	2015 Bataclan Theatre Shooting [90]
2016 Jo Cox Attack [1]	2016 Brussels Bombing [35]
2017 Westminster Attack [6]	2016 Nice Truck Attack [87]
2017 Manchester Arena Bombing [23]	2016 Munich Shooting [10]
2017 London Bridge [11]	2016 Berlin Christmas Truck [12]
2017 Finsbury Park [1]	2017 Barcelona Van Attack [13]"

69. Towards the end of Part 2 of the 2019 Video, Mr Hall showed the above list again, but with the words "*leave*" and "*remain*" replaced with the heading, "*Has the M.O. of 'terror attacks' changed?*" Mr Hall stated:

> "Now then, I listed these terror attacks earlier and I just want to point a few things out. If we go back in time to 9/11 and work our way forward. At that time, clearly, people died in 9/11. And then we go to 2005, the London Bombings, people died in those London Tube Bombings. No doubt about that, 56 died. I consider the Cumbria shootings as a terrorist incident or a fabricated terrorist incident. Yes, people definitely died then. Now as we approach 2012, 2013, it all gets a bit different, right? This is when I believe the hoaxing started. So we had Sandy Hook was in at the end of 2012, and as I showed you earlier, the Boston Bombing was in 2013. So they are cases where it looks like deaths were being fabricated. So I think there was a change of modus operandi around that time from real deaths to fabricated deaths. But I think they've changed their modus operandi again and I'm just going to point it out. …

> So if you take that time, 2016, and look at the UK terror attacks from that point, ok, we've got the Jo Cox Attack in 2016, the Westminster Attack in 2017 that took place on a bridge. … We then look at the next UK attack, the 2017 Manchester Arena bombing. I'm going to come onto that in a minute. But that was done indoors. Not only that, it was done in an area which was being controlled before the quote unquote bomb went off. So again, very little public visibility. … So I think from 2016 onwards, they have taken care to make sure that there's no witnesses because everyone has a mobile phone in their pocket these days, right? So I think around about 2013, 2012/2013, we're seeing more fabricated deaths, and I think we're still having that now. But they're being very careful not to allow people to gather their own evidence from these fabricated terrorist incidents." (Emphasis added.)

70. Part 3 of the 2019 Video focuses on the Manchester Arena Attack. The defendant explains to the audience that his presentation is based on research provided to him by a person using the pseudonym "*UK Critical Thinker*". Mr Hall analyses two short videos and a photograph of the aftermath that was provided to the Press Association. In the video, Mr Hall alleges that forensic analysis shows that images were taken at 7am, when he suggests:

> "they were having a final practise or a practise for what they were going to do in the evening… they wanted to have their own controlled images to check them before they put them out. So they weren't happy actually producing images from the event because they weren't in control of it as they were in this training exercise. So I do believe on the evening it was a training exercise as well. I don't believe anyone was killed or hurt, but the I believe they were practising here for what they did in the evening". (Emphasis added.)

71. Mr Hall then turns to consider "*the people who claim to have been injured or hurt or even killed* [sic]". He shows photographs of 19 people (including children) and says:

> "All of these people on this screen were in the foyer when the bomb was alleged to have gone off or like went in shortly afterwards. If you go to UK Critical Thinker's YouTube channel, he deconstructs many of the interviews these people have taken part in. Right? And please go and watch them. Because after you've watched them, you will realise that they are all just crisis actors." (Emphasis added.)

72. In the 2019 Video, Mr Hall names three individuals whom he accuses of being crisis actors. One was a father who posted video footage taken in the aftermath, while he was searching for his daughter. The others were a woman and a girl who were caught on the video footage, having been injured, and who were shown on television three days later when they were amongst those visited in hospital by the (late) Queen. He continued:

> "So we can ask the question, how could they rope so many people in to lie and take part in such an event? Well, I think probably the biggest motivating factor, apart from signing a contract, right, is the money that they've received." (Emphasis added.)

73. As regards the 22 deceased, Mr Hall said:

> "But what about the dead people? … Now having looked at them, I wouldn't say in great detail, but I've looked at every one of them and I've tried to find out as much as I can about them online. It's possible to come up with a hypothesis as to how they faked each of these deaths, right?"

74. Mr Hall summarises his "*working hypothesis*" regarding the deceased in screenshot which states:

"**Hypothesis on the methods used to create 'deaths'**

The pre-vacated victims
The greedy parents & apprentice daughter victim
The foster/surrogate child victim
The no ties victim
The two adult set up victim"

75. Mr Hall explains that the "*pre-vacated victim*" is somebody who used to live in a particular place but has died or emigrated and their identity has been used "*to say they died*". The "*greedy parents and apprentice daughter victim*" refers to a family with a daughter approaching school leaving age and "*aspiring in some field*". Mr Hall hypothesises that the "*daughter has been sent to some prestigious place to be educated, perhaps in another country, and the parents are being given half a million pounds to keep their mouths shut. They're possibly still in touch on Skype*". In the third category, "*the child who they've claimed has died has gone to another family*". The "*no ties victim*" is, according to Mr Hall, "*a young adult who's never been married and got no children, and who was quite happy to have their identity changed to go and live in another country for half a million quid*". Mr Hall's final category consists of a "*couple of people*" who "*didn't really have a connection with the concert*" who may have been "*bumped off in this incident… But not with the bomb*".

76. The 2019 Video does not refer to the claimants by name or show any images of them. Mr Hall's evidence, which I accept on this point, was that both the 2018 and 2019 Videos were published before he became aware of the existence or identity of either claimant. In his second statement, Mr Hall said that he started investigating the Manchester Arena incident in mid-2019, but in cross-examination he agreed that he had begun his research in 2018, around a year after the bombing. It is apparent from the 2019 Video that he had begun looking into the victims prior to performing the live show 12 April 2019, but I accept that it was only from mid-2019 that he sought to track down any of the victims.

The visit to Eve's home

77. As Mr Hall said in the Film, "*Eve has been absent in media coverage. She lives with her mother and her mother has been absent from media coverage*". However, as he explained in the Book, he located Ms Gillbard's Facebook page and, although there was nothing on there about Eve or Martin, or about the Manchester Arena Attack, he found out where she and Eve live and, in August 2019, decided to visit them.

78. Shortly before doing so, Mr Hall had received a message from a video streaming service, Vimeo, telling him, "*Your video 'Manchester Appeal' has been removed for violating our guidelines*". The reason they gave was that "*You cannot upload videos that violate a third party's privacy*". Subsequently, on 11 September 2019, Vimeo removed Mr Hall's whole account for violating their guidelines by "*falsely claiming that mass tragedies are hoaxes*". (See the 2020 Video, Part 3.)

79. In the Book, Mr Hall states that he sent a message to Martin Hibbert on Facebook on 24 August 2019 in which he asked for contact details for Eve and her mother, as well as seeking evidence that would "*prove you were present in the arena on 22.5.17*", and information about whether he had any surgery or treatment for ongoing back problems prior to that date. It is probable that Mr Hall did attempt to contact Mr Hibbert via Facebook, as he states, although I accept Mr Hibbert's evidence that he never received any such message.

80. The visit to Eve's home was part of a more extensive trip. Mr Hall stated in evidence that on or about 1 September 2019, "*I set off in my vehicle and visited 19 properties throughout the North of England to attempt to speak to witnesses in relation to the Manchester incident*" (RH2 §20). One of those 19 properties was the home of Ms Gillbard and Eve.

81. Mr Hall intended to try to speak to Ms Gillbard. He said, and I accept, that he intended to ask if she would be interested in helping him by answering some questions about the Manchester incident, or words to that effect, and that he had no intention of speaking to Eve. In videos published on 28 April 2015 and 1 July 2016, Mr Hall drew attention to the fact that "*a guy who was trying to get evidence*" regarding Sandy Hook had been "*put on trial for upsetting those families*". In light of this, Mr Hall said "*the advice I would give someone who does want to pick up a camera and go to one of these fabricated events and try and get their own evidence is to be extremely polite and courteous*". Mr Hall drew attention to this, and I accept that his intention was to ask politely for Ms Gillbard's help. Nonetheless, it would have involved springing on her a request for an interview, on her doorstep.

82. When he visited the house, Ms Gillbard's car was in the driveway and there were windows open such that Mr Hall inferred that someone was at home. He knocked on the front door several times but there was no answer, and he did not speak to Ms Gillbard, Eve, or anyone else in Ms Gillbard's home.

83. In the Book Mr Hall recounted,

> "I decided to knock on neighbours['] doors to ask if they knew anything about the Manchester incident. I only got a response from three of their neighbours and none of them knew that there was a Manchester 'victim' in the street."

Similarly, in the Film, Mr Hall said, "*I couldn't find anyone in the street who knew she had been involved*".

84. Mr Hall then left his vehicle for a few hours parked in the street "*about three doors down*" from Ms Gillbard's house. On the dashboard, he left a camera rolling. He was, he said in the Film, "*sceptical over whether the daughter had any injuries*". The camera recorded footage which Mr Hall later viewed. This showed, as he said in his Book:

> "While I was away three people came out of the house. They were Sarah Gillbard, a carer and a girl in a wheelchair. They helped the girl from the wheelchair into the back seat of the car, then put the wheelchair in the boot and drove off. My camera was not close enough to see any injuries, nor make a definite identification. But from this I suspect Eve Hibbert is in a wheelchair."

85. Although I accept Mr Hall's evidence that the camera recorded events along the length of the public street, it is plain that he set it up to capture any images of Eve leaving her house, including images of her on her driveway. Mr Hall subsequently deleted the footage from the memory card. He did not publish any of the camera footage that he obtained.

86. Neither the claimants nor Ms Gillbard were aware of Mr Hall's visit when it occurred in September 2019. I address below the circumstances in which it subsequently came to their attention.

The Trial

87. The trial of Hashem Abedi, the surviving brother of Salman Abedi, took place at the Central Criminal Court (commonly known as the Old Bailey) in February and March 2020. The trial before Jeremy Baker J and a jury ran for six weeks and resulted in Hashem Abedi's conviction on 17 March 2020 of the murder of each of the 22 deceased victims on 22 May 2017, by the use of an improvised explosive device detonated by Salman Abedi, as well as his conviction of counts of attempted murder and conspiracy to cause an explosion likely to endanger life. Hashem Abedi was convicted on the basis that he had been part of a joint enterprise with his brother to carry out the Attack.

88. Hashem Abedi, who was 20 years old at the time of the offences, was sentenced by Jeremy Baker J on 20 August 2020 to life imprisonment on each count, with a minimum term of 55 years' imprisonment. The judge's sentencing remarks (which are publicly available) reflect the findings of fact he made, applying the criminal standard of proof.

The Film and the Book

89. On 27 March 2020, the Film was published as a DVD and the Book was published as a paperback, both having been available for pre-order for a period beforehand. They both bear the same name: "*Manchester: The Night of the Bang*". On or by 15 May 2020, Mr Hall made the Film freely available online. Since 2022, Mr Hall has made a pdf version of the Book freely available online.

90. Mr Hall estimated that he has sold around 600 copies of the Book, and around the same number of DVDs. However, the number of viewers of the Film, since it has been freely available, is likely to be very much higher than the number who purchased the DVD. Before his YouTube channel was closed at the end of October 2022, Mr Hall's evidence is that he had 84,000 YouTube followers, and the total number of views of *all* his videos, including many that do not concern the Attack, was 16 million. There is no evidence before me regarding the specific number of views of the Film or the videos complained of, whether via YouTube, the Website or Odysee, but it is apparent that the number is likely to be at least in the high tens of thousands. I note that in the Book (p.5), Mr Hall stated that "*the Richplanet internet TV show ... reaches hundreds of thousands of viewers*".

91. The Book is 435 pages long. The Film is in three parts, lasting just over 1 hour 55 minutes in total. Both publications present essentially the same analysis but in different forms. Mr Hall's conclusion, which he is careful to describe as his "*personal opinion*" as to what he believes happened, is in the same terms in both the Book (p.409) and the Film:

> "The 2017 Manchester Arena Bombing was a well organised and well planned fake terrorist incident involving over 100 enlisted participants or actors. The participants had been coached and briefed on what their roles would be in the event.
>
> The pre-planning of the event must have involved thousands of man hours of work by security services personnel. Care would have been taken to select suitable participants to ensure they would adhere to the narrative given to them. The recruitment process probably involved bodies such as schools, colleges, hospitals, charities, businesses, clubs and other networks. The vast majority of participant groups were chosen from 'broken' and low income families. Some of the participants had criminal records. These factors made it easier to persuade or reward the participants so they would adhere to their pre-agreed narratives. … Participants were probably coached to ensure they looked reasonably convincing in media interviews. Many participants would have been supplied with fake injury kits comprising fake wounds, blood, etc, and instructed on how to use them.
>
> Of the participants about 20 were to be given new lives in other parts of the world, and it would be reported in the media that they had died. New homes for those being relocated would have been organised in advance. Perhaps one or two of those named as deceased had already recently died prior to the event in an accident or some other scenario.
>
> Around 60 participants played roles of being injured to varying degrees of severity. Just over half the 'injured' ran out of the foyer immediately after the bang, the rest remained on the floor. Around 30 family members played the roles of waiting in the foyer to collect their children.

The exercise involved at least two scheduled mock terror operations. One took place in the Manchester Arena foyer at 7am on 22.5.2017. This involved about 20 of the 'deceased' and some (a fairly small number) of the other actors, arena medical staff, SMC staff and some British Transport Police. Participants taking part in the 7am drill were instructed not to tell anyone about where they were going that morning.

In the first exercise the 20 or so 'dead' lay down on the ground with fake blood etc, as is normally the case in terror training drills. … The purpose of the first drill was to obtain images showing the deceased people on the floor, so they could be used in media reports the following day. …

After the first exercise, most of the 20 'deceased' left the arena and at some point were relocated. Australia and the USA were the two most popular places where they relocated to.

