

Neutral Citation No: [2021] NIQB 46

Ref: McA11417

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 11/02/2021

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

BETWEEN:

MARTIN DOMINIC CARR

Plaintiff

and

DROMORE DIOCESAN TRUST

Defendant

David Ringland QC led Mr Conor Cleland (instructed by Gordon Bell and Son Solicitors)
for the Plaintiff

Gareth Purvis (instructed by Berrymans Lace Mawer LLP) for the Defendant

McALINDEN J

[1] The plaintiff's date of birth is 5 November 1961. He is now 59 years of age. His claim arises out of events which allegedly occurred in 1974 and 1975 when the plaintiff was 12 and 13 years old. The plaintiff alleges he was sexually and physically abused during his second year at St Mark's High School, Warrenpoint. He alleges that Father Seamus Reid, now deceased, having died in 2001, was the perpetrator of the sexual abuse and that Mr Hugh McNamara, who, I am informed by Counsel for the defendant, is still alive, aged in his nineties, and who was the principal of St Mark's at the time, was the perpetrator of the physical abuse.

[2] The discoverable documentation in the case reveals that Father Seamus Reid has been the subject of numerous complaints of sexual abuse during the 60s and 70s and a number of claims arising out of these allegations have been settled. However, as these complaints only emerged long after the events complained of by the plaintiff in this action, it would be inappropriate for me to have any regard to these other matters in assessing whether the allegations made by the plaintiff are well founded other than to explore the possibility of the plaintiff fabricating his complaints subsequent to him becoming aware of the nature of the complaints made by others when these matters were brought into the public domain by a local

newspaper, the Newry Democrat, in 2007 or otherwise published before the plaintiff gave a detailed account of the alleged abuse.

[3] The writ of summons in this case was issued on 5 June 2017 some 42 years after the events complained of and long after the death of Father Seamus Reid in 2001. The statement of claim was served on 21 December 2017. The defence in the case is dated 5 April 2018 as is a notice for particulars. Although the defence formally pleaded a limitation defence, alleging that the plaintiff was guilty of inordinate and inexcusable delay in bringing this action, and made out the case that the defendant's ability to properly investigate the plaintiff's allegations was impaired by reason of the plaintiff's delay in bringing this claim, it is important to note that counsel for the defendant specifically informed the court that the defendant in this case was not pursuing any such defence and was not seeking to advance any such argument at the hearing of this matter. This concession removed what may have been a formidable obstacle to the plaintiff succeeding in this action and the significance of the stance adopted by the defendant in relation to limitation and inordinate and inexcusable delay will be considered later.

[4] Returning to the pleadings, the reply to the defence is dated 16 May 2018 as are the replies to particulars. It is of note that the allegation relating to the behaviour of Mr McNamara and the particulars of the plaintiff's special loss claim were only formally pleaded when the plaintiff served an amended statement of claim on 22 January 2021.

[5] The trial bundle in this case extends to almost 1,200 pages consisting of the pleadings in the case; the discoverable documentation; two statements made by the plaintiff to the Police dated 16 February 2017 and 27 March 2017; portions of the plaintiff's GP and community mental health notes and records; his counselling records; three medical reports prepared by Dr Mangan, consultant psychiatrist, dated 10 October 2017, 7 August 2019 and 13 November 2020, who was retained on behalf of the plaintiff; one medical report prepared by Professor Mezey dated 8 August 2018, who was retained on behalf of the defendant; a report from Mr John Eakin dated 27 June 2018, an educational psychologist, who was retained on behalf of the plaintiff; and a forensic accountant's report prepared by Harbinson Mulholland, dated 7 March 2019, also retained on behalf of the plaintiff. None of the plaintiff's school records are available and the same situation pertains in respect of the general practitioner's notes prior to 1992 (see page 812 of the trial bundle).

[6] The evidence in relation to the nature and extent of the alleged abuse in this case is contained in the plaintiff's two statements referred to above, the medical notes and records and counselling records and the expert reports prepared by the experts retained by the parties in this case. The plaintiff also gave evidence and was subjected to cross-examination over the course of three days commencing on Monday 25 January 2021. The plaintiff's evidence was given "live" in the court. Thereafter, Dr Mangan and Professor Mezey gave evidence remotely over a number of days by videolink. The contents of Mr Eakin's report and the forensic

accountancy report were admitted in evidence without the need of formal proof and the court received the closing oral submissions in the case on Friday 5 February 2021.

[7] In relation to the allegations of abuse made by the plaintiff and whether those allegations of abuse are well founded, the outcome of this case centrally and crucially depends on my assessment of the plaintiff's credibility and his ability to accurately recount events which occurred during his childhood, paying due regard to the extensive but admittedly incomplete relevant documentary material referred to above and the evidence of Dr Mangan and Professor Mezey. The key determinant of outcome is my assessment of the plaintiff's credibility and reliability and I am certain that this assessment could only have been properly and effectively performed by me being able to assess the plaintiff giving his evidence and being subject to cross-examination in the same courtroom in which counsel involved in the case and I were present. As stated above, the plaintiff was present in court and gave evidence over the course of three days. He gave evidence with his mask removed and this was primarily to facilitate him giving his evidence. However, this also enabled me to observe the entirety of the plaintiff's face when he was giving evidence.

[8] Having had this opportunity to assess the credibility of the plaintiff and the reliability of his evidence I am utterly convinced that the accounts of abuse given by the plaintiff in the witness box are true and accurate and I set out the relevant facts as found at this stage. I am also satisfied that when the plaintiff made his complaints about Father Reid, in 2014, he was not aware that complaints about Father Reid had been reported in the Newry Democrat newspaper in 2007.

[9] The plaintiff was one of eight children raised in Mayobridge in County Down. He was the youngest child. His parents were loving parents and observant Catholics who would in common with many of their generation have held the Catholic clergy in awe and would have instilled such values in their children. He attended St Patrick's Primary School in Mayobridge. He describes his primary school days as the happiest days of his life. He had the same teacher, Mrs McArdle, for the last three years of primary school and he was very fond of her. He greatly looked forward to starting St Mark's Secondary School in Warrenpoint in 1973. He found the first year at St Mark's tough. It took some getting used to such a big secondary school, having transferred from a much smaller primary school in Mayobridge but he enjoyed his first year and he eagerly participated in sports such as judo, weight training, running and GAA.

