



Neutral Citation Number: [2022] EWHC 1424 (QB)

Case No: QB-2021-001052

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 16<sup>th</sup> June 2022

**Before :**

**DEPUTY MASTER GRIMSHAW**

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**Between :**

- (1) RASHPAL SAMRAI**
- (2) KASHMIR SAHOTA**
- (3) HARPRIT DILBEHER**
- (4) MANDEEP DILBEHER**
- (5) JOGINDER SINGH**
- (6) TARSEM SINGH**
- (7) SUKHDEV KAUR**

**Claimants**

**- and -**

**RAJINDER KALIA**

**Defendant**

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**Mr M S Jones** (instructed by **Peacock & Co.**) for the **Claimants**  
**Miss S Crowther QC** (instructed by **Griffin Law**) for the **Defendant**

Hearing date: 10<sup>th</sup> May 2022  
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## **Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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**DEPUTY MASTER GRIMSHAW**

## **Deputy Master Grimshaw:**

### **Introduction**

1. This case comes before me to consider the Defendant's Application dated 13 August 2021 for strike out and/or summary judgment.
2. It is common ground that the Defendant was the head priest or guru of a religious organisation founded in the principles of the Hindu religion, which has been a registered charity since 1986 (hereinafter "the Society"). The Claimants plead that the Defendant portrayed himself as something more than a priest like figure, instead claiming to be divine, with a direct link and ability to speak with God, or manifestations of God, something which the Defendant denies. This, the Claimants say, was encouraged through his sermons and teachings, as well as the purported performance of 'miracles'.
3. The Claimants were each members of the Society's congregation for many years and for various periods from 1987 onwards. As will be detailed further below, the involvement of each of the Claimants with the Defendant and the Society ceased in late 2016 and early 2017.
4. The Claimants' claims are multifaceted. Each of the Claimants claims that they were subjected to psychological domination by the Defendant, being in thrall to him as their religious leader and, it is alleged, they became accustomed to obeying without question his commands and the mores of the Society percolating from his teachings.
5. Each of the Claimants allege that, as a consequence of this state of belief and obedience, they were each required to and did part with substantial sums of money either to, or for the benefit of, the Defendant and to undertake a substantial amount of unpaid work both in and around the Mandir (hereinafter "the Temple") and also around the Defendant's own properties. In respect of these complaints, the Claimants seek equitable relief in the form of declarations, accounts and inquiries, restitution and/or equitable compensation for the monies paid and the value of the work done.
6. In addition, the first four Claimants also alleged that they were subject to sustained physical sexual abuse by the Defendant, in circumstances where his influence over them vitiated their ability to freely consent. In respect of these complaints, those Claimants seek damages for trespasses to their persons.
7. Finally, the first four Claimants also seek damages for harassment arising out of allegations that, following making complaints to the Police about the Defendant, he caused or procured unpleasant courses of conduct to be directed against them by his followers.
8. The Defendant, by way of his Defence dated 24 May 2021 denies the allegations made as to his compulsion of them. It is accepted that he was one of the leaders of a spiritual community but avers that no person has been coerced or suborned into the community or to participate in any of its activities. He denies the allegations of trespass to the person and harassment. He further denies that

payments were made or that he forced the Claimants to perform unpaid labour, in some cases asserting that donations of money and work were freely advanced for the benefit of the Society. He also positively raises defences of limitation and laches and raises various pleading points regarding the Particulars of Claim. It is said that the Defendant will argue that the Claimants ‘fell out’ with the community in 2016, are embittered about their estrangement and seek revenge.

9. The Claimants filed a Reply dated 1 October 2021 joining issue with the factual denials in the Defence and provided their responses to the limitation and laches defences.
10. When filing their Reply, the first four Claimants also sought to rely on expert evidence from an academic expert in coercive control and argue that they should be treated as persons under a disability in relation to the alleged assaults upon them as a consequence of the psychological sequelae of the trauma that they allege that they have experienced. As such, they rely upon sections 28 and 33 of the Limitation Act 1980.
11. This case came before Master Davison for directions on 25 November 2021, whereat he refused permission for the above expert evidence but granted permission to rely on the evidence of a consultant clinical psychologist.
12. The Claimants’ claim is pleaded in excess of £1,665,000, albeit the full value of the Claimants’ claim is unclear as several key aspects of the same have not been quantified. On the face of the Schedules before me, the claim may be pleaded at well in excess of this figure when fully particularised and quantified.

### **Anonymity**

13. Before proceeding further, I should note that I requested email submissions from the parties following the hearing as to whether there would be an application for anonymity prior to this judgment being handed down. By way of an email dated 18 May 2022, Mr Jones confirmed that his clients would not be seeking such an order.

### **Background and the specific claims advanced**

#### **The First Claimant (“C1”)**

14. C1 was born in 1967. She alleges that the first assault occurred in 1994 when she accompanied the Defendant to India on a form of pilgrimage; she asserts that the Defendant used his power over her to insist that she succumb to having sexual relations with him, commencing with penetrative intercourse. C1 alleges that the Defendant’s teachings were to the effect that what happened between them was a secret love shared between a guru and disciple. C1 describes within the Particulars of Claim how she says the Defendant asserted control through his teaching, including his power to determine whether she was sent to heaven or hell. Ultimately, C1 argues that these teachings, along with his coercion and control, vitiated any informed consent that C1 gave to the sexual acts that he demanded of her. In addition to the sexual acts that she was persuaded to partake in, C1 alleges that she sustained a slipped disc during a violent rape perpetrated

by the Defendant in about October 2013, was forced to undergo abortions against her will when she became pregnant three times in 2001, 2007 and 2008 and was forced to submit to sexual acts that she found degrading, abhorrent and painful, but which the Defendant continued with despite requests to stop.

15. C1 states that this pattern of behaviour continued until around October 2016, during which time she was subjected to sexual, emotional, spiritual, psychological and financial abuse.
16. The financial claims relate to allegations that the Defendant compelled C1 to incur substantial financial outlay in his favour, which she says are particularised within Schedule 1A to the Particulars of Claim. C1 seeks restitution and/or equitable compensation for the monies paid over, totalling a little over £100,000. For the reasons that I gave during the course of the hearing, I find the Schedules to the Particulars of Claim to be confusing at best. Schedule 1A, by way of example, appears to simply consist of a list of bank transactions and cash withdrawals. Mr Jones, correctly in my judgment, conceded that formal Schedules of Loss were required.
17. The work claims, as I will refer to them, consist of allegations that the Defendant compelled C1 and others to undertake considerable quantities of unpaid work for his own benefit. It is said that these claims are detailed within Schedule 1B but, again, this Schedule is at best confusing and, as Miss Crowther demonstrated, appears in places to claim that C1 was working for more than 24 hours per day. C1 seeks restitution and/or equitable compensation in an unliquidated sum for the work performed.
18. Finally, C1 pursues a claim for harassment, in that she alleges that the Defendant instructed, encouraged, counselled or procured members of his “*inner circle*” to make false allegations of child abuse against her and other women who had come forward to accuse him of raping them, along with allegations relating to benefit fraud. Again, little detail is provided within the Particulars of Claim or Reply with regards to the specific factual basis upon which these claims are asserted.
19. C1 sets out within the Particulars of Claim her allegations as to the consequences of the above allegations, which are largely psychological in nature and this is expanded upon within the witness statement that she has served in response to this Application.

#### The Second Claimant (“C2”)

20. C2 was born in 1976 and started to attend the Temple when she was about 11 years old. C2 alleges that the Defendant encouraged her to massage his feet, legs, thighs and groin area. C2 alleges that, when she was about 13 years old, she was forced to perform sexual acts upon him when, in law, she was incapable of providing lawful consent to the same. C2 alleges that the requests to perform similar sex acts upon him continued until she left home to start university, along with other assaults upon her, including touching her sexual organs. C2 further alleges that the Defendant subsequently raped her on two separate occasions. It

is further alleged that the rapes and sexual abuse continued thereafter but that contact with the Defendant was cut off in around 2017.