Another exercise started at 22:31 immediately after the concert. This was intended to fool the public that a major terror attack had taken place in the foyer. Of the 90 actors, around 60 played the role of concert goers, and the remaining 30 played the role of parents collecting their children from the arena. All of the 'injured' participants had with them means with which to fake their injuries, i.e. blood pump, moulage etc.

At around 22:20 SMC staff cleared the foyer, during which time the 30 parent participants started to arrive to wait for the other members [of] their group. The 60 actors who were in the arena watching the concert had been instructed to head to the foyer during the last song or at 10:20pm. Once the 90 actors were inside the foyer, SMC staff closed off access to the foyer so that nobody would see what was going to occur. Once everyone was in position, an actor playing the role of the terrorist, MI6 asset Salman Abedi, entered the foyer and placed a large rucksack against the wall and then ran out of the foyer. The rucksack contained a pyrotechnic device, which when detonated sounded like and looked like a large explosion going off, but caused no physical injury. It was very loud, gave off a bright flash and produced smoke. When the device detonated, the actors immediately played their roles screaming and pretending to be injured. …

The organisers of the drill spent a lot of time and effort to make the injuries seem real. They used a number of people who had already sustained injuries or complications before the event in everyday scenarios such as accidents. I believe these included … Martin Hibbert [and four others who were also named].

…" (Emphasis added.)

92. Mr Hall's theory is presented throughout the Book and the Film. At page 36 of the Book, Mr Hall begins a section headed "*Foyer Participants Database*". Under the heading "*'Victims'*" he divides the victims of the Attack into columns marked "*'Dead'*", "*'Injured'*" or "*Un-injured*". The names of both claimants are given at entry 24, in the column marked "*'Injured'*", and Mr Hall gave their ages as "*(40)*" and "*(17)*", respectively. At p.38 of the Book, he includes both claimants amongst the 30 "*participants*" with "*alleged injuries*" serious enough that they had to remain on the floor in the foyer until help arrived. In the Film, too, Mr Hall presents the "*Foyer Participants Database*", identifying by name and showing photographs of Martin and Eve Hibbert, among many other victims.

93. From p.41 of the Book, Mr Hall gave a list of all the statements to the media made by "*the participants*", which he had gathered into an archive (containing about 80 interviews) and subjected to analysis. These included five videos of Mr Hibbert being interviewed on Good Morning Britain (twice) and This Morning, by the BBC and in footage from an "*Internet Archive*".

94. Mr Hall suggested (in both the Book and the Film) that it is "*likely*" that most of the 22 deceased victims "*have merely been re-located*", and speculated (as he had done in the 2019 Video, but with some modifications) that "*the allegedly deceased people*" comprised the "*apprentice child*", "*no ties*" and "*surrogate*" victims (who had not died) and the "*previously deceased victim*" (who died some time before the concert) (Book, p.44).

95. In both publications, Mr Hall then turned to consider "*The 'Injured'*" (Book p.46). Above a table of "*Visible 'Injuries'*", Mr Hall commented that where "*the injury seems convincing*", from "*the photographs of injuries that I have <u>so far</u> been able to find*" (emphasis added), and dismissing "*'victim' testimony or 'medical expert' testimony*", he has "*shown the photographs and made comments on the veracity of the images*". In the table, next to Martin Hibbert's name his visible injuries are identified as "*Scars, Unable to walk*". The "*Possible Cause or Explanation*" is given as "*Back surgery for disc?*" Eve's name also appears in the table, but it records "*No images found*".

96. In the Book, Mr Hall discusses 16 injured victims in chapter 7, including (from pp.53-55) Mr Hibbert. In the Film he focuses on a smaller number of victims, but still including Mr Hibbert, who is the focus of Part 2 of the Film, from 20:43 – 34:37. At pp.63-64 of the Book, Mr Hall wrote:

> "<u>The 'Injured' – Conclusions</u>
>
> Some of the participants appear to have genuine injuries. Without evidence of photographs taken at the Manchester Arena featuring the injuries, we cannot conclude how or where the injuries occurred.
>
> Evidence of serious injuries is lacking as far as I can ascertain. <u>The most seriously injured were purportedly … Martin Hibbert, Eve Hibbert</u>, [and five named others].
>
> They were all considered to have suffered 'life changing' injuries. However, on the whole, <u>their recoveries seem</u>

> miraculous, which sheds doubt on the veracity of the initial 'life changing' claims. Without independent examinations we cannot be certain that any of the serious injuries are genuine.
>
> Why are there no images showing a bleeding open wound, with the foyer or the train station visible in the background? Unless more evidence surfaces, I conclude that there is no proof that any of the alleged injuries discussed in this chapter occurred in the Manchester Arena foyer on 22 May 2017.
>
> More evidence is needed to establish when, where and how the injuries were obtained. Such evidence might transpire as a result of further investigation of the participants." (Emphasis added.)

97. In Part 2 of the film, showing a photograph of Mr Hibbert in a wheelchair, Mr Hall begins the narration:

> "Let's look at wheelchair victim, Martin Hibbert. Hibbert is usually seen sitting in a wheelchair and has featured in many TV programmes. UK Critical Thinker found a quote from Martin Hibbert himself on a physiotherapy website, Jim Mason's Sport Massage Therapist, dated May 2014. It reads:
>
>> 'I have suffered with lower back pain for over 15 years, seen several so called "specialists" and been referred to numerous recommended individuals. Jim was recommended to me by a client and I first booked in with Jim back in March. Because of the years of back pain and tension in my back, Jim had to apply a lot of pressure, and I won't lie it was painful. But that night and the days later I felt like I had a new back and I had the best night's sleep ever! I have now had three one hour sessions and the back pain has more or less gone, and I no longer wake up with the pain which allows me to start the day with a smile on my face. I have since recommended Jim to friends and clients and suggest anyone with sports injuries and/or aches and pains to see Jim.'
>
> From this we know Hibbert has had long-term back problems and pain. In his interviews he states that the bomb caused a T10 injury in his back. One very common condition that can cause severe back pain is a herniated disc. T10 is in the thoracic area of the back and can lead to paralysis from the waist down. Is it the case that Hibbert does have problems with the use of his legs but they are due to his long-term spinal issues and not from injury sustained in a bomb blast?" (Emphasis added.)

98. The film then shows a photograph of Mr Hibbert's bare back and Mr Hall states:

> "Here is a picture of one of Hibbert's scars. The straight line scar on the right looks like an incision from back surgery near the T10 region. Did Martin Hibbert have a back operation to correct a

T10 herniated disc which made his back worse? There are a number of what look like scars on Hibbert's body but again we cannot conclude how these marks were created without more evidence.

The Bolton News reported on 1st of July 2017,

> 'He is paralysed from the belly button down, and will be dependent on a wheelchair. An x-ray picture shows a metal item embedded in his spinal cord.'" (Emphasis added.)

99. Mr Hall then shows an x-ray of Mr Hibbert's torso and says:

"His x-rays are unconvincing. Compare them with this x-ray showing a man that swallowed a ring. The nuts in Hibbert's x-ray look to me like they may have been cut and pasted into the image.

Unlike other parts of your body, the spinal cord does not have the ability to repair. If Hibbert was paralysed from the belly button down due to a spinal cord injury, he would have been paralysed for life. Hibbert announced in December 2019 that he will be walking the Great North Run, a half marathon. Are we to believe that a miracle has occurred? Or should we suspect that Hibbert never lost the use of his legs?" (Emphasis added.)

The same photographs and x-ray of Mr Hibbert are discussed in essentially the same terms as above in chapter 7 of the Book.

100. The Film then cuts to a conversation in which Mr Hall observes that Mr Hibbert "*may already have had a spinal problem before the concert*". The conversation is between Mr Hall and a woman who has earlier been identified by the alias "*Genevieve Lewis*". She is said to be an English teacher who has been studying "*the techniques of statement of analysis*". In the Statement Analysis Video Ms Lewis said that her interest in statement analysis was prompted by watching Mr Hall's documentaries regarding Madeleine McCann. Viewers of the Film are told Ms Lewis has analysed 33 statements, concluded that 23 of them were deceptive, and that she did not find a single reliable witness statement. She poses as, and is presented by Mr Hall as if she were, an expert in detecting deception.

101. In Part 2 of the Film, the conversation between Mr Hall and Ms Lewis is interspersed with footage from interviews given by Mr Hibbert. Across the footage of Mr Hibbert speaking, his words are shown in text boxes with every hesitation and repetition incorporated, and some words underlined or shown in blue (as shown below with numbers in square brackets added):

[Interview of Mr Hibbert on *This Morning*]

[1] The two more serious were one that hit me in the side of the neck and severed two of my main arteries errm again I think there was a guardian angel standing over because

> [2] we were told that all all the bolts and shrapnel were travelling at 90 mile an hour so they were saying that that literally should have gone through errm and the surgeons were amazed to find the bolt in my stomach so it had gone through my neck and I'd swallowed it.
>
> [3] Journalist: Oh my gosh
> Hibbert: Yeah
> Journalist: and the other one hit…
> Hibbert: and the other one hit me and severed my spinal cord.
>
> [4] so I've now a T10 complete spinal cord injury which in Layman's terms means I'm paralysed from the belly button down.
>
> [5] But actually I didn't realise that at the time so err but I could obviously I was losing a lot of blood errm but my main my main thing really cos I I didn't think I was gonna make it and so I spent an hour basically making peace with myself and just thinking you know this is it err but I was determined to to stay alive just to make sure err my daughter got out. How is Eve?
>
> [6] She's doing better errr she she suffered a a a really er bad head injury
>
> [7] so she suffered one bolt got through
>
> [8] errr and unfortunately hit her err in the head and and it went straight through so she suffered a you know a catastrophic brain injury
>
> [9] but again she's a little miracle herself,
>
> [10] we're we're told we believe that she's the only person to survive that injury to the extent where they've actually written a paper on her
>
> [11] so that if anyone else you know suffers that type of injury then they know how to care and and look after them, so we're both little miracles really.

102. Mr Hall and Ms Lewis discuss each of these snippets. When setting out the words spoken by them, I have not reproduced their hesitations, repetitions, and stumbles although, naturally, there were many examples of them doing so.

103. In relation to [1], Ms Lewis says:

> "He doesn't use the possessive pronoun my with 'neck' which is unusual and he has a need to explain with 'because' why there was a 'guardian angel standing over', not standing over him just 'standing over'."

The first criticism is one that Ms Lewis makes of many of the victims' statements, asserting that, "*People do not make errors with pronouns. Pronouns are the most reliable form of speech in analysis, in fact, the reliability is 100%*" (Book, p.200).

104. In relation to [2], Ms Lewis criticises Mr Hibbert's use of passive language ("*we were told*") as it "*conceals identity*"; she criticises his use of the word "*all*" as "*unnecessary*" suggesting that it "*might be persuasive language*"; and she identifies his "*need to explain" as showing "the whole section is highly sensitive to him*". Mr Hall and Ms Lewis then comment on the speed of the bolts and shrapnel, comparing it to a tennis player's service, and laughingly suggesting that a tennis ball hit at 90 miles an hour, at someone's head, would not go all the way through.

105. Ms Lewis suggests there is "*some sensitivity*" in [3], but it is reduced as Mr Hibbert is repeating what the journalist said.

106. In relation to [4], they comment:

> "[GL] Yeah he's got a need to explain here why he's got the T10 complete spinal cord, because it has severed his spinal cord, so it is sensitive to him, it is highly sensitive to him.
>
> [RH] It could be that the back problems he had been having earlier was his T10 vertebrae.
>
> [GL] Potentially, yeah.
>
> [RH] You do find that people with slipped discs will refer to which vertebrae they've. Mine's an L5 for example. I know which mine is. So it's yeah. Would you use that terminology if you'd been hit with shrapnel from a terrorist attack. Maybe you would.

107. In relation to [5], Ms Lewis suggests that Mr Hibbert "*halts over 'stay', 'stay alive'*", that "*he has a need to explain why he was determined to stay alive*" and that his use of the word "*just*" shows that he was thinking of another reason "*apart from making sure his daughter Eve got out*" why he was determined to stay alive.

108. They comment on Mr Hibbert's response to the question "*How is Eve?*" at [6]:

> "[GL] He's got a lot of anxiety here. He's halting over words. It's very sensitive to him.
>
> [RH] And perhaps just to add in here that Eve has been absent in media coverage. She lives with her mother and her mother has been absent from media coverage. Her mother does have a Facebook account but unlike many of the parents of the victims [signing air quotes] there's no mention of Manchester on there. I did go to their street and I couldn't find any one in the street who knew she was involved. I was, originally I was sceptical over whether the daughter had any injuries. Now I did manage to see them coming out of the house with a wheelchair so I

> suspect that she may have some sort of injury. But from my research there is no evidence that any injury was obtained in the foyer. So
>
> [GL] Yes, yes.
>
> [RH] it's quite perplexing the whole Hibbert story because he's been one of the most prominent media people.
>
> [GL] He has, yes."

109. Ms Lewis laughs at Mr Hibbert saying, of Eve, "*she suffered one bolt got through*" ([7]), saying,

> "[GL] Yeah he's got a need to explain why 'she suffered one bolt got through'. Because she's got a 'head injury'. In the video he gestures with his hand it comes out the other side. He doesn't say this. It's not in his language but to go 'through' you know it's
>
> [RH] Yeah, the physics seem unlikely".

110. Ms Lewis continued, commenting on [8]:

> "Well, he's already told us that she has a head injury so to tell us that it hit her in 'the head' is completely unnecessary and he's also gestured with his hands that it's come out the other side. He's halting over it. It's a need to think about his words. Yeah, again another need to explain why 'she suffered a … catastrophic brain injury': because 'it went straight through'. This is very highly sensitive to him and he is pausing and choosing his words. 'You know' is an awareness of the audience. We treat it has a habit of speech. We see where it arises and what topics produce it. At this point it's her head injury that has made him say 'you know'."

111. Ms Lewis picks up on Mr Hibbert's use of the word "*but*" ([9]) stating that "*'but' is minimising what came before*" (i.e. she asserts he is minimising what he has just described as Eve's "*catastrophic brain injury*") as "*what is more important to him is that 'she is a little miracle'*".