[10] Although the plaintiff had loving parents, it is clear that he had a troubled family life. His brother Patsy who was 15 years older than him, was a man who had very serious alcohol abuse issues and he was exceptionally disruptive, threatening, violent and abusive towards his parents and siblings, including the plaintiff when under the influence of alcohol. One example of Patsy's behaviour towards the plaintiff is when he placed a belt around the child's neck and lifted him off the ground by the belt. A sister of the family intervened and there was a very serious

row involving Patsy and the plaintiff's parents as a result. On another occasion, the parents were in such fear of Patsy returning to the home under the influence of drink that they took the plaintiff and left the family home and stayed for a weekend with one of their daughters. The plaintiff had a problem of bedwetting which persisted from childhood into his teenage years. The plaintiff is convinced that this problem persisted as long as it did because of the psychological trauma caused by the sexual and physical abuse experienced by the plaintiff while a second-year pupil in St Mark's School. However, the problem of nocturnal enuresis clearly predated the alleged abuse and, if linked to distress, may well have been linked to the behaviour of his elder brother over a number of years.

[11] In terms of the duration of the impact of Patsy's behaviour, the plaintiff gave evidence that things came to a head between the plaintiff and his brother Patsy when the plaintiff was 17 years old. By that stage of his life, the plaintiff was working part-time in the evenings and weekends in another brother's garage located beside the family home when his brother Patsy came into the garage and demanded that the plaintiff give him a lift in his car. The plaintiff indicated that he had some work to finish and he would give him a lift after that but Patsy demanded to be taken there and then. A fight broke out between the two in the garage and the plaintiff, for the first time in his life, bested his older brother and indeed knocked him out cold. The plaintiff describes this as the last time Patsy abused or troubled either him or his parents, although the fear of Patsy coming back to the house to cause havoc did remain with the plaintiff for years after that.

[12] It is clear that alcohol abuse blighted the lives of a number of members of this family and this took its toll on the plaintiff during his childhood and later in life when he started to drink alcohol. Two other brothers died as a direct result of alcohol abuse. One brother, Daniel, who had a significant and long-standing alcohol abuse problem, committed suicide in 1985 and another brother, Charlie, who also abused alcohol, fell while under the influence of alcohol in 1999. He suffered a significant head injury and he lingered in a coma for seven years before finally succumbing in 2006.

[13] The plaintiff's own difficulties with alcohol in later life will be described later but returning for the moment to the plaintiff's childhood, it is undoubtedly the case that Patsy's behaviour had a very damaging impact upon the plaintiff during his formative years and at the very least rendered him vulnerable to be preyed upon by Father Seamus Reid when he showed signs of distress at school and may also have rendered him vulnerable to suffering more severe damage as a result of the abuse that I will now go on to describe.

[14] In Catholic schools in the 1970s, a part of religious observance was regular confession and in St Mark's at the relevant time each class was taken in turn and individual students in the class received the sacrament from either Father Tom McConville, a local parish priest of whom the plaintiff retains very positive memories, and Father Seamus Reid, a priest then in his fifties, whose diocesan duties

appear to have included working in a number of local schools. One stand out feature of Father Reid which the plaintiff distinctly remembers is the pervasive smell of stale tobacco smoke from his breath and clothes, and more will be said of this later. The plaintiff's evidence was that he first encountered Father Reid in the second half of his first year at St Mark's, which would have been the early part of 1974.

[15] The plaintiff can remember where the boys' lockers were located on the back corridor in St Mark's School and he remembers that Father Reid was always there when boys were changing. He just popped up from nowhere. On one occasion, he remembers Father Reid putting his hand on the plaintiff's head and asking him how he was. The priest even knew his name and the plaintiff thought this was great that a priest should take such interest in him.

[16] In the early part of his second year at St Mark's, the plaintiff remembers being sick at school and being in the sickbay with a very upset stomach. Ms O'Hagan, the female vice principal of the school at the time was in charge of the sickbay. For some reason or another, Father Reid came into the sickbay and on learning that the plaintiff was in the sickbay and had no means of getting home, he offered to drive the plaintiff home from Warrenpoint to Mayobridge. Naturally, the plaintiff was very pleased to be able to go home and was delighted that a priest was prepared to take him under his wing and give him a lift home. On the way home, in Father Reid's Renault 5, Father Reid talked to the plaintiff about his family and he was aware that the Carr family owned a local quarry. Again, the plaintiff was delighted that the priest was taking such an interest in him and his family.

[17] When he got home, his father was at home for his lunch and both his father and his mother came out and spoke to the priest and, in a way, the plaintiff felt special because this priest thought so much of him as to bring him back to his home and to spend some time chatting to his parents.

[18] The plaintiff's next recollection of receiving individual attention from Father Reid occurred in the first part of his second year. He remembers that there was a lot of strife at home at that time due to his brother Patsy's drinking and he was feeling very upset when he went into school. While the plaintiff was present in the locker area on the back corridor, Father Reid appeared from nowhere and asked him how he was and the plaintiff informed the priest that things were getting on top of him. The priest then asked the plaintiff if he would like to receive the sacrament of confession and the plaintiff said yes. The priest then asked the plaintiff to come with him.

[19] The priest took the plaintiff to a store room which was located off one of the corridors in the school. The plaintiff thought this was strange but did not say anything. The priest then told the child to kneel facing the window and facing away from the door. The priest then knelt behind the child with his front to the child's back. One of the priest's knees was placed between the child's two legs as he knelt

facing the window and the priest's other knee was on the floor beside one of the child's legs. The plaintiff thought this was strange but did not say anything. Before he knelt facing away from the priest, he noticed that the priest put on a thin purple stole and took out his rosary beads. He also had a handkerchief in this hand. When the priest knelt down, the plaintiff now believes that his position in the store room would have been such that his feet would have been up against the door of the store room. The priest then proceeded to hear the plaintiff's confession and while doing so he reached around with his right hand and started rubbing the plaintiff's chest, with his hand remaining outside the plaintiff's school clothing. The plaintiff thought that this was strange but again did not say anything. He received his penance, the priest got up and he got up and the priest took him from the store room to his first class of the day and as he was late getting to class, the priest gave the class teacher some form of explanation for his late arrival at class which was accepted without comment.

[20] The same sequence of events was repeated a few weeks later. Again, the encounter commenced with the priest approaching the plaintiff and asking him how he was feeling. Again, as things were difficult at home, the plaintiff was grateful that this priest was taking an interest in his welfare and was glad to have someone to talk to about the situation at home and when the priest asked him if he wished to have the sacrament of confession, the child agreed.