21. Similar to the other Claimants, C2 alleges that the Defendant ordered her to carry out unpaid building work around the Temple premises and one of his own properties. She was also required to sell garlands, flowers, flags and other religious paraphernalia at the Temple between 1988 and 2017. She alleges that the Defendant required her to pay large sums of money to the Temple (c. £600,000), which she now alleges were wholly or substantially for the Defendant's own benefit. Finally, she alleges that she and her family were prevailed upon to take out loans from businesses associated with the defendant.
22. C2's claims are said to be set out in Schedules 2A and B to the Particulars of Claim but, once again, these are very difficult to follow and I repeat my observations about the Schedules that I made above.
23. C2 also alleges acts of harassment, including that the Defendant's followers threatened her with acid attacks and verbally abused her, which she alleges was "*counselled and procured*" by the Defendant.
24. C2 details the psychological sequelae that she says that she suffered as a result of the foregoing complaints, including that she was sectioned under the Mental Health Act for a period in April 2006. She further alleges that she now suffers from physical ill health, including arthritis in her hips and a deterioration in the function of her shoulders and arms, which she attributed to the physical labour that was demanded of her by the Defendant when she was younger. No medical evidence has been served in support of these alleged physical injuries despite it being noted within the Particulars of Claim that C2 would seek permission for the same in due course.

### The Third Claimant ("C3")

25. C3 was born on 19 November 1986 and began attending the Temple as a toddler with her mother, the Seventh Claimant. She alleges that she was subject to the Defendant's influence from a young age and that she was informed by him that if she did not comply with his instructions, she would be damned to hell and horrifically disabled in all future lives.
26. C3 alleges that, as a child, she would be requested to attend a private room within the Temple and massage the Defendant's feet, legs, thighs and head. This progressed as she grew older to him beginning to hug her, feeling her body. She alleges that, at the age of 16, she was required to play a drum at his services at the Temple, being required to drum until her hands bled. She would be requested to go to the Defendant's private room at the temple to be "*fondled by him*". It is alleged that, in August 2008, the Defendant requested that C3 book a hotel room so that they could meet. It is alleged that this meeting culminated in the Defendant raping her. It is alleged that the sexual abuse continued thereafter, including the Defendant requiring C3 to attend upon him in his room at the Temple to massage his genitals and continue to attend hotel rooms with him. It is not clear when this alleged abuse ended.

27. Similar to other Claimants, C3 also alleges financial exploitation and being ordered to complete unpaid work, including building work. C3's claims are set out in Schedules 3A to 3C but, once again, these are very difficult to follow and I repeat my observations about the Schedules that I made above.
28. At paragraph 98 of the Particulars of Claim, it is alleged that C3 was too frightened to discuss the Defendant's exploitation of her on the basis of his status within the community and potential ostracism from the same and from her family, as well as the taboo surrounding rape in Indian culture generally.
29. Like C1, C3 also pursues a claim for harassment as she alleges that, following her report of the Defendant's activities to the Police in early 2017, the Defendant directed or encouraged others to make false allegations against her, as well as seeking to defame her publicly. C3 claims that this campaign caused her economic harm to her fledgling cleaning business, which was forced to close.
30. C3 details the alleged sequelae from these events and claims damages for the trespasses to her person and harassment, as well as restitution and/or equitable compensation in respect of the monies paid over to the Defendant and the work undertaken by her. It is not clear to what extent she is seeking to argue for any economic losses, if at all.

#### The Fourth Claimant ("C4")

31. C4 was born on 4 June 1988 and is C3's younger sister. She alleges that, between the ages of 4 and 6 years old, she would attend upon the Defendant alone in his private room, where she would sit on his lap and he would hug and kiss her inappropriately, which seemingly continued into her teenage years, albeit she left the Temple for a period. It is further alleged that, in or around 2010, she too was requested to book and meet the Defendant at a hotel room, whereat he explained that engaging in sexual acts with him was a manner of worship of God. She alleges that, whilst telling the Defendant she did not wish to do so, she submitted to sexual intercourse with him. These requests continued thereafter, albeit it is not clear when they ceased, nor are precise dates or locations particularised.
32. It is alleged that the Defendant told C4 that, if she reported what had happened, she would be damned for eternity, nobody would believe her and that the devil himself would appear and skin her alive.
33. Again, similar to other Claimants, C4 alleges that she was submitted to financial abuse in the form of the Defendant requesting donations from her to him and to spend her money on religious paraphernalia, as well as undertaking various other commitments, as set out in Schedule 4. Schedule 4, in my judgment, suffers from the same inadequacies as the other Schedules that I have mentioned above.
34. C4 also claims that she was harassed, including her car being damaged, following her reporting the above complaints to the Police. She claims damages under similar heads of loss to the preceding Claimants.

The Fifth to Seventh Claimants (“C5”, “C6” and “C7”)

35. I will deal with these Claimants together given that, as confirmed by Mr Jones during the hearing, they do not bring personal injury claims<sup>1</sup> but do make similar claims in terms of financial and other contributions made to the Defendant and/or the Temple.
36. C5 and C6 are C2’s parents. They allege that they were given work to do at the Temple in 1989 and worked there until 2017, undertaking various tasks. Schedules 5A and 5B are said to set out the work duties undertaken by C5 and C6, as well as sums of money paid over to him. Once again, the Schedules suffer from similar deficiencies to the other Schedules outlined above, including failing to quantify the claim for unpaid work in monetary terms, instead making claims for heads of loss, such as:
- i) 167,492 hours of work undertaken each.
  - ii) Financial sums paid over to the Defendant and/or the Temple, calculated at £1,155,175.80.
  - iii) Claims for travel costs to India of some £132,000.
  - iv) A claim for mileage, totalling some 1,031,052 miles.
37. C6 also alleges that she was coerced by the Defendant into purchasing a series of cars, each funded by car loans arranged through the Defendant’s business, on extortionate terms.
38. C7 is C3’s and C4’s mother. It is alleged that C7 was vulnerable when she started to attend the Temple in around 1987 and that the Defendant had significant influence over her, as well as providing her with advice about the danger that her husband posed to her. Similar to the other Claimants, she claims that the Defendant persuaded her to perform unpaid work and further coerced her into making other financial donations and payments, as set out in Schedule 6, as well as entering into loan agreements with the Defendant’s company. The Particulars of Claim and Schedule 6 intimate claims of many hundreds of thousands of pounds plus the unquantified heads of loss.

The Defendant

39. The Defendant accepts that he is the head priest (or guru) and founder of the Society, which is founded in the principles of Hinduism. The Defendant denies all allegations of wrongdoing and pleads that the claims are baseless and a thinly veiled attempt to extract money from him. His Defence describes the claims of sexual and physical abuse as “*fantastical and completely without foundation*”.
40. The Defendant’s Defence raises a number of issues, including limitation and laches, unreasonable vagueness (and insufficiency) of pleadings, strike out,

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<sup>1</sup> This being despite paragraphs 134, 135, 136.4 and 146.4 of the Particulars of Claim. Mr Jones confirmed that any reference to personal injuries for C5, C6 and C7 should be read as merely “background” as opposed to advancing a claim for damages for the same.

fundamental dishonesty, as well as rebutting the factual and legal claims made by the Claimants.

### **The Defendant's Application**

41. The Defendant's Application seeks summary judgment against the Claimants pursuant to CPR Part 24 or, alternatively, an order striking out the Particulars of Claim pursuant to CPR r. 3.4. The Defendant's Application Notice is supported by the statement of Mr Fleet. The Defendant's Application essentially raises the following issues, which were also supplemented by Ms Crowther's written and oral submissions:

- i) The Particulars of Claim are vague, unwieldy and fail to identify the issues which the Claimants wish to try.
- ii) There are allegations which make no sense.
- iii) There are important elements to each of the claims which are completely unsupported by expert medical opinion and thus, even should the Claimants' factual case be accepted, those claims will not succeed.
- iv) There are inconsistencies between the pleadings and Dr Blyth's report, such as when C1 alleges that the Defendant first sexually abused her<sup>2</sup>.
- v) The 'Schedules' appended to the Particulars of Claim do not properly quantify their claims and, in places, look like bank account statements that have been copied and pasted into a table. The Defendant and the Court is going to have great difficulty in working out what was paid, when it was paid, the recipient of the payments and the purpose of the payments. In other places, the Schedules seem to claim for unpaid work performed for more than 24 hours per day, which self-evidently cannot be correct.
- vi) Limitation. Each of the Claimants seeks damages for personal injuries and therefore the Defendant asserts that the limitation period for the actions is three years from the date of injury or knowledge; the Defendant argues that the claims have been brought out of time and are stale.
- vii) The manner in which the Claimants are conducting the litigation is abusive.