112. In relation to [10], Ms Lewis comments:

> "Yeah, he self-edits here. He is using passive with 'told' so that's to conceal the identity, but he changes his mind 'we believe' is stronger. 'That' is distancing, he is distancing the injury. They've 'actually written a paper on her': 'actually' is a comparison of two or more things so he is thinking of something else that they've done or not done."

113. Commenting on [11], Ms Lewis suggests that Mr Hibbert's need to explain shows it is "*highly sensitive to him*", that he "*distances the injury*" by his words "*that type of injury*",

and she asserts that neurosurgeons "*don't need to write a paper*" as "*they know how to care for and look after people who have brain injuries*".

114. Mr Hall and Ms Lewis then discuss what they draw from this interview:

> "[RH] So with Hibbert you think he's deceptive.
>
> [GL] I think he is deceptive here about the speed of the shrapnel [GL laughing] and the paper being written on the daughter. There's sensitivity to the injuries that they've received.
>
> [RH] And in some of his other interviews his sentences were reliable. As he gets to the more sensitive parts i.e. describing the explosion he pauses a lot more.
>
> [GL] He pauses a lot compared to when he is not speaking about what happened in the foyer. He uses 'errm' relentlessly.
>
> [RH] But after the errm the deceptive language doesn't appear. So it's as if he's learning lines, d'you think?
>
> [GL] It's potentially, yeah, he's remembering his lines and thinking back to say them.
>
> [RH] Which would tie in with him having some acting experience, perhaps.
>
> [GL] Yes."

(The reference to Mr Hibbert having "*acting experience*" was wrong (see paragraph 123 below).

115. Mr Hall and Ms Lewis then discuss earlier footage in which Mr Hibbert was interviewed by Jon Snow and asked about the Kerslake Report. The first part of Mr Hibbert's response when asked "*what did happen?*" is played, again with a text box in the following form:

> "[12] Well you know, obviously we know errr err the terrorist det detonated a a a a a a bolt bomb errr, you know 22 of them hit me …"

116. In the Film, the replay of Mr Hibbert's response is cut off mid-sentence and Mr Hall and Ms Lewis continue their conversation:

> "[RH] So d'you wanna make some comments on that.
>
> [GL] 'Well you know': he is aware of his audience at this point. 'Obviously, we know': he is not alone with this, he wants to be in a crowd. He can't say 'I know, that a terrorist det detonated a a a a [GL laughing] bolt bomb'. He has a lot of stress here. He cannot bring himself to say that a suicide bomb bomber detonated a bomb or that he was

> [RH] In another interview I think he has used the word 'bullet', is that right?
>
> [GL] Yes, it was in one of the press articles he has used…
>
> [RH] And there are other things in his language which suggest firearms, I think, right?
>
> [GL] Yes.
>
> [RH] Now we think that Hibbert that there may have been a plan originally for this to be a mass shooting incident.
>
> [GL] Yeah bullets and that comes up a lot in the language in the interviews of the participants, yeah.
>
> [RH] So we think it is possible that is what Hibbert means when he says the Kerslake report isn't what I expected. He was possibly told he was going to be a hero, having been shot.
>
> [GL] Yes, yeah possibly.
>
> [RH] And he's not happy with the narrative that they've come up with and because Jon Snow says well what did happen he's got to go along with the original narrative.
>
> [GL] Yeah and he's struggling to say that." (Emphasis added.)

117. Mr Hall concludes Part 2 of the Film with images of victims' injuries, including of Mr Hibbert, saying in a voiceover:

> "With every injury that mainstream media have reported on I have been able to show that some are not real or are being exaggerated and others which seem genuine were probably not obtained in the arena foyer."

118. At pp.224 to 230 of the Book, Mr Hall includes a section headed "*Statement Analysis; Martin Hibbert*". Some of the analysis is additional to that presented in the Film, but the style is similar. It is said, for example, that saying "*knowing that I was dying*" and then changing the language to "*I didn't think I was gonna make it*" is "*indicative of storytelling*"; by using the word "*but*" he is "*minimizing both being paralysed and losing blood*"; and saying "*I was losing*" rather than "*I lost*" a lot of blood is "*not as reliable*" and is done "*to slow the pace*".

119. Under the heading "*Statement Analysis Conclusion: Martin Hibbert*", p.230 of the Book records:

> "…The subject is **deceptive** about being told the speed of the shrapnel and that it should have gone straight through his neck.
>
> He is deceptive about his daughter being the only person to have survived that injury and that someone has written a paper on her.

> I also believe he is deceptive about the bolt going straight through his daughter's head as he shows high sensitivity to this. In the interview he gestures with his hand that it entered and exited her forehead. …" (Original emphasis.)

120. Pages 221-223 of the Book also focus on both claimants. Mr Hall wrote:

> "In the ITV '100 Days' documentary it was stated that 'the family' asked the programme makers not to identify his 17 year old daughter. Why was this? The time Hibbert spends talking about his daughter is concerning to me. Most of his interviews are about his own plight, with little or no detail about his daughter who allegedly had a serious head wound and was kept in hospital for months.
>
> Hibbert claimed in the '100 Days' documentary that his daughter had only been struck by a single bolt, but that he received 22 separate injuries. It would seem that somebody does not want information being shared about Eve Hibbert. Why is that?
>
> Was Hibbert really at the concert? There are no images of him at the concert that I have been able to find. When he describes the story about how he came to get tickets it sounds fabricated to me.
>
> …
>
> Very little has appeared in the media about Eve Hibbert. I am not aware of any images showing her in a wheelchair. The vast majority of 'victims' have had considerable media coverage, so I wonder why Eve had none? Is there something about Eve that must be kept out of public view? This made me wonder whether Eve was really injured."

121. Mr Hall then discusses locating Ms Gillbard's Facebook page, finding out where Eve and her mother live, visiting their address, speaking to their neighbours and filming them (see paragraph 77-84 above). Having acknowledged his suspicion that "*Eve Hibbert is in a wheelchair*", Mr Hall comments:

> "This was quite frustrating. What is the reason why Eve is being kept so low profile? Why does Sarah Gillbard seemingly not associate herself with the Manchester bombing crowd?"

122. Under the heading "*Bullets*" Mr Hall puts forward the same hypothesis as in the Film about an alternative "*script*":

> "John [sic] Snow then askes Hibbert, 'What did happen', and Hibbert becomes flustered by the question and does not reply with anything different to what was in the Kerslake Report. It is as if Hibbert is complaining that the event was not scripted as he thought it was going to be, but cannot actually say what he thought the script should have been. Was Hibbert expecting

> bullets and shooting to be in the script? Did the organisers initially plan a mass shooting incident which he was informed about but changed the script at a later date to a suicide bomber incident? Other participants … have also mentioned shooters. Did Hibbert think it would be more macho to survive being shot 22 times rather than being hit with 22 pieces of shrapnel?
>
> …
>
> In Hibbert's interview he is more convincing than some of the other participants. I will note here that he has had some acting experience; he once appeared in 'The Bill'. Analysis of Hibbert's words hasn't flagged up persistent deception, but what we have noticed, is whenever he talks about what actually happened to him and how he got his injuries, his rate of speech slows down and he takes much longer to choose his words. Is he remembering a script?"

123. As Mr Hall accepted in cross-examination, Mr Hibbert has not appeared in The Bill. He is not and has never been an actor. Mr Hall took this information from an IMDb page which states, "*Martin Hibbert is known for The Bill (1984), The Sarah Jane Mee Show (2019) and ITV Lunchtime News (1972)*". The latter was before Mr Hibbert was born and a 1984 episode of The Bill would have aired when Mr Hibbert was 8 years old. Although the photograph is of the first claimant, the information on the webpage does not relate to him.

124. In chapter 9 of the Book Mr Hall categorised each of the "*participants*". On p.407, Martin and Eve Hibbert are identified, along with 20 other individuals and BTP Police as "*Not present, repeating a wholly furnished narrative*". Mr Hall emphasised that it was his belief that they were not in the foyer at the time of the Attack, asserting that it was "*just my opinion. It is not a statement of fact that anyone has lied about being in the foyer, or lied about their version of events*". Those who died in the Attack were all identified as "*Not present, most relocated, with one or two deceased*". Mr Hall did not put anyone his category labelled, "*Present in or near the foyer, truthful*", stating, "*There may be some, but not interviewed by mainstream media*".

125. I have referred in paragraph 63 above to the section on "*numerology*" in Appendix 2 of the Book. Mr Hall relied on the "*repeated appearance of the number '22'*" as a "*further indication that the event was not a random terror attack, but a meticulously organised pre-planned sequence of events by a group who have authority over media and the police*" (Book, p.415)

The Statement Analysis Video

126. On 16 May 2020, Mr Hall published the Statement Analysis Video. Mr Hall's evidence is that as the statement analysis of only five of the 33 witnesses had featured in the Film, he chose to produce an additional film covering only the statement analysis (of 19 of the 33 witnesses).

127. The discussion of Mr Hibbert's media interviews that appears in the Film (see paragraphs 101-116 above) is replicated in Part 2 of the Statement Analysis Video. Prior to that

discussion, Ms Lewis and Mr Hall have the following discussion about a statement on television made by Mr Hibbert's surgeon:

> "[GL] The one thing I will say, I did look at Hibbert's surgeon. When he was speaking I got the impression that what he was saying you could apply to anyone.
>
> [RH] Right
>
> [GL] So it didn't necessarily have to be Hibbert that he was speaking about, it could be somebody who has actually had spinal injury
>
> [RH] Right. He's referring to somebody else, possibly and they've just used any
>
> [GL] so can you speak about this particular patient and the injuries that they had?
>
> [RH] And then he's allowed himself, allowed it to be used. And the previous people might have been paid money, who knows.
>
> [GL] Surgeon on a payroll.
>
> [RH] Yeah."

The 2020 Video

128. Less than a month later, on 13 June 2020, Mr Hall published the four-part 2020 Video. This marks the beginning of Mr Hall's "*2020 UK Tour*". However, he stated in Part 2 that he was giving the lecture virtually due to the cancellation of venues. Mr Hall describes the Manchester Arena bombing as "*another mass global deception*", alongside 9/11 and the Covid-19 pandemic. In Part 3, Mr Hall presented the same narrative and much of the same material, including showing photographs of both claimants, a photograph of Mr Hibbert's scars on his back, an x-ray of Mr Hibbert, and clips of the discussion between Ms Lewis and Mr Hall of Mr Hibbert's media statements in which he is accused of deception.

129. Mr Hall stated in the 2020 Video:

> "Now I've said that we've analysed 33 witness statements and I think that is a good enough sample to suggest that the vast majority of the witnesses are probably also lying. … None of the witness testimony evidence is reliable. There is no evidence of injuries in the Arena. So this is looking like a fabricated event."

(I note that in using the term "*witness statements*" he was referring to statements made on television or other media.)

130. As I have said, it was also in the 2020 Video that Mr Hall addressed "*numerology*".

The Inquests and Inquiry

131. Inquests were held into the deaths of each of the 22 deceased victims of the Attack. Sir John Saunders, a retired High Court Judge, was nominated to conduct the inquests. On 22 October 2019, the Home Secretary announced that the inquests would become an independent inquiry, governed by the Inquiries Act 2005, chaired by Sir John Saunders.

132. On 2 April 2020, Mr Hall wrote to the Inquiry enclosing 5 copies of his Book for the assistance of Sir John Saunders and Counsel.

133. The Inquiry hearings began on 7 September 2020 and concluded in March 2022. Mr Hibbert gave evidence to the Inquiry on 22 July 2021.

134. As Julian Knowles J observed at [6], "*The Inquiry's Report is a multi-volume, meticulously detailed analysis of what happened that night, as well as many other matters touching upon the Bombing*". The First Volume of the Inquiry Report ("*Security for the Arena*") was published on 29 June 2021. The Second Volume ("*Emergency Response*") was published on 3 November 2022. The Third (and final) Volume ("*Radicalisation and Preventability*") was published on 2 March 2023.

135. Mr Hibbert's evidence to the Inquiry is addressed in Chapter 17 of Volume 2 of the Inquiry Report in the following terms:

> "**Martin Hibbert**
>
> 17.53 Martin Hibbert went to the concert with his daughter, Eve. It was, he said, 'daddy and daughter time': a happy occasion. The sun was shining. It was a beautiful day. Martin Hibbert said that the concert was amazing. They were in a VIP box.
>
> 17.54 On CCTV, they can be seen walking into the City Room, from the Arena bowl, at 22:30. They were between five and six metres from SA [i.e. Salman Abedi]. Martin Hibbert said that he heard an 'almighty bang'. There was a high-pitched, piercing sound. Then it felt like a ten-tonne truck had hit him. He immediately felt he could not breathe and noticed he was losing a lot of blood.
>
> 17.55 At that point, he saw how seriously injured Eve was. It was 'like she had been shot through the head'. She was bleeding and gasping for breath. He had shielded Eve from much of the blast, but one bolt got through. Eve suffered a very significant brain injury.
>
> 17.56 Martin Hibbert said he thought he was watching Eve die. He was not in pain. He did not panic. He had a job to do: make sure Eve survived. He could feel his body shutting down, but fought to stay awake to ensure that Eve got out. He kept asking, 'Where is everybody? Where are the paramedics?' He got fed up of being told that they were on the way. He said it seemed like forever.