[21] The same sequence of events also happened for a third time in the same store room, a couple of weeks after the second incident. On each occasion, the priest adopted the same kneeling position in the store room behind the plaintiff who was also kneeling and, on each occasion, the priest rubbed the plaintiff's chest outside his clothing. On each occasion, the priest donned a stole, took out his rosary beads and had a handkerchief in his hand.

[22] Following this last episode in the storeroom, the plaintiff had occasion to visit the sickbay. The plaintiff had been working on a neighbour's farm helping out with cattle and it would appear that he contracted a fungal infection of ringworm on his hand from infected cattle. The plaintiff had been sent to the sickbay by a teacher as there was a concern that the plaintiff could spread this infection to other children. When the plaintiff was lying on the bed in the sickbay, Father Reid came into the sickbay and asked the plaintiff about the ringworm rash on his finger. He told the plaintiff that the rash should be covered. The plaintiff remembers that the net curtains in the sickbay window were open and the priest closed them. The priest then asked the plaintiff if he wished to receive the sacrament of confession. The plaintiff said yes. Again, the priest donned his purple stole and took out his rosary beads and a handkerchief. He then told the plaintiff to kneel facing the window and the priest knelt behind him with his feet towards the door. This time the prayers seemed to last for quite a long time and the rubbing of his chest started right from the beginning of the prayers. After the priest finished administering absolution and the plaintiff was given his penance, the Vice Principal came into the sickbay and informed the plaintiff that he should not return to school until the ringworm

infection had cleared up. The plaintiff was subsequently seen and treated by his general practitioner, Dr Brian McCann Senior and he recalls that he was off school for some time.

[23] When he returned to school, he was working in the afternoons and at the weekends on a neighbour's farm owned by a Mr Paddy McConville and he had been working with hay for the cattle. The plaintiff gave evidence that he must have developed some form of allergy to the hay as his nose was running very badly when he went to school the following morning. At some stage during the day, he was sent to the sickbay because his nose was running so badly and when he was there Father Reid came into the sickbay and started a conversation with the plaintiff. He eventually asked him if he wanted to receive the sacrament of confession and the plaintiff agreed. The plaintiff remembers that the curtains were already closed. Events progressed as they had done on the previous occasions but the plaintiff recalls that on this occasion, he felt that the priest's rubbing of his chest was more vigorous and he thought there was something hard pressing against his buttocks. He would have known what an erection was by that stage of his sexual development but he did not give any thought to this hard feeling being the priest's erection. He assumed it was something hard in the priest's pocket. He cannot be certain that it was on this occasion that he felt something hard pressed against his bottom. It could have been that this happened on another occasion. However, he is certain that on one occasion he did experience something hard being pressed against his bottom.

[24] A while after this event, things were very bad at home for the plaintiff. His brother Patsy had been causing such upset that his parents took him to stay with his older sister Rosaleen for the weekend. This gives a clear insight into how bad Patsy's behaviour was that he could practically drive his parents with the younger children out of their home to seek refuge with another of the plaintiff's older siblings.

[25] On the Monday morning, when the plaintiff went to school, he went to the locker area as usual before his first class. Father Reid appeared from nowhere and placed his hands on the plaintiff's head and back. The plaintiff was very emotional and when the priest asked him how he was, he quite simply broke down. The priest's response was to place his hands on the plaintiff in a supportive and comforting manner and to ask the plaintiff if he wished to receive the sacrament of confession. The plaintiff agreed.

[26] Priest and child walked down the corridors of the school to the store room but on this occasion, the store room was locked. The priest then took the child through a set of fire doors out of the school to where an old small caravan was located. Father Reid had a key to the caravan and he opened the door. Inside the caravan there were pieces of timber and workmen's equipment. The plaintiff entered the caravan first and noted that there was very little room in it. As a result, he turned to face the priest and was told to turn away from him. The plaintiff was told to kneel down in this very cramped space. The plaintiff had a very clear recollection of the priest

smelling very strongly of stale cigarette smoke. He remembers him taking out his rosary beads, his stole and his handkerchief. He remembers being very upset and emotional and also being deep in prayer with his hands joined together in prayer. The priest started rubbing his chest quite forcefully. This rubbing was quite harsh. The rubbing extended lower and lower from his chest area over his abdomen and towards the groin area. The priest then placed his hand inside the plaintiff's trousers and underwear and grabbed his privates. The plaintiff was utterly shocked when this happened and immediately twisted round and it was at this stage that he saw that the priest was holding his erect penis in his other hand. The plaintiff was horrified and very frightened.

[27] The priest reacted angrily to being caught masturbating against the back of the child and immediately shouted: "Get out. Get out." He immediately adjusted his clothing and pushed the child out of the caravan, through the fire doors back into the corridor and pushed him up against the wall of the corridor beside the toilets. A PE teacher, Mr Barney McAleenan, saw the plaintiff being pushed through the fire doors and immediately asked: "What's going on here?" Father Reid replied in an angry manner: "I'm dealing with this." Father Reid then took the plaintiff to his class which was a woodworking class and at this stage the plaintiff could not make sense of what had happened and was terrified in case the boys in his class would find out what had happened in the caravan. He was panicking in case there was semen on the back of his school uniform and he felt disgusting and dirty. Mr Rooney was the woodwork teacher and Father Reid spoke to the teacher and gave some reason to explain why the plaintiff was late for class. The plaintiff immediately went to the rear of the class room in order to don a woodworking apron in an effort to hide any semen stains that might be on the back of his uniform. The plaintiff never told a living soul about these events until he broke down and informed a counsellor in 2014. The plaintiff's father died in 1987 and his mother died in 1994. He was never able to explain what had happened to him to either of his parents.

[28] The impact of these events upon the plaintiff in the short, medium and long-term will be discussed later but it is important to note that having seen what Father Reid had been doing behind his back in the caravan, the plaintiff rightly concluded that he had been behaving in an equally abominable fashion during the earlier episodes of confession in the sickbay and the storeroom. The plaintiff remembers the handkerchief on each occasion and I conclude that the handkerchief was there to catch any ejaculate which was produced as the priest masturbated while kneeling behind this kneeling child, while rubbing the child's chest and while apparently administering the sacrament of confession. It is clear that Father Reid singled out and prayed upon the plaintiff because of his vulnerability and need for support arising out of the plaintiff's difficult family circumstances. It is clear that Father Reid took advantage of the plaintiff's vulnerability and abused his need for support during a difficult period of his young life. That abuse was unfathomably cruel.