42. The Defendant also objects to the Claimants relying on the report served approximately a week before the hearing from Dr Blyth, Consultant Clinical Psychologist, on which C1 to C4 wish to rely.

43. During the hearing, Miss Crowther also took me to a letter from the District Crown Prosecutor to C1, dated 22 August 2017, which she states calls into question C1's reliability and credibility but also whether Dr Blyth has been forensic with her analysis of the case. I have read that letter and note the

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<sup>2</sup> Comparing paragraph 39 of the Particulars of Claim with Dr Blyth's report.



contents. I also note that the Prosecutor in part relies on the concession made by C1 in the police interview that she “*acquiesced*” to the sexual activity with the Defendant. I was also taken to a ‘Victim Right to Review’ letter dated 28 August 2017 written by, or on behalf of, C2 requesting review of the CPS decision not to charge the Defendant. Again, Miss Crowther directed me to apparent inconsistencies between the Particulars of Claim and the contents of that letter as to the frequency of the alleged sexual assaults and when they were alleged to have happened.

### **The Claimants’ response to the Defendant’s Application**

44. Mr Jones, properly in my judgment, took heed of the preliminary view that I expressed during the hearing that the Particulars of Claim are somewhat unwieldy and would benefit from further particularisation and specificity. He accepts that the Particulars of Claim and Schedule(s) of Loss require amendment. When challenged as to why such amendments had not been made or sought prior to the hearing before me, Mr Jones indicated that it was felt that making such amendments would have undermined his clients’ position in terms of this Application.

### **The issues that I need to resolve**

45. On the above background, it seems to me that I need to resolve the following issues:
- i) The report of Dr Blyth and whether I should allow the Claimants to rely on the same.
  - ii) Limitation in terms of the claims involving personal injuries.
  - iii) Undue influence and whether the claims for the same should be struck out or summary judgment be given with regards to these claims, including when considering the defence of laches.
  - iv) Whether the claims should be struck out as an abuse of process and/or whether I ought to enter summary judgment on the claims.
46. I will deal with each issue in turn but first set out the legal framework in terms of strike out and summary judgment.

### **Strike out and summary judgment – the legal framework**

#### **Strike out**

47. The Court has the power to strike out a statement of case pursuant to CPR 3.4, which states as follows:

*3.4— Power to strike out a statement of case*

*(1) In this rule and rule 3.5, reference to a statement of case includes reference to part of a statement of case.*

(2) *The court may strike out a statement of case if it appears to the court—*

*(a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;*

*(b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings; or*

*(c) that there has been a failure to comply with a rule, practice direction or court order.*

(3) *When the court strikes out a statement of case it may make any consequential order it considers appropriate...*

48. The Defendant's Application is essentially made under limbs (a) and (b), albeit it was made clear within oral submissions that the way in which the Claimants have run their case up to now is, in part, abusive because of a failure to properly comply with Court orders, rules and practice directions.
49. Paragraph 1 of Practice Direction 3A gives examples of cases where the court may conclude that particulars of claim disclose no reasonable grounds for bringing the claim, including those claims which set out no facts indicating what the claim is about; those claims which are incoherent and make no sense; and those claims which contain a coherent set of facts but those facts even if true, do not disclose any legally recognisable claim against the defendant.
50. During the hearing, I was referred to various parts of the commentary following this rule within the White Book. I note the following salient points from that commentary:
- i) Grounds (a) and (b) cover statements of case which are unreasonably vague, incoherent, vexatious, scurrilous or obviously ill-founded and other cases which do not amount to a legally recognisable claim or defence.
  - ii) In respect of ground (a):
    - a) Statements of case which are suitable for striking out under ground (a) include those which raise an unwinnable case where continuance of the proceedings is without any possible benefit to the respondent and would waste resources on both sides.
    - b) It is not appropriate to strike out a claim in an area of developing jurisprudence, since, in such areas, decisions as to novel points of law should be based on actual findings of fact.
    - c) A statement of case is not suitable for striking out if it raises a serious live issue of fact which can only be properly determined by hearing oral evidence.
    - d) An application to strike out should not be granted unless the court is certain that the claim is bound to fail (*Hughes v Colin Richards & Co* [2004] EWCA Civ 266; [2004] P.N.L.R. 35, CA).

- e) Where a statement of case is found to be defective, the court should consider whether that defect might be cured by amendment and, if it might be, the court should refrain from striking it out without first giving the party concerned an opportunity to amend (citing Soo Kim v Young [2011] EWHC 1781 (QB)).
  - f) A statement of case which discloses no reasonable grounds may also be an abuse of the court's process, and, in respect of it, the opposing party may be entitled to summary judgment under Pt 24.
- iii) In respect of ground (b):
- a) Although the term 'abuse of the court's process' is not defined in the rules or practice direction, it has been explained in another context as "*using that process for a purpose or in a way significantly different from its ordinary and proper use*" (citing Attorney General v Barker [2000] 1 F.L.R. 759, DC, per Lord Bingham of Cornhill, Lord Chief Justice)
  - b) The court has power to strike out a prima facie valid claim where there is abuse of process. However there has to be an abuse, and striking out has to be supportive of the overriding objective.
  - c) The striking out of a valid claim should be the last option. If the abuse can be addressed by a less draconian course, it should be.
  - d) The court will not strike out a statement of case merely because it raises some irrelevant issues or otherwise generates some untidiness in the pleadings (citing Atos Consulting Ltd v Avis Europe Plc [2005] EWHC 982 (TCC)).
51. Miss Crowther also directed me to the case of Cleeves v University of Oxford [2017] EWHC 702 (QB), which she states summarises the material principles when considering the strike out of vague pleadings (see [35]). This paragraph of Whipple J's (as she then was) judgment sets out factors for the court to consider. I have considered these factors in reaching my decisions set out below.
52. There is no suggestion in this case that the Claimants' claims are attempts to re-litigate issues raised in previous proceedings or that they are vexatious, albeit the Defendant does contend that they are motivated by revenge.

#### Summary judgment

53. The Court may give summary judgment where it considers that a claimant has no real prospect of succeeding on the claim or issue and there is no other compelling reason why the case or issue should be disposed of at trial.
54. I take into account that it is not the court's role on such an application to conduct a 'mini trial', nor must I take at face value and without analysis everything a

claimant says in their statements before the court. The court must consider whether the claim has a realistic, as opposed to fanciful, prospect of success. In reaching its conclusion the court must take into account not only the evidence actually placed before it on the application for summary judgment, but also the evidence that can reasonably be expected to be available at trial (see 24PD.1.4).