> 17.57 He saw Eve covered up twice with T-shirts and posters. People thought she had died. Martin Hibbert said he could see she was gasping for breath. Her lips were quivering. People thought her injury was non-survivable. They were going to cover her up and leave her. It was a 'big frustration', as he felt that if he had lost consciousness, Eve would have died. He thought that unqualified people were being left to make a life or death choice.
>
> 17.58 Martin Hibbert was taken out of the City Room at 23:21. Eve was taken out at 23:25. They were both taken to the Casualty Clearing Station. Eve left by ambulance at 00:18. He found it 'baffling' that she was not put straight into an ambulance. In those circumstances, he thought it was a miracle that she was still alive. He said he had 'just no words for it'.
>
> 17.59 Martin Hibbert left for hospital at 00:24, 1 hour and 53 minutes after the detonation. When he was placed in an ambulance, he was going to be taken to Wythenshawe Hospital. This was a 25- to 30-minute journey. The paramedic, however, went to Salford Royal Hospital, 10 minutes' away. Martin Hibbert said that decision was 'life saving'. A different paramedic might have made a different decision. That was another frustration for him.
>
> 17.60 Martin Hibbert noted that the equipment that was available, such as plasters, scissors and bandages was inadequate and that the responders didn't have 'the right equipment'. He has reflected on whether Eve's treatment would have been different with more strategic planning and marshalling of vehicles; whether it might have shortened the period to get to hospital.
>
> 17.61 Martin Hibbert described the life-changing impact of his injuries. He suffered 22 shrapnel wounds, one to the centre of the back which severed his spinal cord. He has been left paralysed from the waist down. Sometimes, he said, the post-traumatic stress disorder is a greater battle than the spinal injury. He tries to motivate and inspire people. He does everything he had done before and more and is thankful to be alive. Eve was in hospital for ten months. Initially, her family were told that Eve would probably remain in a vegetative state, but she can now eat, talk and walk unassisted. Martin Hibbert said she would 'inspire the world'."

136. In his evidence at trial, Mr Hibbert said that Eve had deteriorated since he gave that evidence and was no longer able to walk unassisted (MH1 §26).

137. Once the Inquiry Reports were published, Sir John Saunders carried out the inquest into the death of Salman Abedi (see paragraph 17 above).

Contact with the police

138. Shortly before Mr Hibbert gave evidence to the Inquiry on 22 July 2021, he went into Greater Manchester Police ('GMP') Headquarters to view the 'Sequence of Events' i.e. the images drawn from the CCTV footage of himself and Eve at the Arena on the night of the Attack (see paragraphs 19-20 above). While he was there, the police told him they needed to contact Ms Gillbard and asked for her number. On his way home, Mr Hibbert phoned Ms Gillbard and asked her to update him as soon as she heard from the police. (MH3 §§7-8)

139. Mr Hibbert said:

> "I can't recall for definite, but I think it was the next day that Sarah rang me. I remember her saying that Mr Hall had been boasting on the internet about how he had set a camera up outside their house to film Eve. He wanted to see if she was really in a wheelchair. The police had come to the house, checked the back garden and checked plant pots for cameras, and spoke to her neighbours. They put her on a list so if she ever had to ring the police, they would come straight out to her."

140. Ms Gillbard explained that:

> "Inspector Russell (Collar no 19615) and Detective Sergeant Waring (collar no 06737) arrived at my home and Det Sgt Warning said they had come to speak to me and briefly went through some things relating [to] the incident at the arena. They then informed me that they had come across a man on YouTube sitting in the back of a van with a camera hidden in a flower on a stick. He had claimed that he was going to come to my property to film Eve because he does not believe that she was injured in the attack.
>
> They asked me to look at my back garden and point out if anything looked odd or out of place, and they did a check of my property for any cameras." (SG2 §§9-10)

141. A letter dated 5 July 2024 from GMP to the claimants' solicitor states that they had reviewed an amateur film as part of Operation Manteline, on or after 29 June 2021:

> "Richard Hall was shown on the film pulling up outside an address and preparing to secrete a security camera in the garden of an address which he purported to be the garden of the Hibberts and that he intended to catch them walking from the address.
>
> As such, DI Michael Russell and DS Claire Waring attended the home address of Eve Hibbert, on 21 July 2021, and were able to establish that this was not the address that Richard Hall had been parked outside when he planted the security camera in the garden on the film. DI Russell then supplied appropriate advice to the family."

GMP confirmed in their letter that "*no further activity was reported to the Manteline team*".

The Disaster Trolls Podcast and Panorama programme

142. In August 2022, the BBC's Disinformation and Social Media Correspondent, Marianna Spring, asked Mr Hibbert if he would take part in a podcast series. He agreed to do so. The podcast, called "*Disaster Trolls*", was broadcast on BBC Radio 4 and BBC Sounds. It led to the production of a Panorama programme that was broadcast on BBC television on or about 31 October 2022. Mr Hall did not agree to take part, but Ms Spring approached him and sought to interview him when he was at his merchandise stall.

143. Mr Hall states that it was because of these programmes that his YouTube channel was closed.

Subsequent videos

144. Mr Hall has published further videos since 2020 discussing the claimants. Most notably, on 22 November 2023, he published a video entitled "*Table for Two*", taking his title from the San Carlo photograph. However, the subsequent videos are not part of the pleaded course of conduct, or otherwise relied on in the Particulars of Claim in support of either cause of action.

HARASSMENT

Harassment: the legislation and legal principles

145. Section 1 of the Protection from Harassment Act 1997 ('the PHA') provides so far as material:

> "**1 Prohibition of harassment.**
>
> (1) A person must not pursue a course of conduct –
>
> (a) which amounts to harassment of another, and
>
> (b) which he knows or ought to know amounts to harassment of the other.
>
> (1A) …
>
> (2) For the purposes of this section …, the person whose course of conduct is in question ought to know that it amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.
>
> (3) Subsection (1) … does not apply to a course of conduct if the person who pursued it shows –
>
> (a) that it was pursued for the purpose of preventing or detecting crime,

(b) …, or

(c) that in the particular circumstances the pursuit of the course of conduct was reasonable."

146. An actual or apprehended breach of s.1(1) of the PHA may be the subject of a civil claim by "*the person who is or may be the victim of the course of conduct in question*" (s.3(1) PHA).

147. A claim under s.1(1) gives rise to three issues on which the claimants bear the burden of proof, namely, (i) did the defendant engage in a course of conduct? (ii) did any such course of conduct amount to harassment? And (iii) did the defendant know, or should he have known, that the conduct amounted to harassment? See *Hourani v Thomson* [2017 EWHC 432 (QB), Warby J, [129]. If the claimants succeed on each of these issues, then it will be necessary to consider the two defences on which Mr Hall relies, provided by s.1(3)(a) and (c), on which he bears the burden of proof.

148. With respect to question (i), the PHA specifies that a "*course of conduct*" must involve "*conduct on at least two occasions in relation to that person*" (s.7(3)(a), and that "*conduct*" includes speech (s.7(4)). That is a threshold requirement. This first issue involves asking not whether there was harassment but whether the conduct complained of amounts to a "*course of conduct*". That is "*largely a question of fact and degree*": *Hourani*, Warby J, [132]. Whether the pleaded instances can be classified as a "*course of conduct*" depends on such factors as "*how similar they are in character, the extent to which they are linked, how closely in time they may have occurred, and so on*": *Hourani*, [132], citing *Merelie v Newcastle PCT* [2004] EWHC 2554 (QB), Eadie J, [22].

149. The course of conduct must be targeted at someone. Conduct which, however alarming or distressing, is not aimed or directed at anyone is excluded. But "*it is not a requirement of the statutory tort of harassment that the claimant be the (or even a) target of the perpetrator's conduct*": *Levi v Bates* [2015] EWCA Civ 206 [2016] QB 91, Briggs LJ, [27]. The claimants each have to show that they are a "*victim*" of the relevant course of conduct, but it is sufficient if the course of conduct was targeted at another or others and they are "*foreseeably likely to be directly alarmed or distressed by it*": s.3(1) PHA and *Levi v Bates*, [29]. Harm in this context includes, but is not limited to, alarm and distress: *Levi v Bates*, [33].

150. As regards issue (ii), "*harassment*" is an ordinary English word which is left undefined in the PHA. Section 7(2) provides that references to harassing a person "*include alarming the person or causing the person distress*", but this is "*merely guidance as to one element*" of the tort, not a definition, and it is not "*an exhaustive statement of the consequences that harassment may involve*": *Hourani*, [138]. In addition, bearing in mind that we are concerned with conduct that is a criminal offence (s.2(1)) as well as a civil wrong (s.3(1)), "*section 1 is confined to serious cases*": *Hayes v Willoughby* [2013] UKSC 17 [2013] 1 WLR 935, Lord Sumption JSC (giving the judgment of the majority), [1].

151. Harassment is *"a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or distress*": *Hayes v Willoughby*, [1]. The conduct relied upon must cross "*the boundary between conduct which is unattractive, even unreasonable, and conduct*

which is oppressive and unacceptable. To cross the boundary from the regrettable to the unacceptable the gravity of the misconduct must be of an order which would sustain criminal liability under section 2": *Majrowski v Guy's and St Thomas's NHS Trust* [2006] UKHL 34, [2007] 1 AC 224, Lord Nicholls, [30]; *Hayes v Willoughby*, [12].

152. When determining question (ii), the course of conduct, viewed as a whole, must be assessed objectively. It is not necessary for each individual act that comprises the course of conduct to be oppressive and unacceptable. Individual acts which, viewed in isolation, appear fairly innocuous, may take on a different complexion when viewed as part of a bigger picture. See *Hayden v Dickenson* [2020] EWHC 3291 (QB), Nicklin J, [44].

153. An assessment of whether a course of conduct amounts to harassment must take account of the vulnerability or otherwise, and other personal characteristics of the target: *Sube* [71(9)] citing *Levi v Bates* [2015] EWCA Civ 206, [4] and *Hourani*, [151].

154. Any claim of harassment by speech is likely to engage the defendant's right to freedom of expression, which is protected by the common law and article 10 of the European Convention on Human Rights: see s.1 of and Schedule 1 to the Human Rights Act 1998. Where, as in this case, the conduct complained of includes, and indeed largely consists of, the publication of journalistic material via a variety of media, that right assumes even greater importance. If a publication comprises political speech, any interference "*requires the most convincing justification*": *Hourani* [212].

155. A claim for harassment by publication is encompassed within the statutory tort. As Warby J observed in *Sube v News Group Newspapers Ltd* [2020] EWHC 1125 (QB), [2020] EMLR 25,

> "66. … much harassment does involve the persistent publication of embarrassing or otherwise unwelcome statements, true or false, on the internet or on social media. But the tort and the crime can also be committed by a course of conduct consisting of publication in or by the conventional news media. The Court of Appeal addressed the point in *Thomas v News Group Newspapers Ltd* [2001] EWCA Civ 1233; [2002] EMLR 4, declining to strike out a claim under the PHA in respect of a series of articles in *The Sun* which were said to constitute harassment by reference to the claimant's colour.
>
> 67. When presented with a claim of this kind, the Court must be especially mindful of the threshold of gravity required before a finding of harassment can be made; and it must be careful to ensure that its approach is compatible with the human rights engaged by the particular facts of the case. …"

156. In *Thomas v News Group* Lord Phillips MR observed at [32] that, when considering whether the conduct of the press in publishing articles is reasonable for the purposes of the PHA, "*the answer does not turn upon whether opinions expressed in the article are reasonably held. The question must be answered by reference to the right of the press to freedom of expression which has been so emphatically recognised by the jurisprudence both of Strasbourg and this country*": see, too, *Sube*, [68(1)] and *Hourani*, [144].

157. Lord Phillips MR continued:

> "34. … In general, press criticism, even if robust, does not constitute unreasonable conduct and does not fall within the natural meaning of harassment. …
>
> 35. … before press publications are capable of constituting harassment, they must be attended by some exceptional circumstance which justifies sanctions and the restriction on the freedom of expression that they involve. It is also common ground that such circumstances will be rare."

158. In *Trimingham v Associated Newspapers* [2012] EWHC 1296 (QB), Tugendhat J, having quoted extensively from *Thomas v News Group*, said at [53]:

> "What I understand Lord Phillips to be saying is that, for the court to comply with HRA s.3, it must hold that a course of conduct in the form of journalistic speech is reasonable under PHA s.1(3)(c) unless, in the particular circumstances of the case, the course of conduct is so unreasonable that it is necessary (in the sense of a pressing social need) and proportionate to prohibit or sanction the speech in pursuit of one of the aims listed in Art 10(2), including, in particular, for the protection of the rights of others under Art 8."

159. Mr Oakley drew attention to the oft-quoted words of Sedley LJ in *Redmond-Bate v Director of Public Prosecutions* (1999) 7 BHRC, [2000] HRLR 249 at [20] that:

> "Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative provided it does not tend to provoke violence. Freedom only to speak inoffensively is not worth having."

I adopt that passage subject to noting that "*the qualification 'so long as it does not tend to provoke violence' would now have to include additional words to refer to the other legitimate aims set out in Art 10(2)*": *Trimingham*, [77]. Sedley LJ's words reflect "*that pluralism, tolerance and broadmindedness without which there is no 'democratic society'*", and it follows that the exceptions to freedom of expression "*must be narrowly interpreted and the necessity for any restrictions must be convincingly established*": *Association Ekin v France* (39288/98) (2002) 35 EHRR 35, [56].

160. The court must not be "*swayed by the subjective feelings of the claimant*" when assessing the harmful tendency of the statements complained of, but must approach that task objectively, and bearing in mind that, in general, "*he techniques of reporting, including the tone and editorial decisions about content, are matters for the media and not the Court to determine*": *Sube* [68].

161. In *Sube*, Warby J observed at [68] that "*nothing short of a conscious or negligent abuse of media freedom will justify a finding of harassment*". This approach is not limited to journalism emanating from the mainstream press. As Aidan Eardley KC (sitting as a Judge of the High Court) observed in *Sledziewski v Persons Unknown* [2024] EWHC

1955 (KB), it "*extends to citizen journalism of the type engaged in by bloggers: McNally v Saunders [2022] EMLR 3 at [70]-[75]*". It is common ground that it applies to Mr Hall's publications.

162. The courts have repeatedly observed that it will be "*a rare or exceptional case*" in which harassment is established in respect of media publications: see e.g. *Sube* [68], *Thomas v News Group* [35]. This has been borne out in practice: *Sube* [69]. No claim of harassment against a media organisation has succeeded at trial: the claims in both *Trimingham* and *Sube* were dismissed. In *Hourani*, four defendants were found liable in harassment, in the context of a campaign involving street protest, online publication and sticker distribution in the vicinity of the claimant's home, targeting three individuals (including the claimant) and "*denouncing them as murderers, responsible for the torture, drugging, beating and sexual assault of a young woman*" in Beirut ([1]).