[29] I find it difficult to imagine a more horrific perversion of the true purpose and meaning of a Christian sacrament by an ordained member of the clergy of a Christian church. I contrast this abominable behaviour of Father Seamus Reid with the words attributed to the founder of Christianity at Chapter 19 verse 14 of St Matthew's Gospel as translated in the King James Bible "But Jesus said, Suffer little children, and forbid them not, to come unto me: for of such is the kingdom of heaven."

[30] The plaintiff only saw Father Reid once more at the school that year. It was when Father Reid was on stage behind Mr Hugh McNamara at a prize giving ceremony. Father Reid appears to have left the school after that year as the plaintiff did not see him at any stage thereafter.

[31] The other episode which forms the subject of a complaint by the plaintiff occurred after the Christmas holidays in his second year during the early part of 1975. On this occasion, the plaintiff was present in the school toilets. Two other pupils were in the toilets at the time. There was a form one pupil called McCartan and another second year called Benny Tinley. The toilets were quite close to the fire doors which led out to where the caravan was located. Benny Tinley was smoking in the toilets. He gave the plaintiff the butt of his cigarette to have a smoke. At this stage, the head master, Hugh McNamara, came into the toilets and ordered all three to go to his office. The first year called McCartan was taken into the office first and he emerged with a worksheet. Benny Tinley was taken in next and the plaintiff could hear that he received a caning. When he came out of the headmaster's office, he told the plaintiff that it was very painful. The plaintiff then was brought into the room and the plaintiff remembers that Mr McNamara locked the door and closed the venetian blinds and took off his jacket and loosened his tie. He appeared to be in a rage. He struck the plaintiff on the palms of his hands using a cane with such force that one of his hands started bleeding. The pain was excruciating and was so severe that the plaintiff lost control of his bladder and wet himself so that there was a pool of urine on the floor. There were also drops of blood on the floor from his cut hand.

[32] The cane caused a cut on the plaintiff's hand because the end of the cane was split. When he was striking the plaintiff with the cane in this manner, Mr McNamara said to the plaintiff in the harshest of tones: "A boy like you is not going to bring this school into the gutter." After this punishment was inflicted, the teacher unlocked the door of his office and went outside to the toilets and returned with green paper towels in his hand and shoved the towels forcefully into the plaintiff's chest and told him to wipe that mess off the floor. The plaintiff was crying and had to bend down and clean the floor. He was then told to get out of the headmaster's office and as he left the office, the PE teacher, Barney McAleenan, saw the state and condition he was in and took him to another office where he gave him sweets and contacted his class teacher, Mr Danny McGivern.

[33] The plaintiff is and always has been convinced that Mr McNamara did and said what he did because he had come to hear about what had happened to the

plaintiff with Father Reid. The plaintiff is and always has been convinced that Mr McNamara behaved in this manner in order to terrify the plaintiff so that he would not tell anyone about what had gone on in the caravan. I am convinced that Mr McNamara behaved in the manner alleged by the plaintiff and that he said what the plaintiff recalls he said: "A boy like you is not going to bring this school into the gutter." I do not know why he said that. I am certainly not satisfied to anything approaching the balance of probabilities that he said that because he knew what had happened in the caravan and he was attempting to terrify the plaintiff into silence. I repeat his reason for saying this remains unknown but I am convinced these words were uttered. I am also convinced that this behaviour and these words had a devastating impact on the plaintiff in that he, in his young mind, believed that the two episodes were related.

[34] This episode could never have been properly regarded or considered to be an episode of permissible physical chastisement of a child by a person acting *in loco parentis*. It was a cruel and excessive physical punishment of a child calculated to inflict extreme pain upon the child and with the intention of striking terror into the child. It was conducted in such a manner and in such circumstances as to grossly humiliate the child. Mr McNamara must have known he had gone too far when the child's hand was cut and the child wet himself. But instead of taking steps to minimise the harm caused to this vulnerable child by his wanton violence, he compounded it by making the child wipe up the pool of urine and the drops of blood from the floor of his office. The locking of the door during the infliction of the battery constituted an unlawful deprivation of liberty although no separate claim is made in respect of this tort.

[35] The plaintiff, when he gave evidence about these matters, became intensely upset and distressed. It was necessary to provide the plaintiff with a number of breaks to enable him to regain his composure so he could complete his evidence. I had to observe and consider these emotional outbursts in order to determine whether they were genuine or whether they were, to a greater or lesser extent, exaggerated or put on. I have no doubt that I was witnessing spontaneous and uncontrollable expressions of genuine, heartfelt and unexaggerated distress, upset, grief, anger, disgust, anxiety and hurt. I make it clear that I do not consider that the manner in which Mr Purvis cross-examined the plaintiff and put his client's case to the plaintiff was in any way inappropriate or oppressive. The plaintiff's intense and distressing reaction to being questioned about these events by both Mr Ringland QC and Mr Purvis is an indicator of the severity of the impact these events have had on the plaintiff and is not an indication of any inappropriate or insensitive conduct by counsel.

[36] In summary, I find that the plaintiff's allegations both in respect of Father Seamus Reid and in respect of Mr Hugh McNamara are convincingly proven. The defendant is vicariously liable for the tortious actions of these two individuals. No issue was taken or argument made by the defendant about the vicarious liability of the defendant for the actions of these two individuals. These torts are actionable

without proof of damage and hence I am able to state at this stage of the judgment that these torts were committed upon the plaintiff. However, I must now turn to consider the nature and extent of any injuries, loss and damage suffered by the plaintiff in the short, medium and long term as a result of the flagrant tortious actions of Father Seamus Reid and Mr Hugh McNamara, back in St Mark's School in Warrenpoint in 1974 and 1975.

[37] The plaintiff was a religious child. His parents were deeply religious people. Up to the time of the incident in the caravan, the plaintiff was a fervent believer in and an enthusiastic adherent to the tenets of his Catholic faith. In that caravan, he had been innocently kneeling, praying fervently for the forgiveness of his sins, in the belief that this trusted and caring priest was administering the sacrament of penance, through which his sins would be wiped away. What he experienced and saw in that caravan shattered his faith and destroyed any trust he had in the clergy.

[38] The plaintiff describes the realisation of what happened to him as an explosion in his head which he experienced as he sat in the woodworking class room after the episode of abuse in the caravan. He realised what Father Reid must have been doing on each of the other occasions when he heard his confession. He was intensely angry and he resolved to leave that school as soon as he could. All he could think about was counting the days until he could leave that school at the age of 16, a school that he grew to hate. He became entirely and completely disengaged from learning for the rest of his time at that school. His resolve to leave school as soon as he could, his hatred of the school and his complete disengagement from his studies were reinforced by the actions of Mr McNamara in early 1975. His personality and his approach to others changed. He resolved to never let anyone hurt him again and never to back down in an argument. He didn't look for rows but if anyone tried to hurt or bully him or, indeed, challenge him, his reaction was fierce and violent. He frequently got into fights at school.