### **Issue 1: The report of Dr Blyth**

55. When listing the present Application, Master Davison gave clear directions regarding the filing and service of evidence relied upon by the parties for the purposes of the hearing before me. Those directions included a provision to file and serve any expert reports upon which they proposed to rely by 4pm on 26 April 2022, the Master having refused permission to rely on an expert report previously obtained in circumstances where that expert had been instructed on a conditional fee basis.
56. The Claimants served a report from a Dr Blyth, Consultant Clinical Psychologist, on 3 May 2022, having previously sought the Defendant's consent to vacate the present hearing on the basis that the expert report was delayed; the Defendant refused this request. No prospective application was made to extend the time for serving the report, nor has a written application been filed ahead of this hearing.
57. I am told that the delay in serving this expert report was in part due to the Claimants instructing an alternative expert, who then declined to continue with the instruction as late as 2 March 2022; I was taken to emails within the hearing bundle in support of that explanation. Dr Blyth was then instructed on 7 March 2022 and her report is dated 29 April 2022. The other reason for delay was due to Dr Blyth seemingly being off work for a period shortly before the report was produced.
58. The Defendant invites the Court to refuse permission for the Claimants to rely upon Dr Blyth's report. This invitation is made on the basis that the report was served out of time and in fact does not advance matters much further. In response to a question from me, Miss Crowther, correctly in my judgment, did not push the late service point with any particular vigour, but did contend that the report should still be disallowed on the basis of its lack of utility. The Defendant argues that the report does not consider with any objectivity the diagnosis or causation of any of the psychiatric symptoms that the Claimants complain of. It does not adequately review the medical records or address the fact that some of the Claimants had pre-existing psychiatric history (C1 and C2). It does not give any meaningful diagnosis. It also purports to give expert opinion on the central liability issue of the Claimants' account of events (i.e. whether they freely chose to participate in the activities of the community of which they now complain).
59. The Claimants rely on the report as demonstrating that they were under a disability as a result of the psychological sequelae suffered by them arising out of the abuse that they suffered. My attention was drawn, for example, to paragraph 5.2.2 of the report, which states that:

*“To understand why these four claimants lacked the degree of control and experienced difficulty in formulating sufficient autonomy to instruct solicitors to issue civil proceedings against the Defendant, it is extremely important to understand the relationship between the power of [the Defendant] as their longstanding guru and their intense fear of recrimination and eternal damnation”.*

And I also refer to paragraphs 5.2.15 to 16:

*“Living with this degree of emotional and mental control placed the Claimants in a state of powerlessness and helplessness. For years they lacked the ability to make personal decisions and by the time it came to instructing a solicitor they had all lost any sense of personal control, self-worth, self-confidence or capacity to do anything that they feared would place them in jeopardy as all continue to fear for their lives.*

*Whilst this may seem to be an exaggerated claim to some, as a professional with experience in the area it is perfectly understandable to me as someone who has been made aware of the repellent and rebarbative nature of the relationship that these four Claimants have described having with the Defendant”.*

60. In my judgment, Dr Blyth’s report in its current form does not deal sufficiently with a number of areas. In particular, Dr Blyth does not state whether or not it is her opinion that any of the Claimants lacked capacity, within the meaning of the Mental Capacity Act, to litigate at any of the relevant times.
61. Dr Blyth’s report does, however, diagnose C1 with Phobic Anxiety Depersonalisation Syndrome and highlights that Cs 2 to 4 demonstrate various psychological symptoms at “*clinically significant levels*”, including somatisation, obsessive-compulsive symptomatology, depression, anxiety, phobic anxiety, paranoid ideation and psychoticism.
62. I allow the Claimants to rely on Dr Blyth’s report for the purposes of the present application. It was not suggested that I need to consider an application for relief from sanctions, but had I been asked to do so, I would have concluded that the breach was not serious or significant and, in any event, there was a good reason for the same. I am critical of the Claimants for not making an application to extend the time for serving the same and taking that approach very much exposed them to the risk that I may have not allowed them to rely on this report for that reason alone.
63. Whilst the report is seemingly incomplete, Master Davison’s directions gave permission for a report to be filed and served for the purposes of this application. Insofar as the report supports C1 to C4 in their case that they have suffered psychological sequelae, the report achieves that aim. Clearly, further evidence would be required from Dr Blyth to fully substantiate her opinions and the precise diagnoses. However, there is enough in Dr Blyth’s report to assist me in determining whether these Claimants’ cases are suitable for summary disposal. I am also conscious that Dr Blyth was under a certain amount of time pressure to complete this report given that the Claimants’ previous expert had unexpectedly stated that he could no longer report on this case.

## **Issue 2: Limitation – the personal injury related claims**

64. A central pillar of the Defendant's application is that the Claimants' claims are time barred by virtue of the time limits prescribed by the Limitation Act 1980. Given the multifaceted nature of the claims presented, it is necessary to consider the limitation defences separately and thus I will first consider the personal injury related claims.
65. These claims only relate to the first four Claimants, Mr Jones having conceded during the hearing that the remaining three Claimants (C5, C6 and C7) do not pursue personal injury claims, despite the pleadings suggesting that they do.

### The statutory framework

66. It is common ground that the relevant provisions in relation to personal injury cases are ss. 11 and 14 Limitation Act 1980. Section 11 states that:

*... (2) None of the time limits given in the preceding provisions of this Act shall apply to an action to which this section applies.*

*(3) An action to which this section applies shall not be brought after the expiration of the period applicable in accordance with subsection (4) or (5) below.*

*(4) Except where subsection (5) below applies, the period applicable is three years from—*

*(a) the date on which the cause of action accrued; or*

*(b) the date of knowledge (if later) of the person injured...*

67. Section 14 deals with the definitions as to knowledge.
68. The parties agree that intentional torts such as trespass to the person, in this case the alleged sexual abuse, also fall under this limitation regime following the decision in A v Hoare [2008] UKHL 6; [2008] 2 All ER 1, i.e. the three-year limitation period applies.
69. The Claimants argue that they were each under a disability within the meaning of s. 28 Limitation Act 1980 and thus could not bring these proceedings earlier than they did. Section 28 reads as follows:

*28.— Extension of limitation period in case of disability.*

*(1) Subject to the following provisions of this section, if on the date when any right of action accrued for which a period of limitation is prescribed by this Act, the person to whom it accrued was under a disability, the action may be brought at any time before the expiration of six years from the date when he ceased to be under a disability or died (whichever first occurred) notwithstanding that the period of limitation has expired...*

*(6) If the action is one to which section 11, 11B or 12(2) of this Act applies, subsection (1) above shall have effect as if for the words "six years" there were substituted the words "three years".*

70. Disability is defined by s. 38(2) Limitation Act 1980 as amended and, for these purposes, disability is defined as being the period whilst the individual is an infant, or where the individual lacks capacity (within the meaning of the Mental Capacity Act 2005) to conduct legal proceedings.
71. Finally, it is agreed between the parties that the Court has a discretion pursuant to s. 33 Limitation Act 1980 to disapply the primary limitation period. Section 33 sets out a number of matters for the Court to consider when considering the exercise of its discretion:

*33.— Discretionary exclusion of time limit for actions in respect of personal injuries or death.*

*(1) If it appears to the court that it would be equitable to allow an action to proceed having regard to the degree to which—*

*(a) the provisions of section 11[, 11A, 11B]1 or 12 of this Act prejudice the plaintiff or any person whom he represents; and*

*(b) any decision of the court under this subsection would prejudice the defendant or any person whom he represents;*

*the court may direct that those provisions shall not apply to the action, or shall not apply to any specified cause of action to which the action relates.*

...

*(3) In acting under this section the court shall have regard to all the circumstances of the case and in particular to—*

*(a) the length of, and the reasons for, the delay on the part of the plaintiff;*

*(b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time allowed by section 11, by section 11A, by section 11B or (as the case may be) by section 12;*

*(c) the conduct of the defendant after the cause of action arose, including the extent (if any) to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action against the defendant;*

*(d) the duration of any disability of the plaintiff arising after the date of the accrual of the cause of action;*

*(e) the extent to which the plaintiff acted promptly and reasonably once he knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to an action for damages;*

*(f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice he may have received.*

The Defendant's submissions

72. Similar to the criticisms made of other aspects of this case, the Defendant argues that the Claimants' pleading as to the timing of various events complained of is opaque and it is impossible for the Court or the Defendant to know what is likely to be material in terms of the case as to limitation and, in particular, the Claimants' respective knowledge. Miss Crowther's skeleton argument sets out the contentions made as to the timing of the events complained of, emphasising that the pleadings at the current time are insufficiently particularised, but also noting that none of the Claimants complain of incidents past the end of 2016. Thus, the Defendant argues, the very latest that the Claimants could have had the relevant knowledge was the end of 2016.
73. To augment this submission, the Defendant points to the fact that C1 to C4 were able to make complaints to the Police and other bodies in 2016 and 2017 regarding what they allege the Defendant did to them. Indeed, I was taken to a letter dated 21 September 2017 where it seems that C2 had instructed counsel to assist her in requesting that the charging decision be reviewed. How, the Defendant argues, can it be said that the Claimants lacked capacity to instruct solicitors to pursue a civil claim when they were able to complain to the Police. When the CPS declined to support charging the Defendant, those Claimants sought to appeal that decision, again supporting that they sufficient mental capacity and fortitude to instruct lawyers.
74. With regards to s. 33, the Defendant argued that there would be prejudice to the Defendant should the Court exercise its discretion pursuant to s. 33, including but not limited to an inability to trace members of the congregation and loss of documentation relating to the (prolonged) period relevant to this claim.
75. As such, the Defendant's position is that these claims are statute barred and thus have no prospects of success. Furthermore, even if the relevant Claimants invite the Court to exercise its jurisdiction under s. 33 Limitation Act 1980, the Court will need information before it to conclude when the relevant acts took place and their case as to knowledge and delay, as this is material to the exercise of discretion. The Claimants have provided insufficient information so far.