163. In this case, two other Convention rights are in issue. The claimants rely on article 8 (right to respect for private and family life). The defendant relies, in addition to article 10, on article 9 (freedom of thought, conscience and religion). In *Grainger Plc v Nicholson* [2010] ICR 460, Burton J identified five criteria as characteristic of philosophical beliefs qualifying for protection:

> "(i) The belief must be genuinely held. (ii) It must be a belief and not, as in *McClintock v Department of Constitutional Affairs* [2008] IRLR 29, an opinion or viewpoint based on the present state of information available. (iii) It must be a belief as to a weighty and substantial aspect of human life and behaviour. (iv) It must attain a certain level of cogency, seriousness, cohesion and importance. (v) It must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others …"

In *McClintock*, from which Burton J derived criterion (ii), the claimant agreed that a view he held now (on same-sex couples adopting) might change on receiving further evidence on children's outcomes.

164. In *R v Broadcasting Standards Commission, ex p.BBC* [2001] QB 885, Lord Mustill (sitting the Court of Appeal) observed at [48]:

> "To my mind the privacy of a human being denotes at the same time the personal 'space' in which the individual is free to be itself, and also the carapace, or shell, or umbrella, or whatever other metaphor is preferred, which protects that space from intrusion. An infringement of privacy is an affront to the personality, which is damaged both by the violation and by the demonstration that the personal space is not inviolate."

165. The rights under articles 8, 9 and 10 are qualified. Where competing rights are engaged the approach to be taken by the court is that set out by Lord Steyn (addressing articles 8 and 10) in *Re S (A Child) (Identification: Restriction on Publication)* [2004] UKHL 47 [2005] 1 AC 593, at [17]:

> "First, neither article has as such precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each. For convenience I will call this the ultimate balancing test."

This approach was applied, in the context of claims of harassment by publication, by Tugendhat J in *Trimingham*, [55] and Warby J in *Hourani*, [185].

166. The proportionality test, by reference to which any interference with a Convention right is to be justified, is the four-part test identified in *Bank Mellat v HM Treasury (No.2)* [2014] AC 700, Lord Sumption JSC, [20]. There must be an exacting analysis of (i) whether the objective of the interference is sufficiently important to justify the limitation of a fundamental right; (ii) whether the interference is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community.

167. Question (iii) (identified in paragraph 147 above) reflects s.1(1)(b) of the PHA in comprising the question whether the defendant actually knew his course of conduct amounted to or involved harassment (which concerns the defendant's subjective state of mind), or ought to have known that (which is to be judged objectively). The focus of attention is on whether the defendant knew or ought to have known that the course of conduct in which he engaged would have a harassing *effect* on the claimants, without prejudice to the issue of whether the conduct in question was "*reasonable*" within s.1(3)(c): *Hourani,* [154].

168. Warby J addressed the "*preventing or detecting crime*" defence in *Hourani* at [177]:

> "The sole requirement of this defence is to show that the otherwise harassing conduct was engaged in for one or other of the specified public interest purposes. The defence is available to a private person as well as to a police force or other public authority. It is not necessary to show a crime has been committed or is imminent. There is no requirement of reasonableness. The test is subjective. All these points are established by *EDO MGM Technology v Axworthy* [2005] EWHC 2490 (QB) and *Hayes v Willoughby* [2013] UKSC 17 [2013] 1 WLR 937. But as Lord Sumption explained in *Hayes* at [15]:-
>
> > 'Before an alleged harasser can be said to have had the purpose of preventing or detecting crime, he must have sufficiently applied his mind to the matter. He must have thought rationally about the material suggesting the possibility of criminality and formed the view that the conduct said to constitute harassment was appropriate for the purpose of preventing or detecting it. If he has done these things, then he has the relevant purpose. The court will not test his

conclusions by reference to the view which a hypothetical reasonable man in his position would have formed. If, on the other hand, he has not engaged in these minimum mental processes necessary to acquire the relevant state of mind, but proceeds anyway on the footing that he is acting to prevent or detect crime, then he acts irrationally… The effects of applying a test of rationality to the question of purpose is to enable the court to apply to private persons a test which would in any event apply to public authorities engaged in the prevention or detection of crime as a matter of public law It is not a demanding test, and it is hard to imagine that Parliament can have intended anything less.'

Moreover, this defence is available only if the purpose of prevention or detection of crime is the 'dominant' purpose of the course of conduct: *Hayes* [17]."

169. As regards the s.1(3)(c) defence, that in the particular circumstances the pursuit of the course of conduct was reasonable, in *Trimingham* Tugendhat J observed at [53]:

> "… for the court to comply with HRA s.3, it must hold that a course of conduct in the form of journalistic speech is reasonable under PHA s.1(3)(c) unless, in the particular circumstances of the case, the course of conduct is so unreasonable that it is necessary (in the sense of a pressing social need and proportionate to prohibit or sanction the speech in pursuit of one of the aims listed in Art 10(2), including, in particular, for the protection of the rights of others under Art 8. …"

170. In *Hourani*, having cited that passage, Warby J noted at [185] that it:

> "… helpfully emphasises the important point, that the exercise of the freedom of speech should only be found to involve unacceptable harassment if certain stringent conditions are clearly satisfied. But it should not be read as placing the onus entirely on the claimant. The burden of proof under s.1(3)(c) lies on the defendant. …"

171. Having identified the need to apply the approach identified in *Re S (A Child)*, to which I have referred, Warby J continued:

> "187. In many cases of alleged harassment by publication the truth or falsity of what is said may not be of great consequence. It did not matter in *Thomas* that it was true to say of the claimant that she was black. Her complaint was of harassment by reference to her race. Nor did it matter in *Law Society v Kordowski* [2011] EWHC 3185 (QB) [2014] EMLR 2 where Tugendhat J was able to say, at [133], that "Even if there were evidence that the allegations were true, the conduct of the Defendant could still not even arguably be brought within any of the defences recognised by the PHA. No individual is entitled to

> impose on any other person an unlimited punishment by public humiliation such as the Defendant has done, and claims the right to do. His conduct is a gross interference with the rights of the individuals he names".
>
> 188. Truth is not a defence to harassment. But 'the falsity or inaccuracy of the words (the course of conduct complained of) is not irrelevant…': *Kordowski* [164]. Mr Hudson is right to submit that in this case proof of truth would be relevant to a defence under s.1(3)(c), though it would not necessarily be sufficient to sustain such a defence. The question of whether, or to what extent, the allegations made are true is a factor going to the 'comparative importance' of the specific rights being claimed by the defendants. It is capable of being a significant factor. …"

172. In *Hourani,* the claim against the principal defendant, who was responsible for "*all aspects of the campaign*", was brought only in harassment, the limitation period for libel having expired ([4], [12(1)]), whereas both libel and harassment claims were brought against the other defendants. Warby J observed that the exercise that the court is engaged in when determining whether a course of conduct is "*reasonable*" for the purposes of the s.1(3)(c) defence "*has some similarities with the evaluation of a public interest defence under s.4 of the Defamation Act 2013*": *Hourani* [213]. Although the exercises are not the same, he noted that,

> "213. … they do involve overlapping considerations. The same outward behaviour by a defendant may, as here, give rise to claims in defamation and in harassment. The interests protected by the two torts are different, and that will affect the approach. But claims of both kinds are likely to engage the Convention right under Article 8, though they may not always do so. The burden of proving each of these defences lies on the defendant. …
>
> 214. The public interest defence to defamation extends protection to circumstances where the defendant has published defamatory imputations of fact which cannot be proved to be true. Defendants who have done that by making a statement on a matter of public interest, reasonably believing the publication of that statement to be in the public interest, are immune from liability. The question of whether a belief is reasonable for these purposes brings in considerations to which I have alluded already: bearing in mind the subject-matter, the words used, the nature of the allegations, and the role of the particular defendant, did the defendant conduct such enquiries as it is reasonable to expect of them, in all the circumstances?
>
> 215. Those considerations would seem to be relevant, albeit not necessarily conclusive, when assessing whether the same publication is actionable as harassment. A defendant who meets the requirements of the defamation defence might expect to be

> acquitted of harassment, unless there is something about the element of harassment that makes it necessary to interfere with the Article 10 right nonetheless. Defendants who do so believe that the publication of the offending statements was in the public interest, or had no reasonable belief that this was so, may well find those factors weigh against them in the overall assessment."

Question (i) Did the defendant engage in a course of conduct?

173. The question whether the defendant engaged in a course of conduct is to be answered before any question whether any such course of conduct amounts to harassment arises. It is a question of fact and degree.

174. Mr Price submitted that it was self-evident that the publications complained of, and the September 2019 visit, was a course of conduct, and he did not understand the point to be disputed. I, too, did not understand the defendant to contest that he had engaged in a course of conduct. However, Mr Oakley submitted that the 2019 visit was not part of the course of conduct for the purposes of the PHA because, first, it was "*entirely different in kind*" from publication of the Book and videos, secondly, it occurred over eight months prior to publication of the first video in which the claimants were mentioned (which he said was the Statement Analysis Video of 16 May 2020), and, thirdly, the claimants were unaware of the visit until Ms Gillbard was informed by the police on or around 21 July 2021.

175. In my judgment, the claimants have established that the conduct identified in paragraph 11 above amounted to a course of conduct for the purposes of the PHA. Each of the six publications complained of, from the 2018 Video published on 15 June 2018 through to the 2020 Video published on 13 June 2020, addressed the same theme. The 2018 Video would have been understood to mean that there were strong grounds to suspect that the Manchester Arena Attack was fabricated, and the allegation that it was a hoax was made more firmly in each subsequent publication. The publications were put into the public domain at regular intervals, then became more frequent in 2020, and each publication is continuing. In addition, Mr Hall presented about 12 public shows each year, on his UK tours during 2018 and 2019, and I infer that the content would have been similar to the 2018 and 2019 Videos. (In 2020, the measures imposed during the Covid-19 pandemic led to Mr Hall presenting his show virtually).

176. In my view, the 2019 visit was an integral part of the course of conduct. It is apparent from the 2019 Video that he had begun investigating the victims of the Attack. He picked up the intensity of his investigation in mid-2019. During August 2019 he sought to locate Eve, and succeeded in finding her mother's address. He then visited their home, spoke to their neighbours, and took and reviewed video footage, as I have described above. The purpose of the visit was to obtain information for use in further publications. Mr Hall referred to the September 2019 visit, and what he saw in the footage he obtained on that occasion, in the Film and the Book, both of which were published on 27 March 2020. He also used footage of himself, in his vehicle, with a map marking the location of victims of the Attack who he intended to visit, in the Film. Appendix 4 of the Book lists the "*Investigation Questions*" that Mr Hall devised "*to put to potential witnesses*".

Question (ii) Did any such course of conduct amount to harassment?

177. Did the course of conduct, taken as a whole, and viewed objectively, have the quality of amounting to harassment? The hallmark of harassment is conduct that is unacceptable and oppressive, not merely unattractive or unreasonable. It must be of an order which would sustain criminal liability. And, as I have said, in assessing the quality of the conduct the court must strike a balance where competing Convention rights are engaged.

178. Both parties acknowledge that articles 8 and 10 are engaged, and there is a tension between them. But there is a dispute as to whether Mr Hall's rights under article 9 are also engaged. Mr Oakley submits that Mr Hall's beliefs meet the *Grainger* criteria (see paragraph 163 above).

179. The second criterion is that it must be a belief, not an opinion or viewpoint based on the present state of information available. In my judgment, Mr Oakley's submission is inconsistent with the evidence and the stance Mr Hall has taken during these proceedings. For example,

(1) In the Book, p.44, Mr Hall states, "*If evidence is presented that any of the 22 did indeed die at the Manchester Arena I will update this book to include that evidence*".

(2) He concludes that one of the victims who "*allegedly suffered the loss of a finger*", "*does not have a missing finger*". But states, "*If an image is produced in the future showing a stump then I will change the conclusion*" (Book, p.61).

(3) At p.63 of the Book, Mr Hall states, "*<u>Unless more evidence surfaces</u>, I conclude that there is no proof that any of the alleged injuries discussed in this chapter occurred in the Manchester Arena foyer on 22 May 2017*" (emphasis added).

(4) Throughout the publications complained of Mr Hall asserts that his belief regarding what happened is his opinion based on the evidence: e.g. Book, p.409. When taken to p.409 of the Book (see paragraph 91 above) in cross-examination, and asked if it was what he believes happened, he said, "*there are a few elements within there where … further evidence have come to light in the last three or four years, which would modify that slightly. But generally, it is … what I believe happened, yes*".

(5) Master Davison's judgment recorded at [36] that in the opening paragraph of his skeleton argument Mr Hall said that it had "*always been my position that if incontrovertible evidence was brought forward which proves beyond doubt each of the claimants' assertions, I would be willing to modify the opinions expressed about the claimants in my publications to reflect this*".

(6) Having been sceptical as to whether Eve had suffered any injury, following the September visit Mr Hall acknowledged the likelihood that she had done so, and he has acknowledged in these proceedings that she has suffered brain damage (albeit he does not accept the Attack was the cause). Similarly, having voiced his suspicion in the film that Mr Hibbert "*never lost the use of his legs*" (paragraph 99 above), in cross-examination Mr Hall acknowledged that both claimants have suffered "*life changing injuries*", and that Mr Hibbert is "*wheelchair bound*" and suffers from "*a very serious disability*". Mr Hall has also accepted during these proceedings that the claimants are father and daughter, and that their ages are as pleaded.