[39] His elder brother Patsy continued to intermittently torture him and his parents but that all came to an end when the plaintiff was 17 years old and he was finally able to best his brother in a fight and knock him out. His brother Patsy never bothered him again after that. It is to be noted that Patsy subsequently managed to overcome his abuse of alcohol and has been sober since 2005. Since that time, relations between the plaintiff and his brother Patsy have improved. They have become reconciled.

[40] In addition to the above, since the time of his abuse, the plaintiff has suffered from intrusive recollections and nightmares relating to the abuse he experienced. Thoughts of Father Reid frequently intruded into his mind. He developed a persisting fear of people being behind him. The smell of stale tobacco smoke reactivated the memories of the abuse. This was so even though the plaintiff occasionally smoked for a number of years. Although he initially continued to attend church because his parents would not have allowed him to do otherwise, he remembers feeling distinctly upset when he saw a priest carrying a statue of the

baby Jesus and placing the statue in a crib during a Christmas religious ceremony. He stopped going to confession. In later life, when he got married, he initially attended religious services because it was expected of him but his faith was irreparably destroyed and he subsequently completely disengaged from the church and religious observances. In addition, he recalls being constantly on the lookout for signs of abuse when his own son went to a Catholic school.

[41] He remembers in later life, the school bus from St Mark's regularly passing his house taking pupils home from school and in response to this reminder, he regularly relived the circumstances of his abuse. He remembers being in the public swimming pool in Newry and seeing one of his former teachers in the pool and immediately experiencing such intense recollections of the abuse that he had to immediately get out of the pool and leave the premises.

[42] He remembers during his marriage, there were occasions when he was sexually intimate with his wife, and these occasions of intimacy were spoiled by intrusive recollections of Father Reid and his abuse of the plaintiff. All during this period of his life, due to feelings of shame and disgust, the plaintiff could never discuss his feelings or problems with his parents when they were alive or with any of his siblings. He never discussed his feelings or problems with his wife during the course of his marriage. All these distressing feelings remained bottled up inside him, eating away at him. He suffered from intermittent bouts of depression throughout his adult life.

[43] His complete disengagement from his studies at school meant that he left school with no formal qualifications and with very poor literacy and numeracy skills. I will address this issue in greater detail later. During his time at school, he avoided situations where he would have to shower in front of other boys and so he did not participate in any sports which required him to take a shower, such as team sports performed outdoors. He lived in fear of having any further contact with Father Seamus Reid.

[44] He experienced night sweats. He experienced fear when he was in bed at night. The darkness reminded him of the colour of priests' suits. At night, he imagined he saw something to his right-hand side which was the side from which Father Reid's hand appeared from behind him to rub the front of his chest. The fear that he felt in the caravan was the fear that he felt in bed at night. He found that when he started to drink alcohol, this helped suppress these fears. The plaintiff's concentration was impaired. He could readily and easily lose concentration during a conversation or when performing a task because intrusive and vivid recollections of the abuse would enter his head and distract him.

[45] The plaintiff did not return to school after his 16th birthday in November 1977. His parents were taken to court and fined in relation to his truancy in early 1978 but, despite that, he did not go back to St Mark's. He had a keen interest in cars and even when he was still at school, he worked with his brother Dan who then had a car

body repair shop adjacent to the family home in Mayobridge. After leaving school, he trained as an apprentice coachbuilder and attended a fabrication and welding course at the local technical college. In 1978, he got a job as a coachbuilder in Devine's Coachworks in Newry. He progressed well in his apprenticeship and still helped his brother out in his car body repair garage in Mayobridge in the evenings and at weekends. The plaintiff immersed himself in this work, which he enjoyed. It was during this period that the plaintiff suffered a back injury when he fell into an inspection pit whilst painting refrigerated units late at night. The symptoms resulting from this back injury became progressively more disabling as the years passed particularly so from his mid-thirties; but initially, he was able to continue to work as a coachbuilder.

[46] After working in Devine's garage for a couple of years, the plaintiff then obtained a job as a coachbuilder in a larger firm, C R Morrow's in Bessbrook. He was very capable in respect of car body repair work but his lack of literacy and numeracy skills meant that he was unable to properly prepare estimates for repair jobs, particularly ones where insurance companies were involved. This difficulty was surmounted in Morrow's by enlisting the help of the daughter of the owner of the business who was able to follow the plaintiff's instructions concerning the necessary parts and the likely labour input, and was able to prepare comprehensive estimates for privately paying customers and insurance companies.

[47] In 1983 or 1984, the plaintiff decided to buy over his brother Dan's business in Mayobridge and, thereafter, up to 2006, the plaintiff worked in a self-employed capacity as a coachbuilder. He also supplemented his earnings by purchasing damaged repairable vehicles and repaired them and then selling them on for a profit. While he operated his own business, his sister and then his girlfriend, who had good administrative skills and who worked in a managerial capacity in McCann's Bakery in Newry and who subsequently became the plaintiff's wife in 1987, did all the paperwork for the business and also prepared all the repair estimates, following the instructions in relation to parts and labour given by the plaintiff. This invaluable assistance enabled the plaintiff to operate a successful business in a self-employed capacity up until 2006. When the plaintiff got married in 1987, he moved to Attycaul, which was where his wife was from. However, his business premises were located beside his own home place in Mayobridge and he continued to operate his business from these premises until 2006.

[48] It was while the plaintiff was renovating the future matrimonial house in Attycaul in 1987 that he first took alcohol at the age of 26. He recalls he was working one summer day and he was very thirsty and he took a few beers which he found in the fridge. Bearing in mind the plaintiff's family history of severe and damaging alcohol abuse, this proved to be an ill-judged and fateful decision. The plaintiff admits that he went on to develop a very significant drink problem which resulted in the breakdown of his marriage and his estrangement from his two children. This estrangement, particularly with his daughter, persisted for a considerable number of years, right up to the recent past. He now sees that his drinking became very

problematic around the turn of the millennium. His marriage broke down in 2005 and although he stopped drinking a year later, he then went through an acrimonious divorce and ancillary relief process which, but for the intervention of and financial assistance provided by a number of relatives, would have resulted in the need for him to sell his family homeplace, which he had inherited upon the death of his parents. This was a very stressful period of his life and this stress led to a significant re-emergence of memories of his sexual and physical abuse during his childhood.