The Claimants' submissions

76. Mr Jones accepted that the limitation issues in this case were potentially problematic but argued that each of the Claimants had their free will overborne by the Defendant and the self-re-enforcing community of the Temple/Society, including the infallibility and divinity of the Defendant and the unquestionable obedience that was expected. Whilst accepting that, through objective eyes, at least some of the beliefs held by the Claimants may seem strange, each of these Claimants did believe the Defendant's teachings and, in consequence of that, they say that they were incapable of formulating any ability to complain, let alone bring a civil action about the things they now seek relief in relation to and whilst they remained members of the Defendant's congregation.
77. In terms of the arguments as to the Claimants being under a disability, Mr Jones argued that their disability did not end upon their leaving the congregation as it



is not a case of ‘flicking a switch’ and walking away from the previous beliefs and understandings that they had. This is supported by the witness statements provided by the first four Claimants. Instead, one has to consider whether an individual has capacity in relation to certain matters/issues, as the test for capacity is issue specific. Mr Jones used the example that a claimant might have capacity to sign a tenancy agreement but not to bring a claim against someone who they believed to be a guru. In this regard, Mr Jones took me to the case of *Maga v Archbishop of Birmingham and another* [2010] 1 WLR 1441. The nub of Mr Jones’ submission was that there is a fundamental difference between making a complaint to the Police to investigate (or making a complaint or asking for a review of a decision of that body) and embarking on civil proceedings in the individual’s own right; the latter, he says, requires far greater control over the process. This is reinforced, he says, by Dr Blyth’s opinion at paragraph 5.2.15 of her report.

78. Mr Jones went on to submit that the Claimants’ secondary position relies upon s. 33 Limitation Act 1980 and he took me through the factors set out therein. In very brief summary, his central submissions were:
- i) An explanation has been provided as to the psychological difficulties experienced by C1 to C4 and, where those Claimants are impecunious, it can also be difficult to bring such claims. The explanations provided by the Claimants are cogent.
  - ii) The Defendant has not shown that he would suffer any prejudice by the delay, particularly where his defence is simply that there was no sexual contact whatsoever. A fair trial is possible.
  - iii) In terms of s. 33(3)(d) of the Limitation Act 1980 and the concept of disability under that subsection, even if the Court is not persuaded that the Claimants were under a disability within the meaning of s. 28 Limitation Act 1980, incapacity short of disability is still a relevant consideration (relying upon *Yates v Thakeham Tiles Limited* [1995] P.I.Q.R. P135). In the present case, even if the Claimants did not lack capacity, they still had some incapacity or impairment.
  - iv) I was also taken to the decision of the Master of the Rolls in *Carroll v Chief Constable of Greater Manchester Police* [2018] 4 WLR 32 at [42] regarding the principles to be applied, emphasising the need for the court to look at the matter broadly, balancing prejudice and, importantly, considering the ability to have a fair trial.
  - v) Mr Jones conceded that it would be unusual to determine a ‘s. 33 issue’ without hearing evidence, but if the Court feels able to do so, it can.

#### Conclusions on this issue

79. All parties invited me to determine the issue of limitation for the personal injury actions summarily, with the Claimants contending that there is sufficient information before me to exercise my discretion pursuant to s. 33 Limitation Act 1980 and the Defendant inviting me to strike out the Claimants’ claims on

the basis that the limitation arguments are doomed to fail. I respectfully disagree with those polarised submissions.

80. It should be uncontroversial that these claims have been brought outside of the primary limitation period. It seems to me unlikely that any of the Claimants will be able to assert that they had insufficient knowledge within the meaning of the Limitation Act 1980 to bring this claim earlier, subject to the argument about disability.
81. There is insufficient evidence before me at this stage to determine that any of the First to Fourth Claimants were under a disability, within the meaning of s. 38 Limitation Act 1980, once they reached majority. In its current form, Dr Blyth's report provides insufficient evidence for me to conclude that this was the case and therefore, based upon the evidence currently before me, I would not be persuaded that s. 28 Limitation Act 1980 would assist the Claimants in this case.
82. I accept Miss Crowther's submission that I should look at the strength of the claims when considering whether the Court would, or should, exercise its discretion under s. 33 Limitation Act 1980. I also accept that the Defendant may be able to proffer several reasons why the discretion should not be exercised, at least some of which were explained to me during the course of submissions, including the difficulty to trace members of the Defendant's congregation and in finding relevant documentation from the lengthy period relevant to this claim.
83. This is a complex case with a complicated and protracted chronology. It is evident from the papers that I have read that it is at least arguable that some or all of the Claimants were heavily influenced and/or their will overborne by the Defendant, such that I can see that it is arguable that a Court could exercise its discretion pursuant to s. 33 Limitation Act 1980. Further expert evidence answering the specific test of disability within the Limitation Act 1980 may also result in the Court concluding that some or all of the first four Claimants were under a disability during some or all of the relevant period. In my judgment, given the sensitive nature of the claims advanced, the Court would need to hear oral evidence from the Claimants and the Defendant as to the allegations made and as to why the claims were pursued when they were, potentially alongside expert evidence. This is not an issue that I feel able to justly determine summarily, having not heard evidence from the Claimants, nor has the Defendant had an opportunity to cross-examine them. The Defendant has raised issues about the reliability and potential inconsistencies in the accounts provided and there may be some force in those criticisms; equally they may be explainable. The Court will require a much more detailed account from the Claimants as to why they brought the claims when they did if it is to be satisfied that its discretion under s. 33 should be exercised, and the Defendant will need the opportunity to cross-examine them on these issues. This will require oral evidence and is not suitable for summary determination; determining these claims summarily would not further the overriding objective, particularly when a court has to look at the matter broadly and apply the principles set out in Carroll, amongst other previous decisions.

84. As such, in terms of limitation of the personal injury claims, I am satisfied that there is an issue to be tried and am not satisfied that the Claimants' claims are doomed to fail. In my judgment, there is a real prospect of these Claimants succeeding on the issue of persuading a court to exercise its s. 33 discretion, even if they cannot succeed on an argument based upon s. 28 of the same Act.