180. Although the core of Mr Hall's narrative is one that he maintains intractably in spite of the contrary evidence, his evidence is to the effect that he would be open to modifying his opinion if he were shown evidence such as the unredacted CCTV of what occurred at the Manchester Arena on 22 May 2017 and the full medical records of the claimants. His inability to comprehend why sensitive and graphic images of the deceased and seriously injured would not be shown to the general public, or to understand why Eve's parents would be at pains to keep their daughter out of the public eye (which the Inquiry respected by not releasing footage of the claimants at the Arena), or to understand the claimants' wish to maintain privacy in respect of their medical records (save to the limited extent that they have disclosed two reports), does not detract from my conclusion that Mr Hall's narrative does not meet criterion (ii). Accordingly, I reject the defendant's reliance on article 9.

181. In my judgment, Mr Price's summary of the defendant's conduct which I have set out at paragraph 13 above is accurate. I have no doubt that his course of conduct was a negligent, indeed reckless, abuse of media freedom. Applying the legal approach that I have outlined to the parties' respective Convention rights, I find that Mr Hall's course of conduct amounted to harassment.

182. By the time he visited Eve's home, the nature and outcome of the Attack had been extensively reported, including by an independent panel in the Kerslake Report. Mr Hall has relied on Mr Hibbert's comment, when interviewed by Jon Snow, that he had been "*promised the truth in the Kerslake report*" and it did not reflect "*what happened that night*" (Book, p.221; paragraphs 116 and 122 above). But it is obvious that Mr Hibbert was talking about the emergency response to the Attack. He was in no way casting doubt on the central facts that a suicide bomber detonated a home-made bomb (surrounding the explosive material with nuts and bolts), killing 22 innocent people and himself, and injuring many others, including inflicting life-changing injuries on Mr Hibbert and his daughter.

183. Mr Hall knew that Mr Hibbert said his teenage daughter, who he had taken to the concert, had been hit in the head by a bolt propelled by the explosion, and that she had been very severely injured. He also knew that her family were shielding her from any media attention. From the available information, it should have been readily apparent to any journalist - even if the individual journalist was highly sceptical of the "*official narrative*" - that Eve should be treated as a vulnerable young person who had been caught up and severely injured in a traumatic incident.

184. In cross-examining Mr Hall, Mr Price drew on sections 7 (Fairness) and 8 (Privacy) of Ofcom's broadcast standards. The version in evidence was published after the September 2019 visit, and in any event, Mr Hall was not bound by it. But the guidance reflects ordinary principles of fairness and respect for privacy which can reasonably be expected of journalists, including those such as Mr Hall who broadcasts to a large audience via the internet.

185. "*Broadcasters or programme makers should not normally obtain or seek information, audio, pictures or an agreement to contribute through … deception*" (and "*deception includes surreptitious filming or recording*"), although use of such material may be warranted "*if it is in the public interest and cannot reasonably be obtained by other means*" (§7.14). "*Broadcasters should take due care over the welfare of a contributor who might be at risk of significant harm as a result of taking part in a programme*", and

they might be so regarded if (among other reasons) "*they are considered a vulnerable person*", "*they are not used to being in the public eye*", or "*the programme requires them to discuss, reveal, or engage with sensitive, life changing or private aspects of their lives*" (§7.15). "*When people are caught up in events which are covered by the news they still have a right to privacy in both the making and the broadcast of a programme, unless it is warranted to infringe it. This applies both to the time when these events are taking place and to any later programmes that revisit those events*" (§8.3). "*Surreptitious filming or recording should only be used where it is warranted*" (§8.13). Mr Hall's evidence was that he was aware of these principles, having previously worked in commercial television, regulated by Ofcom. But he said "*the objective is to report the truth. Whatever effect that has on someone else is the effect it has*".

186. Mr Hall said that a journalistic enquiry does not amount to harassment, and he asserted that his filming of Eve was not surreptitious because the video camera was on the dashboard and so could be seen from outside the vehicle. Although it might have been possible for a passerby to see a camera through the windscreen, this does not detract from the furtive way in which Mr Hall obtained video footage of Eve, her mother and carer. They would not have expected to be filmed, and there would have been little risk of them noticing Mr Hall's camera, still less realising it was rolling and filming them. Mr Hall's public portrayal of how he filmed Eve was not in fact filmed at her house, and I accept his evidence that he placed the camera on the dashboard rather than hidden in a flowerpot; nevertheless, it provides a further indication that the filming was undertaken furtively.

187. In addition to surreptitiously filming Eve, he sought to spring an interview upon her mother by knocking several times on her door (albeit unsuccessfully), and he spoke to three of her neighbours, ascertaining their lack of knowledge that a victim of the Attack was living in their street (paragraph 83 above), thereby disclosing information about Eve that her mother had sought to keep private.

188. Mr Hall's approach was to treat the statements of numerous ordinary people and professionals, including Mr Hibbert's surgeon, as well as of an independent panel, and figures in authority, as of no value. By the time he published the Film, the Book and the 2020 Video, Hashem Abedi had been convicted, yet Mr Hall paid no heed to the facts that demonstrated the jury found proved to the criminal standard. He had no positive evidence that Mr Hibbert had lied about what happened to him and his daughter, and no sensible basis for believing he had done so. In my judgment, tracking down such a private and vulnerable young person as Eve and her mother, going to her home, speaking to her neighbours and surreptitiously taking video footage of her, on her own doorstep, where she had reason to feel safe, was - giving appropriate weight to his right to freedom of expression, which was engaged when he sought to gather material for his publications – a wholly unwarranted interference with the family's right to privacy, which is properly characterised as oppressive and unacceptable. Objectively, it was obvious how alarming and distressing it would be for the family, learning of his actions through his public disclosures. Mr Hall's actions in visiting Eve's home were targeted not only at Eve (and her mother), but also at her father whose statements he sought to undermine, and who was bound to be distressed by such an invasion of his vulnerable daughter's privacy.

189. Freedom of expression undoubtedly provides protection for journalism which focuses on important occurrences, such as the Attack, and investigates the veracity and accuracy of established narratives as to what took place. But Mr Hall has abused media freedom. Over a period of years, he has repeatedly published false allegations, based on the

flimsiest of analytical techniques, and dismissing the obvious, tragic reality to which so many ordinary people have attested. He has published his allegations widely, on a variety of platforms, over a period of years to viewers and readers in this jurisdiction likely numbering well over 100,000. He has done so for commercial gain, albeit I accept his evidence that the financial benefit to him has only been sufficient to enable him to continue his work. All of this conduct has a natural tendency to cause serious distress, especially when those targeted are vulnerable.

190. Mr Hall denied that expressing his "*opinion*" amounted to making any allegation. However, his attempts to shield himself, in each publication, by asserting that he was expressing no more than his personal opinion would not detract from the clear impression conveyed to the hypothetical ordinary, reasonable viewer or reader that he was alleging that the claimants (and many others) were "*crisis actors*", who were engaged in a deception upon the whole world.

191. The way Mr Hall has subjected anything Mr Hibbert has said, about a deeply traumatic event, to so-called "*statement analysis*", and every image of his injuries to so-called "*forensic analysis*", was bound to be distressing. Every pause, hesitation, stumble, missed pronoun or explanation is senselessly pounced upon as indicative of deception. The possibility Mr Hibbert may have used the metaphor of a "*bullet*" to describe the bolt that struck Eve is enough to prompt sickening speculation that this "*crisis actor*" is just unhappy that the narrative is not one in which he is the "*hero*" of a shooting. An old endorsement of a sports physiotherapist suffices to prompt baseless conjecture that he lost the use of his legs due to long-term spinal problems, and that a scar on his back may be from an operation for a herniated disc years before the Attack. Mr Hall speculated that a surgeon might have been paid to make dishonest claims regarding victims', including Mr Hibbert's, injuries, treating this seriously defamatory allegation flippantly (paragraph 127 above). The victims and their families, too, are - without foundation - alleged to have been paid (paragraph 72 above). This is very far indeed from responsible journalism.

192. The defendant notes that the claimants are out of time for bringing any action under the Defamation Act 2013. That is true. But it was also true of the claim against Dr Waller in *Hourani* ([4]), and it did not preclude the claimant from bringing a successful claim of harassment against him. It is a separate tort with a different limitation period, albeit there are overlapping considerations.

193. Mr Hall states that if the claimants had brought a defamation claim, he "*would have had a defence under Section 3 (Honest opinion) and Section 4 (publication on a matter of public interest)*" (RH2, §57). In my judgment, despite the frequency with which Mr Hall has sought to characterise his statements as expressions of opinion, the hypothetical ordinary, reasonable viewer or reader would be bound to understand his assertions that there was no bomb and no one died or was injured as statements of fact (albeit the *Chase* level was lower in 2018 than subsequently). If a defamation claim had been brought, Mr Hall would not have been able to attempt to shelter behind a defence of honest opinion; and any attempt to rely on the defence of truth would inevitably have failed.

194. In the context of a defamation claim, the defendant would have been able to *raise* the public interest defence, and I accept that if he would have been able to meet the requirements of that defence, he might expect to be acquitted of harassment (see paragraph 172 above). But he would have to show, among other matters, that he *reasonably* believed that publishing the statement complained of was in the public

interest, and in the circumstances I have described above I have no hesitation in finding that such a defence would have failed.

195. Mr Oakley submits that Mr Hibbert "*has come to the 'harassment' and not the converse*" by reason of having actively sought to uncover the existence of Mr Hall's publications, and by making a positive choice to engage with the mainstream media to the extent that he is described as a "*media personality*" by X on his X profile. He also contended that it was "*very unwise*" of Ms Gillbard to allow Eve to watch the Panorama programme, which related the narrative that Mr Hall was putting forward in his publications. As I understand it, the legal submission underlying both contentions is that the course of conduct was not harassment because it was not *targeted* at the claimants.

196. As I have said, the September 2019 visit undoubtedly was targeted at the claimants. The same is plainly true of the Book, the Film and the 2020 Video. I agree with Mr Price that the attack on Mr Hibbert's honesty is not just a consequence of Mr Hall's theory: it is a central building block. In any event, as I have said, it is sufficient if the course of conduct was targeted at another or others, and the claimants were foreseeably likely to be directly alarmed or distressed by it. The 2018 and 2019 Videos did not identify the claimants, and I accept Mr Hall's evidence he was not aware of the claimants when they were published. But it is sufficient that those videos target the families of those who died and surviving victims, and it was foreseeably likely that the claimants, who were seriously injured in the Attack, would be directly alarmed or distressed by them.

197. In considering the quality of the course of conduct, I have taken account of the personal characteristics and vulnerability of those Mr Hall was targeting. I have borne in mind Mr Hibbert's engagement with the media, but he did not thereby lose his article 8 rights. He was a more prominent figure than his daughter, and her level of vulnerability is more extreme, but his vulnerability as a consequence of his paralysis and PTSD should not be underestimated. Each of the incidents relied on as constituting the course of conduct was deliberate. The course of conduct was persistent over a prolonged period. Indeed, since he first published each of the publications complained of, the Sentencing Remarks have been given, the Inquiry has reported, the inquests have occurred, and Mr Hall has obtained further information during these proceedings, yet he continues to publish them. Moreover, the claimants were not given to understand that the harassing conduct was over with the publication of the Film, the Book and the 2020 Video. The Book expressly referred to "*further investigation of the participants*", and the need for "*more evidence*" (paragraphs 96 and 98 above), intensifying the impression given by the treatment of any images and statements by victims, or family members, that had reached the public domain, that the claimants (and others) would continue to be surveilled.

198. In my judgment, the claimants have more than satisfied the burden of establishing that the defendant's course of conduct was oppressive, unacceptable, and of sufficient gravity to sustain criminal liability.

Question (iii) Did the defendant know, or should he have known, that the conduct amounted to harassment?

199. The first question is whether Mr Hall in fact knew that his course of conduct involved or amounted to harassment.

200. Mr Hall's evidence was that, at "*no time did I believe or suspect or know, that my actions of publishing researched facts and some honest opinion could or would cause harm to anyone*" (RH2, §30). Equally, he expressed a strong belief that all the steps he took in connection with the visit to Eve's home were justified in the public interest.

201. It is apparent from his videos that he knew he was at risk of having either particular videos taken down by streaming channels, or having whole accounts closed, and that the reasons given related to the impact of his allegations that major terrorist incidents were fabricated on the victims of those tragedies. It might be thought this would put him on notice that he was abusing his platform. Nevertheless, the impression that I gained was that the defendant is so blinkered in his belief that the false story he has spun is true, and so unreflective and insensitive to the level of distress likely to be caused by his persistent attempts to discredit what those who have suffered so tragically in the Attack say about it, that he did not know his conduct amounted to harassment.

202. But the requirement in s.1(1)(b) may, alternatively, be met if the claimant shows that the defendant *should have known* that his course of conduct amounted to harassment. And in my view, that test is clearly met. The focus is on whether the defendant ought to have known that his course of conduct would have a harassing *effect* on the claimants. A reasonable person in possession of the same information that the defendant had would know the course of conduct in which he engaged would alarm, distress and have a harassing effect on the claimants.

203. A reasonable person with such information would appreciate the unacceptability of tracking down and furtively filming Eve, given her vulnerability, and her parents' patent wish to protect her from media attention, and the alarm and distress that doing so would cause her and her family. A reasonable person with such information would realise that repeated attempts to undermine and discredit the account given by a victim of such a tragedy, which is inevitably now a pivotal fact of their lives, by making highly defamatory statements and casting out baseless and deeply offensive speculation with abandon and levity, for commercial gain, would cause real distress. A reasonable person in possession of the same information that the defendant had would appreciate how surveilled the claimants would feel as a result of his treatment of their words and images and adoption of intrusive investigative techniques, and would understand how disturbing and distressing it is for people who have suffered as they have to feel so surveilled.

204. Subject to consideration of the two defences that have been raised, I find that the claimants have met the burden on them of establishing that the defendant pursued a course of conduct which amounts to harassment of each of them, and which he ought to have known amounts to harassment of them.