[49] The plaintiff states that he suffered from intermittent bouts of depression throughout his adult life, which he links to the episodes of sexual and physical abuse as a child. He alleges that he developed a significant alcohol dependency problem in part because he needed alcohol to relieve his low mood and to suppress the intrusive memories of the abuse he had suffered as a child. However, it is abundantly clear that the dreadful family history of alcohol abuse played a determinative role in the development of the plaintiff's alcoholism. Having said that, I am prepared to accept that the role alcohol played in masking and suppressing the intrusive recollections of childhood abuse did materially contribute to the plaintiff developing a severe and damaging alcohol abuse problem.

[50] As indicated above, the plaintiff admits that his alcohol problem destroyed his marriage and his family life. Concurrently with the breakdown of his marriage, the plaintiff's back symptomology became progressively more severe so that by 2006, he was no longer fit to perform the heavier aspects of coachbuilding work and he was forced to close his business. It was at this time that he gave up drinking alcohol and to his great credit, he has remained abstinent since that time. Despite giving up alcohol in 2006, the plaintiff has found it impossible to work in the coachbuilding business since that time due to his persisting and severe symptoms in his back. He also developed a significant right shoulder problem, cervical spondylosis and bilateral carpal tunnel syndrome. The plaintiff gave evidence that following the closure of his business, he had hoped to either work in an employed or self-employed capacity in the second-hand car trade and the case he makes is that his educational under-attainment, which was a direct result of the sexual and physical abuse he suffered at St Mark's School, prevented him from doing so. Although he does not allege that the childhood abuse he suffered resulted in him having to give up his employment in 2006, he does make the case that he has subsequently been prevented from obtaining alternative employment from that time onwards because his educational under-attainment deprived him of the ability to perform and manage administrative duties.

[51] The plaintiff did take steps to address his educational deficits by starting a computer course in Newry in 2007 and 2008 in an effort to improve his chances of obtaining employment. Initially, there were very few people in the class as at the start the class was geared towards teaching basic skills but as the course became more advanced and numbers in the class increased, the environment reminded the plaintiff of school and he had to leave the class. He found he could not concentrate as he was distracted with intrusive thoughts of his childhood abuse.

[52] When one considers the contents of the available notes and records, it is quite clear that the stresses associated with the deterioration in the plaintiff's back condition, the clearly documented subsequent development of a chronic right shoulder problem, the development of cervical spondylosis, the development of severe bilateral carpal tunnel syndrome, the breakdown of the plaintiff's marriage, his estrangement from his children, the closing of his business and the subsequent acrimonious divorce and financial settlement all conspired to give rise to a significant deterioration in the plaintiff's mental state. This was at a time when he, to his great credit, had stopped drinking and somehow was able to maintain his abstinence.

[53] The plaintiff's general practitioner's notes from this period contain entries relating to the prescription of sleeping medication and anti-depressants. The plaintiff was referred to his local community mental health team and was then directed to and underwent counselling between 2012 and 2014. The areas of focus of these counselling sessions were the matters referred to immediately above and the circumstances of his difficult home life, due to the actions of his older brother Patsy. However, it is the plaintiff's case that this downturn in his mental health led to a worsening of the symptoms related to the undisclosed sexual and physical abuse which had occurred during his childhood and these symptoms progressively came to the fore so that in 2014, when there was a radio programme on a local radio station which referred to St Mark's and a famous GAA school football victory achieved by the school, the plaintiff could not keep this issue of abuse bottled up any longer and he disclosed the occurrence of the abuse to a counsellor during a counselling session in October 2014. He was then referred by the community mental health team for specialist counselling for the victims of sexual abuse provided by the organisation NEXUS and this counselling occurred over a prolonged period of time.

[54] When the plaintiff was referred to NEXUS counselling, Dr Paul Cotter, consultant psychiatrist, in correspondence dated 4 December 2014, informed the plaintiff's general practitioner that he did not consider that the plaintiff was suffering from mental illness at that time. The plaintiff subsequently reported the matter of his abuse to the Police and the plaintiff was finally able to reveal the nature and extent of the abuse to a family member, namely, his brother Sean. The plaintiff movingly described in his evidence how both he and his brother Sean wept when the plaintiff recounted to his brother what had happened to him as a child. The plaintiff remains under regular review by Dr Elizabeth McMonagle, a consultant clinical psychologist, and remains on prescriptions which include quetiapine and mirtazapine. He continues to experience significant distress and upset at reminders of the events which occurred in his second year at St Mark's. His sleep remains disturbed, hence the need for medication. News items about clerical abuse continue to cause him distress. The sight of St Mark's School buses also still trigger distressing recollections of the abuse he suffered. The plaintiff specifically recounted to Dr McMonagle how he was emotionally shattered following his examination by Dr Mezey in July 2018 and how he was devastated when she indicated during the

course of the examination that she did not accept that the events described by the plaintiff had happened.

[55] The medical experts who have examined the plaintiff for the purpose of providing the court with evidence in relation to the nature and extent of any psychiatric or psychological damage or injury suffered by the plaintiff as a result of the childhood sexual and physical abuse referred to above, have formed very contrasting opinions as to the nature and extent of any psychiatric or psychological damage or injury. Dr Mangan, who examined the plaintiff on 10 October 2017, 7 August 2019 and 13 November 2020 gave evidence that the plaintiff had developed post-traumatic stress disorder as a consequence of childhood abuse. He informed the court that this was a classic case of a vulnerable young boy with pre-existing difficulties at home placing his trust in a priest and this trust being grossly abused with very serious and prolonged effects upon the plaintiff's mental wellbeing. In adulthood, the plaintiff has had significant problems with a recurrent depressive disorder and alcohol abuse and the abuse in childhood principally caused these problems in adulthood. The fact that the plaintiff only finally revealed the true nature, extent and cause of his problems in 2014 does not take away from the fact that these problems have been longstanding and are rooted in the episodes of childhood abuse. This, according to Dr Mangan, is an entirely typical presentation with a disclosure of abuse and its consequences only occurring after many years. When last seen by Dr Mangan in November 2020, Dr Mangan was of the opinion that the plaintiff's post-traumatic stress disorder and clinical depression continued to run a chronic course. It is very telling that Dr Mangan placed the plaintiff in the bottom of the top quartile in terms of the severity of his reaction to the childhood abuse he had suffered. He expected that that the fluctuating course of the plaintiff's illness would persist for the rest of his life.