### **Issue 3: The work and financial claims and undue influence**

85. The Defendant raises a number of issues with these claims, in particular:
- i) The Schedules appended to the Particulars of Claim are currently unclear as to what monies were paid, what the monies were paid for and indeed whether they amounted to transactions. The Court is going to have significant difficulty in determining what was paid, when such sums were paid and to whom.
  - ii) Whether there has been undue influence and where the burden would lie to establish whether there has been undue influence would depend on the transaction in question. In general terms, it would be easier for the Claimants to succeed in establishing that the burden should shift if the transactions were for larger sums; however, many of the claims in this case are for numerous small sums. The Defendant argues that there is no evidence of a transaction for the cash claims upon which undue influence can attach.
  - iii) There are examples of where it has been said that donations were voluntary. For example, in C3's interview with the Police, she stated that, "*You go in, you can put a donation in the box, however much you want, or you don't have to*". This does not sit neatly with an undue influence claim.
  - iv) Some of the financial claims seem to be extraordinary. For example, C1 claims that she paid over in excess of £100,000 but states that she was living in a house owned by the Defendant and was a single mother receiving housing benefit and with no other signs of income.
  - v) As addressed above, there are periods where some of the Claimants are claiming for work carried out for more than 24 hours per day. An example of this can be seen in Schedule 2 where C1 claims that she performed five hours of maintenance per day between 1993 and 2016, yet also claims that she worked for 19.5 hours per day for 186 days per year during six refurbishments of the Temple between 1997 and 2016, along with 18 hours per day for 186 days per year between 1993 and 2016 for decorating gates and working at events. As Miss Crowther correctly points out, the Court could not find that this was correct.
  - vi) Similarly, Miss Crowther highlighted areas of inconsistency between the pleadings and reports made to the Police. For example, C3 alleges that she was forced to drum at services at the Temple until her hands bled, yet she told the Police in interview that, "*...Like I play a musical*

*instrument there, that's why I love playing that musical instrument and I couldn't, I couldn't just let go..."*

- vii) C1 raised for the first time the issue of a £15,000 payment that she alleges that she made to the Temple on the instruction of the Defendant when she spoke to Dr Blyth, when the same does not appear in the Particulars of Claim or Schedules.
- viii) The claims are stale and the Court should consider the defence of laches.
86. Mr Jones argues that the claim for the unpaid work and monies paid over is multi-layered, in that there are a few routes to relief for the Claimants. Mr Jones argues that the Claimants can look at rescission on the basis that the sums paid over to the Defendant and/or the Temple were procured by undue influence. Alternatively, they can seek an account of profit. Finally, they can seek equitable compensation.
87. In terms of the laches arguments, Mr Jones argued that, although a different creature of the law, the factors that the court takes into account when considering the laches defence are more or less the same as when considering the exercise of discretion under s. 33 Limitation Act 1980 and thus, he repeated the submissions made in that regard. He also argued that, irrespective of everything else, there are no grounds to refuse to the financial claims from proceeding on grounds of delay.
88. Insofar as there are inconsistencies in the evidence in relation to these and the other claims advanced, these can be the subject of cross-examination. Mr Jones in fact argued that there was a remarkable degree of congruity between the Claimants, particularly when they are from different families and are not related apart from their attendance at the Temple.
89. I was helpfully taken to two separate sections of '*Duress, Undue Influence and Unconscionable Dealing (3<sup>rd</sup> ed.)*', namely chapter 7 and parts of chapter 28. Dealing first with the definition of undue influence, I set out below paragraph 7-003 of that text as a useful summary of the legal position:

*What is undue influence?*

*Lord Scarman has warned that:*

*"There is no precisely defined law setting limits to the equitable jurisdiction of a court to relieve against undue influence. This is a world of doctrine, not of neat and tidy rules."*

*Anyone who has endeavoured to find a legal definition of undue influence is likely to agree with this statement. No precise definition is discoverable from the authorities. The reason is because, as the authorities make clear, the concept of undue influence is notoriously difficult to define. As long ago as 1857 Lord Cranworth LC pointed out "the difficulty of defining with distinctness what is undue influence". However, in Royal Bank of Scotland v Etridge (No.2) Lord Nicholls of Birkenhead described undue influence as*

*“one of the grounds of relief developed by the courts of equity as a court of conscience. The objective is to ensure that the influence of one person over another is not abused”.*

*The court will give relief on the ground of undue influence even if the complainant entered into the transaction intentionally, provided that the means used to secure the intention are unacceptable. To put it differently, undue influence is improper or unacceptable use of influence to procure consent to a transaction. This emphasis on improper or unconscionable conduct of the defendant blurs the line between undue influence and unconscionable dealing, the other ground of relief developed by equity. The relationship between the two doctrines is considered in Pt III and need not be explored here. What is important to note here is that for relief to be granted on the ground of undue influence the conduct of the defendant must be capable of being stigmatised as unconscionable.*

*Relief on the ground of undue influence is not based on any desire to save persons from the consequences of their own carelessness. The courts have always renounced any jurisdiction to set aside transactions “on the ground of the folly, imprudence or want of foresight” on the part of the complainant. To do so would be to “encourage folly, recklessness, extravagance and vice” since people could give away property foolishly or enter into contracts carelessly knowing that they could later get the property back or avoid the contract. Rather, the basis of the court’s intervention “is to ensure that the influence of one person over another is not abused”. In other words, the doctrine of undue influence is founded on the need*

*“to protect people from being forced, tricked or misled in any way by others into parting with their property ... and the equitable doctrine of undue influence has grown out of and been developed by the necessity of grappling with insidious forms of spiritual tyranny and with the infinite varieties of fraud”.*<sup>10</sup>

*In short, it seeks to protect persons “from being victimised by other people”.*<sup>11</sup> *The principle on which the doctrine of undue influence rests “is not a vague ‘public policy’ but specifically the victimisation of one party by the other”.*<sup>12</sup> *To put it another way, the basis of the court’s intervention on the ground of undue influence is to protect vulnerable persons from the unconscientious use of influence by others.*<sup>13</sup>

*It is not a requirement for relief on the ground of undue influence that the transaction must be disadvantageous to the party influenced.*<sup>14</sup> *If undue influence is established the party influenced is entitled to have the transaction set aside even if it is not disadvantageous to him or her. However, as observed in Etridge, claims of undue influence are commonly brought in cases where the transaction is in some way disadvantageous to the complainant. And substantive unfairness can be a relevant evidential factor, especially in the context of presumed undue influence, as explained in Ch.11.*

90. The same text goes on to consider the two-stage test set out in the case of Royal Bank of Scotland v Etridge (No.2) [2002] 2 A.C. 773, before summarising the position as follows:

*For relief to be available on the ground of undue influence the complainant’s capacity to make a free and informed judgment must be impaired by the defendant’s conduct that is unconscionable. The two elements (impairment of the complainant’s free will and unconscionable conduct of the defendant) must be present.*

91. I am also cognisant that a distinction is drawn between ‘actual’ and ‘presumed’ undue influence, albeit that nomenclature may be outdated. However, it seems to me relevant that undue influence *may* be proved with the aid of presumption when it involves parties between whom there is a relationship.
92. Miss Crowther also took me to the case of Azaz v Denton [2009] EWHC 1759 (QB), which is similar to the present case. Miss Crowther particularly drew parallels with Dr Azaz’s claims for damages and/or equitable compensation as a result of carrying out modestly paid work and abandoning a more profitable career, which the HHJ Seymour Q.C. described in that case as “*very novel propositions*” ([30]). Putting aside for a minute the different factual matrix of Azaz, I note that that case was a preliminary issues trial where the court heard evidence from the parties in that case; it was not a case concerning strike out or summary judgment. I also note that Dr Aziz sought legal advice before entering the arrangement with the defendant in that case, something not seemingly a feature of the present case, but one of the matters that Lord Nicholls highlighted in Etridge to take into account when weighing all of the evidence to decide whether undue influence was established<sup>3</sup>.
93. There will be at least two separate areas to consider for this part of the claim, namely whether there has been undue influence and, if there has, what, if any, compensation the Claimants would be entitled to. On the latter point, Mr Jones referred me to paragraph 28-070 of the aforementioned textbook, which in turn references the case of Jennings v Cairns [2003] EWHC 1115 (Ch) in debating the availability of equitable compensation for undue influence in the absence of a finding of a fiduciary relationship. Like Miss Crowther, I am not convinced that Jennings necessarily supports the proposition that the author of the text suggests but I conclude that this issue is arguable and not one that I should dismiss summarily.
94. As I have already stated, the Schedules appended to the Particulars of Claim in this case do not assist my determination of these matters. Some of the Schedules seem to be based on what appear to be lists of bank transactions from current accounts for small sums of money, sometimes on the same day, without any explanation as to what those monies were for, who they were paid to or why there were, at times, multiple transactions in a single day. I have also not been provided with any witness evidence from C5, C6 or C7 for the purposes of this hearing. I did not receive a satisfactory explanation as to why, on the face of the Schedules, some of the Claimants have claimed that they were providing more than 24 hours of unpaid labour per day.
95. In terms of the defence of laches, I was again directed to the Azaz decision by Miss Crowther, which I have read. Paragraph 113 of the judgment states as follows:

*“The consideration, in the case of laches, is, therefore, it seems to me, a broad one. What has to be considered is whether, having regard to the acts of the parties in the period between the transaction sought to be avoided and the date upon which the claim for relief was made by commencement of proceedings, and the delay between those two*

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<sup>3</sup> At [20]

*events, it would be unjust to grant a remedy. The significance of the delay is whether it has been such as to induce the other party, in a case of alleged undue influence, to suppose that a challengeable transaction will not in fact be challenged”.*

96. In terms of the first four Claimants, it seems to me that the issues raised by the defence of laches are similar to the issues raised about the exercise of the Court’s discretion pursuant to s. 33 Limitation Act 1980. When considering laches, the Court has to take account of the broad considerations that are set out in the Azaz judgment and this, it seems to me, will require consideration of live witness evidence as to why there has been a delay and any consequences of the same.
97. In terms of the final three Claimants, I have not been assisted by the absence of witness evidence from them for this Application. However, the Reply filed on behalf of the Claimants clearly puts the defence of laches in issue for the reasons set out in the Particulars of Claim. The claims made by C5, C6 and C7 are, to an extent, related to the other claims insofar as C5 and C6 are C2’s parents and C7 is C3 and C4’s mother. Given the nature of the allegations made in this case, I do not feel able to determine the issue of laches summarily, when I have not heard from the Claimants, nor have I got any substantive evidence from the Defendant on the relevant issues either.
98. Whilst I have serious reservations as to whether the Claimants will succeed on the undue influence claims, I am not satisfied that they are bound to fail and have no real prospect of success. It seems to me that the Claimants may be able to prove that there was a ‘transaction’ in that monies were paid over and/or services provided on the basis that they received some form of benefit from pleasing the Defendant and/or contributing to the Temple. Equally, I can also see that the court may find that the monies paid over were part of charitable giving. Whether there has been a transaction and the precise nature of the same will be a matter of evidence, as will a finding as to whether the Defendant’s behaviour has been unconscionable in any material way. It seems to me that it may be established that the Claimants acted under the influence of the Defendant but that does not necessarily support that his behaviour was unconscionable in terms of the work and financial claims. Therefore, whilst a borderline decision, I do not conclude that these elements of the claim should be struck out or summary judgment entered as there is an arguable cause of action and (just about) a real prospect of success, notwithstanding the potential laches defence.

#### **Issue 4: Summary judgment and/or strike out in this case**

99. The Defendant concedes that there are some factual allegations, which although he argues are baseless, would in an appropriate case need to be determined at trial after consideration of the evidence. He further concedes that, for the purposes of this Application, those factual allegations must be taken as the pleaded case sets out, i.e. I must consider the Application on the basis that the Claimants will make out all of the factual allegations that they make.
100. As I expressed during the hearing, the Particulars of Claim in this case are long and somewhat unwieldy, albeit I accept that this is a difficult case to plead given the fact that there are seven claimants and their claims are different and

multifaceted. I do accept the submissions made on behalf of the Defendant that some parts of the Particulars of Claim are lacking in detail and lack sufficient particularity for the reasons that were set out and, conversely, there are other parts that are irrelevant and of seeming peripheral importance to the causes of action.

101. I am also live to the criticism made by the Defendant that the Claimants have taken no steps so far to seek to amend the Particulars of Claim in response to the Defendant's Application, made in August 2021, despite being on notice of the Defendant's position that they are insufficiently particularised. That is a criticism that is, in my judgment, well founded.
102. The Defendant argues that another opportunity to amend will not bring the required cogency to this claim and thus I should not indulge the Claimants any further. The Claimants, on the other hand, advocate that I take the course set out within the commentary to the White Book to take a less draconian course and allow them an opportunity to amend.
103. I will deal with the two grounds of CPR 3.4(2) in turn.

**Ground (a) - no reasonable grounds for bringing or defending the claim**

**Personal injury/sexual assault claims**

104. Notwithstanding the above criticisms, the Particulars of Claim do set out legally recognisable claims for trespass to the person. Insofar as there is insufficient particularity, the Defendant can, and arguably should, have made requests for further information pursuant to CPR Part 18. The Defendant's defence to these claims is a simple one: no sexual activity took place with these Claimants, and the allegations are essentially all fabricated. However, as Miss Crowther correctly pointed out, sufficient detail is required in terms of the alleged time periods and locations of the alleged sexual assaults, as evidence may be able to be called which either supports or undermines the presence of the various individuals at the relevant places at the relevant times.
105. Criticism is made by Miss Crowther as to seeming inconsistencies in the pleadings as to whether C1 to C4 had capacity to consent to the sexual acts complained of, comparing, for example, paragraphs 27, 31 and 113 of the Particulars of Claim. Whilst different phraseology has been used to describe the position as to whether consent was freely given, the thrust of those Claimants' cases is that they were encouraged to submit to sexual acts that they did not freely consent to whilst under the Defendant's influence and, particularly in the instances of rape complained of, when they expressed that they did not consent to the penetrative acts, this was ignored by the Defendant. Of course, it may have been the case that the Claimants verbalised objection to the sexual acts on some occasions but did not on others; submission does not equate to consent being freely given on those other occasions.
106. The report of Dr Blyth does support some clinically significant psychological sequelae arising out of the alleged assaults.



107. I am satisfied that the Particulars of Claim do set out reasonable grounds for bringing the claims for these alleged torts. The facts and matters relied upon are set out, albeit would benefit from further particularisation in some respects. There are several triable issues in this case and, whilst the Defendant may point to inconsistencies within the evidence currently before the Court, it is clear that there will be substantial further evidence to consider at any trial of this claim and that evidence should be heard at trial to deal with what are, by any estimation, serious and significant allegations for all involved.
108. I am concerned as to the absence of supportive expert medical evidence in terms of any ‘physical’/orthopaedic personal injuries sustained, such as C2’s claim that the unpaid manual labour caused her to develop early osteoarthritis. Such evidence was not served with the Particulars of Claim but, in my judgment, that is not determinative and does not, in itself, render these parts of the claim worthy of strike out or summary judgment. If these allegations are to be pursued, clearly the Claimants will need to seek the Court’s permission for such expert evidence. Whilst I entirely accept that such expert evidence should have been served with the Particulars of Claim pursuant to CPR 16PD.4.3, there is no explicit sanction for not doing so.
109. Insofar as the arguments as to limitation impact upon those prospects of success, for the reasons that I have given, I am of the view that this also raises triable issues and that this is not a matter that I can determine summarily.
110. Given that Mr Jones confirmed that C5 to C7 are not pursuing personal injury claims, reference to the same should be struck from the Particulars of Claim; Miss Crowther referred to paragraphs 136.4 and 146.4 at the very least.

### **Harassment claims**

111. Miss Crowther criticises the claims made pursuant to the Protection from Harassment Act 1997. The pleadings with regards to these claims is wanting for particularity. An example of this can be seen at paragraph 51 of the Particulars of Claim, where C1 alleges that the Defendant “*instructed, encouraged, counselled or procured members of his inner circle of followers to make false accusations of child abuse against both the First Claimant and two other women who had come forward to accuse him of rape*”, yet it is not particularised what the Defendant himself was said to have done to instruct, encourage, counsel or procure such acts, who his inner circle are said to be or what he in fact told them to do. C1 alleges that the First Defendant made false allegations of benefit fraud against her to the local authority, yet no particulars of the same are pleaded. It is also alleged that he sought to defame her by publicly alleging that she and other complainants were homosexual and that is why he barred them from entering the Temple, but again no further specifics about dates or locations are provided. Miss Crowther asserts that the witness statements provided by C1 to C4 ahead of this hearing do not assist in clarifying the position. These are valid criticisms, albeit it may be that some of these facts are not known to the Claimants. Of course, if that is the case, it may well make it difficult to succeed with these claims.