Defence of detection or prevention of crime

205. The defendant pleaded reliance on the s.1(3)(a) defence at paragraphs 38 and 42 of the Defence. The only offences he identified as relevant are those created by s.35(2) and (3) of the Inquiries Act 2005 ('the 2005 Act'), which provide:

> "(2) A person is guilty of an offence if during the course of an inquiry he does anything that is intended to have the effect of–

> (a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided to the inquiry panel, or
>
> (b) preventing any evidence, document or other thing from being given, produced or provided to the inquiry panel, or anything that he knows or believes is likely to have that effect.
>
> (3) A person is guilty of an offence if during the course of an inquiry–
>
> (a) he intentionally suppresses or conceals a document that is, and that he knows or believes to be, a relevant document, or
>
> (b) he intentionally alters or destroys any such document.
>
> For the purposes of this subsection a document is a 'relevant document' if it is likely that the inquiry panel would (if aware of its existence) wish to be provided with it."

206. However, this defence is available only if the purpose of prevention or detection of crime is the 'dominant' purpose of the course of conduct. Mr Hall has given no evidence that this was even a purpose of his, still less his dominant purpose. Mr Oakley relied on Mr Hall's evidence that he wrote to the Chair of the Inquiry, and four Counsel to the Inquiry, on 2 April 2020, providing each of them with a copy of the Book (RH2 §§31-33). Mr Hall said that his purpose in sending the Book was "*to make them all aware of the evidence I had uncovered*". He did not say that he sought to draw to their attention to any potential offence under the 2005 Act, with a view to them taking steps to detect or prevent it, and nor does the Book do so.

207. Moreover, it is impossible to see how detecting or preventing an offence contrary to s.35 of the Inquiries Act 2005 could have been any part of Mr Hall's purpose when he published the 2018 and 2019 Videos, presented his live show, or visited Eve's home, given that the announcement of the establishment of the Inquiry was made after those events. Each of the publications complained of was put into the public domain. Other than sending the Book to the Inquiry, there is no evidence that Mr Hall sought to draw any of those publications to the attention of anyone with responsibility for investigating or prosecuting crime.

208. I conclude that this defence fails as the defendant has not shown that his dominant purpose in engaging in the course of conduct was the prevention or detection of crime. It follows that it is unnecessary to address the test of rationality to which Lord Sumption referred in *Hayes*.

Defence of reasonable course of conduct

209. What occurred at the Manchester Arena on 22 May 2017 is an important topic. It is plain that Mr Hall's investigation has not been lacking in industry. He said that he began researching the topic in around 2018, and he agreed with Mr Price, in cross-examination, that the Book which he compiled was "*detailed and meticulous*". Mr Hall has gathered and scrutinised every image of and statement made by the families of the deceased and

the surviving victims, including the claimants, that he has been able to find. He has gathered and scrutinised any publicly available footage of the Attack, statements of emergency responders and other witnesses, as well as other materials such as police radio communications. He sought to obtain information from Mr Hibbert and Ms Gillbard directly, albeit his message did not reach Mr Hibbert and he was unable to speak to Ms Gillbard during his visit.

210. However, although the subject-matter was important, the words spoken and written by Mr Hall on the topic were not. In my judgment, this is a case, like *Hourani*, in which the falsity of Mr Hall's publications is a significant factor in assessing the reasonableness of his course of conduct.

211. The false allegations that Mr Hall made were grave, with the consequence that a very large number of people have been misinformed, and led to believe that the Attack was a hoax, that the claimants were not injured in the Attack, and that Mr Hibbert has (along with many others) repeatedly and publicly lied to the public for monetary gain. Mr Hall has published and continues to publish his false allegations despite the Attack having been the subject of thorough investigations, a criminal trial, and authoritative reports which any reasonable person would recognise command respect. Mr Hall's publications are not only false, but they also lack any semblance of balance. To the extent that the claimants' side of the story is presented, it is for the purpose of deriding it and often of mocking those who suffered so terribly on the night of 22 May 2017. Mr Hall has repeatedly and continuously published the "*statement analysis*" in which he and Ms Lewis pick apart, on the most feeble and spurious bases, a deeply personal (albeit public) account given by Mr Hibbert of what he thought at the time were his and his daughter's dying moments.

212. I have already explained why I consider that the visit to Eve's home, and surreptitious filming of her, bearing in mind her extreme vulnerability and the obvious efforts of her family to shield her from public attention, was a serious breach of her privacy rights. Given the information available to Mr Hall, and the circumstances, for the same reasons I find that it was also unreasonable conduct.

213. Despite his industriousness, Mr Hall brought no sensible critical analysis to bear in producing his publications. Even in cross-examination, having heard Mr Hibbert give sworn evidence as to what happened to him and to Eve, and having heard Ms Gillbard confirm the nature and timing of their injuries, Mr Hall said that "*there is no evidence*" to show that what they say actually happened. His approach is blinkered and irrational, and I have no hesitation in concluding that the course of conduct as a whole was unreasonable. Mr Hall has failed to establish that he can avail himself of either of the defences on which he has relied.

Have the claimants suffered from anxiety and/or distress as a result of the defendant's conduct?

Mr Hibbert

214. Mr Hibbert and Mr Lloyd were both honest and reliable witnesses who gave evidence, which I accept, about Mr Hibbert's reaction to the visit and Mr Hall's publications.

215. Mr Hibbert's evidence is that when he first became aware of a video published by Mr Hall accusing himself and Eve of lying about being involved in the Attack and about their injuries:

> "It deeply angered and infuriated me, but I was too busy with work and campaigning to give it too much thought at that [stage]. I thought it was something that would pass. I tried to ignore it." (MH3 §§5-6)

216. In cross-examination, he said that at this stage:

> "… it was a case of, you know, you kind of laughed it off really. I must have been doing something right, if, you know, I had a conspiracy theorist coming after me".

He had spoken to similar effect when interviewed for one of the BBC broadcasts in October 2022, saying, "*but me being me, I just laugh it off*".

217. In his own book, published earlier this year, Mr Hibbert described himself as "*from the old school – although sticks and stones may break my bones, words can never hurt me*". In cross-examination, he said that was the way he was brought up, and his response was to "*brush it off*". But that was not to say that it did not affect him. Having people saying that he was lying was "*not a nice thing*".

218. Mr Lloyd recalled that they had an initial discussion in about 2018 and "*at that point Martin kind of brushed it off*". But he observed in cross-examination that:

> "Martin is very good at masking his feelings, and he is a very proud man and does not talk openly about them very often, and it is usually when things really get to him that sometimes it does overtake him, but he tries his best to take all things as they come."

219. Similarly, in his witness statement, Mr Lloyd said:

> "He hides his anxiety well: he doesn't talk much about it and hides behind humour. But I have known Martin years now, and I can see the tension in his face when he is out in public. Sometimes we will meet up and he will have very little to say. I know then it is playing on his mind. Normally you can't stop Martin talking!"

220. Although Mr Hibbert had sought to shrug off the earlier videos, his reaction to learning of the September 2019 visit was more intense. Mr Hibbert first heard about Mr Hall's visit and recording of Eve from Ms Gillbard, during a phone call, after she had been informed by the police, on or around 21 July 2021. Mr Hall said in evidence:

> "I was on my own in my car, and I had to pull over. I was shaking. This was really serious. The police had to get involved. What if he came to me? What if he tried to harm a member of my family? The 'what if' just wouldn't stop going round and

> round in my mind. My mind went into overdrive. I was furious. I have never been so mad in my life." (MH3 §§10-11)

221. After Mr Hibbert had spoken to Ms Gillbard, he spoke to Mr Lloyd who said:

> "It was clear to me that Martin was incredibly distressed and upset and we spoke for a long time to help him calm down." (SL1 §24)

222. Mr Hibbert said:

> "Over time I became more and more aware of the videos on Mr Hall's website: www.richplanet.net. Sometimes my friends or family would tell me about a new video, or I would be 'tagged' in a video on social media. Sometimes Mr Hall's followers would 'tag' me in the videos." (MH §12)

In cross-examination, Mr Hibbert said that he would find out about the videos in several ways, from his own followers, from Arena survivors, from friends, family, and also from Mr Hall's followers tagging him and putting a link to the video.

223. In cross-examination, Mr Hibbert emphasised that:

> "This is not just a one off video that he did in 2018. This is constant, you know, video after video after video, you know, constantly ripping apart my interviews, things that I have said, constant for five years, you know? I think that would bring anybody down, and it does, it changes the way that you think, you know, to the point where I was even scared of going back to my car on my own. I am a 48 year old man and I am scared to go to the car on my own."

224. Mr Hibbert said:

> "The videos and book suggest I am lying about the events of the 22 May 2017. They say Eve and I were already injured. They say we are making money from it. It infuriates me. Why would we lie about the worst night of our lives?
>
> I cannot begin to describe the feelings I had as I scrolled through his website or when someone told me there is another video. How could anyone think we were making this up?" (MH3 §§17-18)

225. Mr Hibbert said:

> "The Panorama programme, screened in October 2022, triggered a huge reaction. I was invited on to TV to discuss it, and I became increasingly worried for the safety of myself and Eve. Mr Hall had managed to find Sarah's address. What if he found mine? What if he went back to Sarah's? My wife Gabby didn't want to

> be on her own. She would get her elderly mum to cover over so she wasn't on her own. It affected every aspect of our lives.
>
> …
>
> It feels as though no one in my life is safe from Mr Hall and his followers. Now I won't go back to a car park on my own. I will always ask someone to accompany me. I will always use a taxi rather than public transport (although I accept some of these reasons are related to my disability, not just Mr Hall). I constantly worry about Eve. I worry Mr Hall or someone influenced by him will turn up at her house. I worry about her worrying about Mr Hall, who she calls 'the stalker man'. She has so much going on: she shouldn't have to deal with this as well. It is exhausting, having to look over my shoulder all the time.
>
> …
>
> This has been a constant source of worry and upset for me. I might not always show it: but that is simply how I was raised. The sooner Mr Hall stops his campaign of harassment the better." (MH3 §§32-33, 37-38 and 41)

226. In cross-examination, Mr Hibbert acknowledged that when he referred to "*the hell we have endured over the last 6-7 years*" and said the "*entire situation is very distressing and is causing a significant amount of psychological anguish to us all*" (MH2 §41), he was referring not just to Mr Hall's conduct but to "*everything ... the trauma, ... our injuries, ... the visits to the hospital, the continued rehab, mental*", and to the death of his mother.

227. Mr Lloyd's evidence was that:

> "He was furious RDH had filmed Eve and Sarah, and that he knew where they lived. He was worried for their safety.
>
> Martin now regularly talks about how he might defend himself if anything ever happened to him. This isn't something he talked about before RDH. I became increasingly conscious of his position in a wheelchair, and how easily he could be attacked, to the point now where I feel I am always on alert when we are out together as he is often recognised." (SL §§26-27)

228. It is clear that Mr Hall's course of conduct has alarmed and distressed Mr Hibbert. In the initial stages, when only the 2018 and 2019 Videos had been published and come to his attention, Mr Hibbert suffered a degree of upset, but he was able to remain fairly sanguine in his response. The discovery that Mr Hall had tracked down and filmed his daughter was extremely alarming and distressing for him. And as increasingly intrusive and offensive publications came to his attention, it is plain despite his characteristic efforts to mask his feelings, that Mr Hibbert's level of distress and anxiety for his daughter, himself and close family and friends has been exhausting and debilitating.

229. The defendant contended that if Mr Hibbert had suffered stress and anxiety over his publications, he would not have waited until December 2022 before he first contacted him, by means of the pre-action protocol letter sent by his solicitors. It is apparent that Mr Hibbert chose to delay bring proceedings until after he had returned from scaling Mount Kilimanjaro, as he did not feel able to focus on bringing litigation until then. I accept Mr Lloyd's evidence that this was not because his *level* of concern was less at that time; it was just a question of *focus*. In the circumstances, I am not persuaded that the time taken to bring the proceedings detracts from the powerful evidence that Mr Hall's course of conduct caused Mr Hibbert to suffer alarm, distress and anxiety.

Eve Hibbert

230. The main evidence as to how Mr Hall's course of conduct has affected Eve was given by her mother, Ms Gillbard, and by her Learning Assistant, Ms Burke. They too were honest and reliable witnesses whose evidence about Eve I have no hesitation in accepting.

231. Ms Gillbard's evidence is that she has "*always sought to keep Eve out of the public eye*". Neither of them has "*ever done any publicity about the attack, Eve's injuries or her rehabilitation*". Eve has only ever spoken about what happened to family, friends, doctors and therapists. They live a "*quiet life*" and "*try to stay out of the public arena as much as we can*", albeit she agreed to publication of the passages about Eve that Mr Hibbert has included in his book. Ms Gillbard wants Eve to have "*as 'normal' a life as she can*", despite the awful injuries she has suffered and the problems they have caused her. She does not want Eve to be "*'that girl from the arena'*". She has "*worked incredibly hard to create a space for Eve and me to live in away from any publicity, a space where I feel I can protect Eve*" (SG1 §6, SG2 §§6, 14).

232. It is in this context that Ms Gillbard says:

> "We don't want Eve to be discussed, speculated about, studied by people who don't know her or us. We certainly don't want her injuries being scrutinised in public. And the last thing we want is people trying to conduct investigations into our life." (SG2 §6)

233. The effect on Eve has to be understood in the context of her injury which has affected her cognitive ability. For about two years following the Attack she was mute, but she has regained the ability to speak. She has also relearned how to read, but her reading ability is at the level of an 8- or 9-year-old. Her mother says that she has "*half a functioning brain*". Consequently, she "*struggles with short term memory, gathering words, anxiety and processing delay to name a few*" (SG2 §19). She has "*PTSD and is on two lots of antidepressant medications to deal with the PTSD and a mood controller. It is finely balanced and anything can knock her off and trigger her anxious behaviour*" (SG2 §23). She suffers from flashbacks and "*perseveration which means that her brain loops*" (SG2 §25).

234. Ms Gillbard says that she first heard the defendant's name when police officers visited her in the summer of 2021, and informed her that he had said in a YouTube video that he had been to the property and filmed Eve (see paragraph 140 above). Ms Gillbard gave evidence that:

> "I had to try and explain the situation to Eve so she was vigilant about him. She knows I've had to tell school, that the police have been here and that I have told both neighbours." (SG2 §20)

And in cross-examination she said that Eve, too, had not heard of Mr Hall until July 2021.