[56] Dr Mezey, who examined the plaintiff in July 2018 was of the opinion that the plaintiff was then suffering from a depressive disorder which was partially treated and was mild in severity. This is a recurrent and relapsing condition which was likely to recur in stressful situations or following loss. She was of the opinion that this condition initially emerged following the breakdown of the plaintiff's marriage and has been maintained by negative and stressful life events including his divorce, the disclosure of the abuse and the stress associated with the continuing litigation. She was adamant that the plaintiff did not and never did suffer from post-traumatic stress disorder. She was adamant that the abuse described by the plaintiff did not constitute a "qualifying traumatic event" for the purpose of diagnosing post-traumatic stress disorder. It was not exceptionally threatening or catastrophic. Further, according to Professor Mezey, the plaintiff gave no convincing history of symptoms of such severity or persistence which would enable a diagnosis of PTSD to be made. In addition, Professor Mezey was adamant that the difficulties which the plaintiff experienced at home during his childhood would have been much more likely to give rise to mental health problems in later life. Indeed, these issues were the issues that he first raised when he started to receive counselling in 2012. As for

his alcohol issues, Professor Mezey is adamant that the plaintiff's genetic pre-disposition by itself accounts for the development of his abuse of alcohol.

[57] Professor Mezey accepted that the plaintiff was markedly upset during her examination of him but she was clear that this upset was displayed when describing a host of issues and was not any worse when describing childhood abuse. Professor Mezey was adamant that she would never give an impression during an examination that she did not believe what someone was telling her. However, she accepted that the plaintiff was in such a distressed state that he could have interpreted her failure to positively give the plaintiff reassurance that she believed his account as her not believing him. There was a debate between the experts as to whether it was appropriate to use the diagnostic criteria for PTSD set out in ICD 10, DSM 5 and the new ICD 11. Dr Mangan stated that it did not matter which classification system was used in this case because the plaintiff fulfilled the criteria in all three. Professor Mezey used and referred to the ICD 10 classification system as that was the one which was most commonly used in the UK and Europe and she stated that the plaintiff did not meet the diagnostic criteria set out in ICD 10.

[58] I accept that both experts were doing their very best to provide the court with independent, objective assessments of the nature and extent of the psychological or psychiatric impact of the abuse, which in my judgment undoubtedly occurred in this case. Having carefully considered their detailed reports and having had the benefit of hearing them give detailed evidence over a number of days by remote means, and having had an opportunity to observe the plaintiff in the witness box and to hear him describe his problems and symptoms, I am entirely satisfied that the plaintiff has suffered from prolonged and fluctuating PTSD symptoms since the time of this abuse and that such fluctuating symptomology will persist in the future, with worsening symptoms in times and situations of psychological stress. In relation to Professor Mezey's point that the events complained of were not exceptionally threatening or catastrophic in nature as to enable a diagnosis of PTSD to be made, I simply do not accept her evidence. For the reasons I have set out above, the events recounted by the plaintiff were for him both threatening and catastrophic. I also do not accept that the behaviour of the plaintiff's brother Patsy was a much more potent causative factor in the development of the plaintiff's mental health difficulties. I accept Dr Mangan's evidence which was that the effect of his brother's behaviour was to render the plaintiff vulnerable to being preyed upon by a paedophile priest, who horrendously abused a child's need for support during a difficult period at home when his elder brother was causing havoc.

[59] I also accept Dr Mangan's evidence that the horrendous breach of trust in this case and the circumstances of the abuse during the administration of the sacrament of confession would have had a devastating impact on the plaintiff's young mind giving rise to significant long-term consequences. I accept Dr Mangan's diagnosis of PTSD and I accept that the plaintiff's symptoms persist up to the present day and are likely to follow a fluctuating course in the future with further intervention being required.

[60] Dr Mangan's diagnosis is also supported in a material respect by the views expressed by Mr John Eakin, an experienced educational psychologist, who assessed the plaintiff on 21 June 2018. In his report, Mr Eakin concluded that the plaintiff, a man of normal average general intelligence, had very poor numeracy and literacy skills. There was a highly significant discrepancy between the plaintiff's level of cognitive ability and his educational attainments in literacy and numeracy. Mr Eakin's conclusion was that, having assessed the plaintiff, he had little doubt that the sexual and physical abuse that the plaintiff experienced in his second year at St Mark's School was the primary cause for his disaffection at school and his lack of achievement in secondary education. It was not his brother Patsy's behaviour that caused this disaffection and lack of achievement. It was the behaviour of Father Reid and Mr McNamara. And just as their behaviour blighted the plaintiff's educational achievement, so it blighted his mental wellbeing in the short, medium and long-term and the plaintiff is entitled to be compensated for the psychiatric injury which he has undoubtedly suffered as a result of the abuse.

[61] In short, I accept that the plaintiff has developed post-traumatic stress disorder following on from and as a direct result of these episodes of sexual and physical abuse and that this condition has followed a prolonged and fluctuating course up to the present time. I also accept that the development and maintenance of his depressive disorder is linked at least to some extent to episodes of abuse and, finally, I accept that the problem of alcohol abuse was to some extent exacerbated by the fact that the use of alcohol helped suppress some of the plaintiff's symptoms related to his PTSD diagnosis.

[62] Turning now to the assessment of the plaintiff's claim for damages, I note that the plaintiff claims aggravated damages for injury to his feelings occasioned by the commission of the torts in this case and by reason of the manner in which the defendant has chosen to defend this matter. I have previously dealt at length with the award of aggravated damages in the case of *Michael Quinn v Ministry of Defence* [2018] NIQB 82 at paragraphs [35] to [54] and I do not intend to repeat what I set out there. However, applying the principles set out there, I conclude that when awarding compensation for tortious actions of the nature and extent found to have been perpetrated in this case, it is appropriate to include a compensatory award of damages for injury to the feelings of the plaintiff by reason of the exceptionally abhorrent conduct of the perpetrators of the abuse but when doing so, the court has to be careful not to doubly compensate the plaintiff when the court is also making an award for the psychiatric/psychological impact of the wrongdoing upon the plaintiff in the short, medium or long term.