112. However, C1 to C4 have each made claims that they were subjected to harassment following their report of their complaints to the Police. Two of the Claimants allege that their cars were vandalised. I do not have sufficient evidence before me at this stage to determine whether the Claimants will succeed with these claims and what, if any, evidence they have to support the contention that the Defendant instigated or procured any acts of harassment against them but it seems to me that there are reasonable grounds for bringing this part of the claim. I do also note that the Defence does suggest that these claims are being advanced because the Defendant had to raise concern about some of the Claimants sharing indecent images of children; this is similar to the allegations of harassment made by some of the Claimants. For example, C2 and C3 complain of the Defendant's followers making "*false allegations of child abuse against*" them. The courses of conduct complained of *may* amount to harassment.
113. On the face of it, C3 seemingly claims for pure economic loss because of the harassment complained of, in that she alleges that she lost a self-employed cleaning business. It is not clear to me at this stage how the harassment is said to have contributed to the loss of her business and I have doubt as to whether she will be able to establish the same, legally or factually.
114. The question for me now is, should these claims be struck out or should I enter summary judgment in relation to them? I am not persuaded that I should do so. It appears to me that they are neither bound to fail nor is there no real prospect of them succeeding. I have (serious) reservations about whether the Claimants will be able to prove that the acts complained of were instigated or procured by the Defendant but, on the face of it, four women who have made complaints to the Police about the above matters complained of have all then been subjected to unpleasant courses of conduct that are not dissimilar in nature. The Claimants may, by the time of trial, be able to evidence the Defendant's involvement. Complaints as to the lack of particularity at this stage can be the subject of amendment and/or Part 18 requests for further information rather than strike out or summary judgment. As Miss Crowther has conceded, these claims are not time barred in terms of limitation.

### **Work and financial claims**

115. I have dealt with these claims above. Whilst I have serious reservations about the same, I am not prepared to strike them out or award summary judgment for the reasons that I have already set out.

### **Misrepresentation claims**

116. I understand from Mr Jones' submissions that the Claimants consider these claims to be part and parcel of the work and financial claims that I have already addressed above. Miss Crowther argues that, for a misrepresentation claim to succeed, the Court would have to make a finding as to whether something is true or not, which would not work in the present cases.

117. On the basis that this issue does not advance the claim and is said to be part and parcel of the undue influence claims, I will not give it further consideration at this juncture, but I am troubled as to how such claims could be advanced.

Ground (b) - Abuse of process

118. As I have already set out, I can fully appreciate and sympathise with the criticisms made by the Defendant as to how this case has been run so far. The Particulars of Claim are insufficiently particularised in places. The Schedules of Loss are difficult to follow and are not sufficiently particularised or quantified. The medical evidence served for this hearing was lacking in several respects and fails to deal with some of the key issues, such as whether the Claimants had capacity to litigate. The Claimants have not sought to amend their pleadings, despite being on notice of the Defendant's Application, concerns and criticisms. Furthermore, until shortly before this hearing, the Claimants had served no medical evidence whatsoever in support of their personal injury claims and the evidence that they have now served is insufficient. No evidence has been served in relation to any orthopaedic or other 'physical' injuries.
119. However, the Claimants have presented intelligible legally recognisable claims as I have set out above. No Part 18 requests for further information have been made. A court will not strike out a statement of case merely because it raises some irrelevant issues or otherwise generates some untidiness in the pleadings and should give a claimant an opportunity to amend before taking the draconian step to strike a statement of case out. The Defendant argued with some force that the Claimants have already had that opportunity and I do have some sympathy with their criticisms, as I have said.
120. I have considered the factors set out by Whipple J in the *Cleeves* decision, along with the commentary in the White Book that I was referred to by both parties. The deficiencies with the pleading in the *Cleeves* case seems to have been of a different nature to the problems with the pleadings in this case, in that the Defendant did not know the case that it had to meet, there were issues with the Defendant having to expend money on defending a claim that may not be pursued or not pursued as understood and it could not be said positively that there were reasonable prospects of success. The claimant in *Cleeves* was also criticised for her conduct of her case, which Whipple J specifically refers to as "*further considerations in this case which lead me to conclude that this case is abusive*" [§37 to 40]; such features not being present in the case before me.
121. In the present case, one can decipher from the pleadings that there is a personal injury claim for sexual abuse and claims in terms of undue influence and harassment. Whilst the pleadings would benefit from amendment, there are discernible and legally recognisable causes of action. In my judgment, the deficiencies in the pleadings in this case are in a different category to those in *Cleeves*.
122. Insofar as it is suggested by the Defendant that the court process is being abused and not being used for the purposes of seeking justice, I reject that proposition. It seems to me that these Claimants have made complaints to the Police for alleged criminal conduct, and they are entitled to pursue civil proceedings

arising out of the same if appropriate. The fact that the CPS did not charge the Defendant with sexual or other offences is not determinative of the civil claim.

123. Whilst a finely balanced decision, in my judgment it would be too much of a draconian step to strike out the Particulars of Claim in this case. The claim itself and the way that it has been run has not reached the threshold of being abusive, in that it has not impeded the just disposal of proceedings to a high degree. I do pause for thought because of the potential that the Defendant will have to expend money in defending these claims and that he may not recover the same should he successfully defend them. However, whilst this is a factor that I have weighed in my decision-making process, the weight of this factor does not push me into concluding that this claim is abusive and should be struck out accordingly. I repeat, however, that this has been a finely balanced decision.
124. The most appropriate course of action in this case is for the Claimants to provide amended Particulars of Claim and Schedules of Loss addressing the defects within those pleadings. I am reluctant to make an Order in those terms when I have not had sight of proposed amended pleadings. I will seek submissions from the parties as to how this overall objective is best achieved, whether it be by the putting of Part 18 requests for further information or whether I simply make an order granting permission for the service of amended pleadings, despite the hesitation that I have expressed above.
125. I would also make it clear that I consider this to be a final indulgence to the Claimants. Whilst I would not seek to fetter the discretion of future judicial colleagues, I simply observe that the Claimants should be under no illusion that they must now fully comply with the court process and the procedural steps that are required of them. The Defendant will no doubt refer to this judgment should the Claimants continue to fail to prosecute their cases with the due expedition and care that is expected of them.

### Summary judgment

126. Whilst the test for summary judgment is different to that set out at CPR 3.4(2), for the reasons set out above, I am also satisfied that the Claimants have a real prospect of succeeding with their respective claims. Whilst I do have some concerns as to whether the Claimants will be able to prove at least some of the allegations that have been made, I am not persuaded that I should dispose of any of the matters summarily given the factually sensitive and complex nature of the same. As Mr Jones put it, the matters raised by these claims are “*the epitome of triable issues*”. By way of example only, there are serious allegations of sexual assault made in this case by four women, three of whom are only connected by their attendance at the Temple and/or being part of that faith community and where two of them describe sexual acts in a similar way<sup>4</sup>. It is difficult for me to conclude in the circumstances set out above that there is no real prospect that those Claimants could succeed in their claims for such sexual assaults. There are triable issues to be determined in this case, with many of the factual issues being intertwined and subject to the Claimants’ cases as to the coercive control that the Defendant exercised over them. The trial judge will be

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<sup>4</sup> See, for example, paragraphs 61 and 91 of the Particulars of Claim.

best placed to deal with these multifaceted issues but will benefit from a more coherently pleaded and focussed set of claims.

127. There may come a time where a fresh Application can be made for strike out and/or summary judgment should the Claimants not rectify the defects identified. However, at this stage, I am of the view that it would be premature and unjust to order the same.

### **Conclusions**

128. For the reasons that I have set out above, I refuse the Defendant's Application for summary judgment and/or strike out of the Claimants' claims.
129. The parties are invited to agree any consequential orders or, should those orders not be agreed, I can hear submissions at the time of handing down this judgment.
130. I also direct that a costs and case management hearing be listed before me or Master Davison, on the first available date, with a time estimate of two hours, to be heard in person. The parties shall file and serve Directions Questionnaires by 4pm on 29 July 2022. The Court will consider at that CCMC hearing whether the issue of limitation should be tried as a preliminary issue, particularly given the likely need for the Claimants to give evidence at such a preliminary issue trial and in the context of the allegations made and the likely distressing nature of such evidence.