235. Ms Burke recalled that one evening she received a message from Ms Gillbard, followed by a phone call the next day:

> "She told me that Richard D Hall's documentary about the Manchester bomb had been featured on Panorama and that Eve was aware of this. … After the documentary was released, Sarah told Eve about it. She didn't want her to hear about it from anyone else." (DB1 §11, 14)

236. Eve watched the Panorama programme, in which Mr Hall's publications were discussed, with Ms Gillbard. Asked why she had allowed Eve to watch the programme, Ms Gillbard said in cross-examination:

> "Because she needed to. I watched it first and I let her watch it the following day with me, because she needed to be aware in case anybody mentioned anything to her at school."

237. In her second statement, Ms Gillbard explained:

> "[Eve] worries about the 'stalker man'. Hearing about him upsets and scares her and causes her to have sleeping problems and flashbacks. Eve is not able to cry, but she 'dry cries' about him. She does not like the fact that he has been at our home which is meant to be her safe space where no one could get to her and he has made her feel unsafe. She is petrified that 'someone is going to come back and get her'. …
>
> Eve cannot understand why someone would try to say she is lying about this. Since I told her about the Defendant and that he doesn't believe her, Eve has repeatedly returned to this issue when she becomes anxious, and when she does she asks me why he doesn't believe her, and why he is saying things about her and her dad.
>
> It is worrying and unsettling to think that people know where we live. Eve picks up on my emotions and then worries about me, constantly asking me if I am okay. We know what the Defendant looks like, but not what those who follow him look like. There are cars everywhere. There could be someone sitting outside of our house watching us and we would not know about it. We don't know who they are or what they look like and it's worrying. This is one of the most concerning and unsettling thoughts of all; that one of the Defendant's followers might start doing what he was doing and investigate and secretly film us. I know it plays on Eve's mind as sometimes she will bring the situation up, asking

> things like 'what is happening with that stalker man'." (SG2 §§21-22, 26-29)

238. Ms Gillbard acknowledged that Eve refers to the defendant as "*the stalker man*" because that is how she refers to him. Eve has not learned of his activities directly, from his publications, but from what she has been told by her parents or overheard, and from the Panorama programme. Ms Gillbard explained that even when Eve has earphones in and appears not to be listening, she will overhear Ms Gillbard's conversations with her mother or Mr Hibbert about the defendant. The same is true, given the size and layout of their home, when Eve is in her bedroom.

239. Ms Burke gave evidence that:

> "Since learning about the Defendant's interest in her, attempt to contact her and the fact that he is publicly denying that the bomb attack injured Eve (and others) Eve will often ask 'Why me?' or say 'I don't understand why he's done it?' …
>
> She will mention the Defendant or her injuries at least once a week. However, if Sarah has an appointment with the solicitors or if she knows I'm speaking to them, it will be every day that she talks about these things. The same questions: 'Why me?' 'Why does he not like me?' 'Why doesn't he believe me?'"

Ms Burke acknowledged, in cross-examination, that when Eve mentions her injuries, her comments are not always related to the defendant, but she said that Eve will often talk about the defendant's allegation that she "*got her injuries from a car crash*".

240. Ms Burke had taken a contemporaneous note of a conversation she had with Eve in college on 8 July 2024. Eve was anxious because it was her first day back after a period of home learning, due to an issue with her wheelchair. She was triggered in the morning by red paint splattered on the tiles in the bathroom. Those matters were, of course, unrelated to the defendant. But when Eve returned to the class she asked for a chat with Ms Burke. Eve appeared anxious and Ms Burke asked her what was on her mind. Eve said, "*my dad come round on the weekend and we've spoke about stalker man*" (DB2 §10). In cross-examination, Ms Burke did not think that was how Mr Hibbert referred to him. She had known that "*Sarah and Martin had been planning to mention the trial to her, so that she didn't hear about it inadvertently from someone else*" (DB2 §11). Ms Burke said:

> "Eve asked if I was writing everything down to tell the court. I told her that the court might need it but that I wanted to keep a log for college to keep her safe. Eve said 'Don't tell him, he will laugh'. I asked Eve who she was talking about and Eve said 'Richard'. I said to Eve 'what do you mean he will laugh?' Eve said 'if he knows I'm talking about him in college he will laugh'. I asked Eve why she thought Richard would laugh at her. She replied 'because he will think I'm stupide and he will know that I'm bothered by him so he will laugh'. I tried to reassure Eve that her feelings were valid. Eve said 'I don't like him. He has been to my house Daisy; he's tried to look for me. I just want this all

> to be over.' Eve expressed she didn't 'feel anger inside her body' today: she felt upset." (DB2 §§13-16)

241. Ms Burke said:

> "… I am making this statement as someone who knows her very well and has seen how learning about the Defendant's campaign has affected Eve. It has caused her real, lasting and persistent anxiety, and enormous distress. … It is heartbreaking to hear Eve speak about the Defendant and ask why he doesn't believe her. I don't have any answers. What am I supposed to say?" (DB1 §§24-25)

242. Mr Oakley submitted that any harm to Eve has been caused not be the defendant's activities, but by her mother's decision to let her watch the Panorama programme, which he described as "*very unwise*", and to call him "*the stalker man*", and by her parents telling Eve about his activities, or taking insufficient steps to avoid her overhearing their conversations.

243. I reject that contention. Ms Gillbard first told Eve about the defendant when she learned from the police about his visit. She wanted Eve to be on her guard, and it is unsurprising that Ms Gillbard perceived what he described doing in his video as stalking. Eve's knowledge of what he had done was brought about by his own activities by visiting and then talking about the visit in his publications. Ms Gillbard evidently made a careful decision to watch the Panorama programme with her daughter. There is no sound basis for questioning the wisdom of her decision given that she knows her daughter better than anyone, and neither the defendant's Counsel nor the Court has seen the Panorama programme, which was not adduced in evidence. Nor can her parents properly be criticised for explaining to her, in simple terms, what he has done, and what they are seeking to do about it to safeguard her. In any event, it was better that Eve, who is an adult, albeit she has cognitive deficits, was not kept in the dark, given the likelihood that she would overhear her mother talking about the defendant's activities.

244. In my judgment the impact on Eve flows from the defendant's course of conduct. It is plain that his course of conduct has caused her, as Ms Burke said, "*real, lasting and persistent anxiety, and enormous distress*".

Conclusion on harassment claim

245. For the reasons I have given, I am satisfied that the claimants' cause of action in harassment is fully made out and must succeed.

DATA PROTECTION CLAIM

246. The General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016) ('the GDPR') was saved into UK law by s.3 of the European Union (Withdrawal) Act 2018 and s.3(10) of the Data Protection Act 2018 ('the DPA 2018'), which defines it as the 'UK GDPR'. The UK GDPR has had effect since 11pm on 31 December 2020.

247. The UK GDPR imposes specific duties on "*controllers*" (and in some limited respects that are not relevant to this claim, "*processors*") in respect of their "*processing*" of the "*personal data*" of "*data subjects*": see the definitions in article 4. The duties are subject to exclusions and exemptions contained within the UK GDPR or, so far as relevant to this claim, Schedule 2 to the DPA 2018.

248. The pleaded claim is that the defendant's processing of

   a) the video recording of Eve at her home;

   b) the images of and information about the claimants' medical conditions; and

   c) the assertions that the claimants were not injured in the Attack and are lying about their experiences,

   was "*unfair, excessive and not for a lawful purpose*" in breach of articles 5(1)(a) and 6, and article 5(1)(d), of the UK GDPR.

249. Save to the extent that complaint is made of the *continuing* processing of the claimants' personal data, all of the alleged processing occurred in the period after 25 May 2018 (when the GDPR took direct effect in UK law, and the material parts of the DPA 2018 came into effect), but before the UK GDPR came into effect. It seems to me, therefore, that I am concerned with two different legal regimes, applicable at different times. The applicability of the pre-UK GDPR regime was not addressed by either party and, so far as I can see, any differences appear to be immaterial for the purposes of this case. For convenience, I have I referred below to the UK GDPR.

250. As I indicated at the outset, the data protection claim was not the focus of Mr Price's submissions. This is understandable, given the merits of the harassment claim, and the likelihood that the data protection claim, if successful, would not add anything of significance to the remedies available for harassment. But the consequence is that I have had considerably less assistance than the pursuit of a claim in this complex area would merit. I note, for example, that the parties have put before me Chapter 3 of Part 3 of the DPA 2018, but the provisions contained in that Part are of no relevance to this claim. They apply only in relation to "*the processing of personal data for a law enforcement purpose*": s.29 and s.43(2) of the DPA 2018.

251. Mr Oakley submits that it is open to the court to decline to hear the data protection claim, and to invite the claimants first to make a complaint to the Information Commissioner's Office ('the ICO'). In this regard, he relies, by analogy on the principle, applicable in judicial review proceedings, that the court will usually exercise its discretion to refuse permission to apply for judicial review, and may refuse relief, if the claimant has failed to exhaust a suitable alternative remedy. I am not persuaded that the principle applies, in this context, given the claimants' statutory right to bring a claim before the court; but in any event as the ICO does not have the power to grant the relief sought such a complaint would not constitute a suitable alternative remedy for the purposes of the judicial review principle.

252. Mr Oakley draws attention to the relief sought in the Particulars of Claim which, leaving aside a remedy which is only sought for the harassment claim, comprises "*Damages including aggravated damages for breach of the Claimants' data protection rights*" and

"*An injunction*". It is unclear whether an injunction is claimed only in respect of the harassment claim and, if not, the basis on which it is sought in the data protection claim.

253. Mr Oakley acknowledges that, in principle, it is open to the claimants to bring this data protection claim, but draws attention to the lack of any pleaded claim pursuant to ss.167-169 of DPA 2018 for a compliance order or for compensation for contravention of the UK GDPR or other data protection legislation. He also points out that there is no pleaded claim for rectification pursuant to article 16, for erasure pursuant to article 17, for restriction of processing pursuant to article 18, or otherwise for any remedy provided in articles 20-22 of the UK GDPR. He queries what the Court is being asked to do.

254. There is force in Mr Oakley's submission. At the trial, the parties focused on the issue of liability (albeit, very largely, in respect of the harassment claim), leaving remedy for determination, if necessary, at a later stage. Nevertheless, before embarking on determination of liability in respect of the data protection claim it is necessary to consider whether any available remedy has been properly pleaded.

255. The claimants' skeleton argument indicates that they claim compensation under article 82 and/or s.168 of the DPA 2018, a compliance order under s.167 of the DPA 2018, requiring erasure of the data, and the taking of the steps prescribed by articles 17(2) and 19. There is a reference in paragraph 34 of the Particulars of Claim to the Principles having the effect that the defendant is required to erase or rectify, without delay, personal data that are inaccurate; but no claim for such relief has been pleaded, as it should have been if it is claimed: paragraph 9 of Practice Direction 53B and CPR 16.4(1). Nevertheless, it seems to me that it is tolerably clear from the pleaded claim for "*damages*" for breach of the claimants' data protection rights that they seek compensation pursuant to s.168, s.169 and/or article 82. So I would not reject their data protection claim for failure to plead *any* available remedy.

256. The Particulars of Claim address the data protection claim in four paragraphs: POC §§33-36. The first issue that arises is whether the claimants were data subjects. Article 4(1) of the UK GDPR provides:

> "'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person".

257. The Particulars of Claim assert:

> "33. At all relevant times:
>
> a. The Claimants were data subjects within the meaning of article 4(1) of the UK GDPR; and
>
> b. the Defendant was a data controller within the meaning set out in the UK GDPR and the Data Protection Act in respect

of personal data processed in relation to the publications and activities set out above insofar as those publications and activities involved the personal data of the Claimants.

…

35. The following amounts to the Claimants' personal data:

a. The names and any images of the Claimants;

b. Any medical information concerning the Claimants; and

c. Assertions that the Claimants were not injured in the Attack and have lied about their experiences." (Emphasis added.)

258. The defendant has objected that he has published information that was in the public domain, and he asserts that his opinions do not constitute the claimants' personal data. These objections are not sound. The definition of personal data does not incorporate any requirement that the data was confidential and a statement of opinion can be personal data. For example, a work reference will ordinarily be about the subject of the reference, and so that person's personal data, notwithstanding that it will usually contain the referee's expression of opinion about the subject.

259. However, the claimants' pleading in paragraph 35 of what constitutes their personal data is loose and untethered. The only link to explain where the personal data is located is the reference in paragraph 33 back to "*publications and activities*" which have been referred to in any of the preceding 32 paragraphs, but then only "*insofar as those publications and activities involved the personal data of the Claimants*". The defendant is left to work out for himself which parts of that extensive material pleaded in the context of the harassment claim is said to be the claimants' personal data.

260. I readily acknowledge that, for example, the Book, the Film and the 2020 Video, at least, obviously contain material that is the claimants' personal data, making them data subjects, and the defendant is obviously a controller of such data. But in my judgment, this vague pleading does not satisfy CPR 16.4(1)(a) or the requirement in paragraph 9(2) of Practice Direction 53(b) to "*specify in the particulars of claim … any specific data or acts of processing to which the claim relates*" (emphasis added). A defendant's ability in a data protection claim to respond by erasing or rectifying the claimant's personal data depends, first, on knowing which material is alleged to constitute that claimant's personal data.

261. Save in relation to the relief sought, the adequacy or otherwise of the pleading of the data protection claim was not a matter that was addressed during the trial. In the circumstances, I consider that the fair course is not to reach any final determination of the data protection claim in this judgment, and instead to invite further submissions from the parties on this issue, as well on remedies in respect of the harassment claim.

Overall conclusion

262. For the reasons that I have given, the claimants have succeeded on their harassment claim; and, subject to any agreement on the outstanding issues, I will invite further

submissions from Counsel on the relief that should follow and the issues that I have raised in respect of the data protection claim.