[63] An award of aggravated damages could be appropriate to compensate the plaintiff for exceptional or contumelious conduct of the defendant or its servants or agents after the commission of the tortious actions found to have been perpetrated upon the plaintiff and this could in some circumstances include the manner in which the claim was met by the defendant and the tactics deployed by the defendant in the

defence of the plaintiff's claim. Having carefully considered all the evidence in this case and having carefully analysed the tactics adopted by the defendant in this case, including the decision not to pursue a limitation defence or delay argument, I am satisfied that there is nothing in the conduct of the defendant, the defendant's legal team or the medical expert retained on behalf of the defendant that could be considered to even approach the threshold of contumely which would justify an award of aggravated damages in respect of any conduct after the commission of the tortious wrongs in this case.

[64] In respect of the actions of Father Seamus Reid, if these actions were to be viewed in isolation and without regard to the psychological/psychiatric injuries resulting from those actions, an award of £30,000 to include damages for the indignity, disgrace and humiliation that was caused would be the appropriate figure in this case. Similarly, in respect of the actions of Mr Hugh McNamara, if these actions were to be viewed in isolation and without regard to the psychological/psychiatric injuries resulting from those actions, an award of £30,000 to include damages for the indignity, disgrace and humiliation that was caused would be the appropriate figure in this case, bearing in mind that the wrongdoing of Mr McNamara does include a transient period of false imprisonment.

[65] In assessing the quantum of damages to be awarded in respect of the psychiatric/psychological injury in this case, I have particular regard to the guidance set out in pages 12, 13 and 14 of the Green Book and I have regard to the following factors. The plaintiff's post-traumatic stress disorder has followed a prolonged and fluctuating course over the course of the last forty-six years and he will continue to suffer from distressing symptoms relating to this condition on a fluctuating basis for the rest of his life. On a positive note, the plaintiff's sexual functioning and ability to form intimate relationships was not affected by the abuse he suffered and although his marriage broke down, he has since entered into a steady and loving relationship and this will constitute a protective factor going forward. Also, on a positive note, despite the impact on the plaintiff's educational achievements, the psychiatric/psychological impact of the abuse did not adversely impact upon the plaintiff's ability to work from his teenage years right up to 2006 and, indeed, his ability to immerse himself in his work probably was a protective factor against mental illness during those years.

[66] On a negative note, I am particularly struck by the contents of Mr Eakin's report and the very severe impact this abuse had on the plaintiff's educational development. For a man with average general intelligence, he assessed the plaintiff as having a reading age equivalent of 9 years, a spelling age equivalent of 7.4 years and a numeracy age equivalent of 8.08 years.

[67] The development of a depressive disorder by the plaintiff in his later life, probably has many causes and contributing factors including his significant physical complaints, his inability to work, his alcohol issues, his marital difficulties, his estrangement from his children and to some extent his fluctuating post-traumatic

stress symptomology. A precise attribution of causal significance in respect of this last matter is impossible to determine but that does not mean that the court should not make every effort to properly compensate the plaintiff for the injury suffered by him.

[68] Similar issues arise when one considers the issue of the plaintiff's alcohol problems. Genetics played a determinative role in the development of the plaintiff's alcohol abuse problem but I have no doubt that his descent into alcoholism was, at least to some extent, precipitated by the effect which the consumption of alcohol had on at least temporarily masking the symptoms relating to post-traumatic stress disorder and depression. Again, the court must strive to provide the plaintiff with full compensation for his injuries and their consequences, despite the impossibility of defining with precision the causal impact of one condition upon the development or progression of another.

[69] Bearing in mind the matters set out in paragraph 4 (i) to (vii) at page 12 of the Green Book and the guidance contained in pages 12, 13 and 14 in respect of psychiatric damage generally and post-traumatic stress disorder in particular, I am satisfied that the plaintiff's psychiatric/psychological injury can best be described as moderately severe post-traumatic stress disorder but with the additional complications of this condition contributing to the development of a depressive disorder and contributing to the plaintiff's descent into alcoholism. However, the range set out in paragraph 4B(b) (£45,000 to £95,000) does not appear to be adequate to fully compensate the plaintiff for the injury suffered. Bearing in mind that the assessment of quantum is not an exact science, I consider that the appropriate figure for psychiatric/psychological injury suffered by the plaintiff is the sum of £110,000.

[70] I now have to stand back from the case and take an overview in order to assess whether the assessment of compensation for the individual elements of the plaintiff's claim, if simply combined would result in overcompensation and whether the approach in respect of the psychiatric/psychological damage aspect of the case adheres to the approach set out by Kerr LCJ at paragraphs [21] to [30] in the case of *Wilson v Gilroy & MIB* [2008] NICA 23. I have no hesitation in concluding that a global figure of £170,000 in respect of general damages is the appropriate figure in this case. The simple aggregation of the separate figures in this case does not give rise to over-compensation but entirely meets the justice of the case.

[71] In relation to the plaintiff's case for special damages for loss of earnings from 2006 onwards, that matter can be disposed of swiftly. There is no claim for loss of earnings up to 2005. Thereafter, there is a claim for loss of earnings from that date on the basis that the plaintiff's educational deficits which solely related to his reaction to the abuse he suffered would have made it very difficult to obtain employment in other fields after that date. I entirely accept that his educational deficits would have made it more difficult for him to have obtained alternative employment but I do not accept at all that he would have been able or fit to engage in other forms of employment at that time or indeed thereafter. I find as a fact that

his educational deficits were not the cause of his non-engagement in remunerative employment in the years following 2006. I find that the combination of physical and mental health issues which at that time and for a good number of years thereafter were largely due to his familial difficulties were the main factors and issues that prevented the plaintiff from engaging in remunerative employment. There is a very telling letter from the plaintiff's general practitioner Dr Brian McCann dated 26 June 2012, set out at page 763 of the trial bundle.

[72] Dr McCann, who was the plaintiff's GP since 1984, stated that the plaintiff:

"has a number of ongoing health problems. Martin has chronic right shoulder pain for many years and is attending Orthopaedic Outpatients. Ongoing cervical root pain, radically down left arm. Severe bilateral carpal tunnel syndrome. Ongoing depression with thoughts of life not worth living at times and has been referred back to psychiatric outpatients. Martin would wish to be fit for work at present but is unable to do so at present for physical and mental health reasons. I trust you can review your decisions."

[73] This letter which was an assessment of the plaintiff's capacity to work by a trusted GP who knew the plaintiff well was obviously written in relation to the plaintiff's entitlement to benefits at that time. This letter fairly and accurately describes the plaintiff's condition in the years following 2006. I do not believe that much, if anything, has changed since that letter was written. I do not accept that even at this stage, the plaintiff's educational deficits are responsible for his continued unemployment. In the circumstances, I make no award for loss of earnings, either past or future. Other matters resulted in him giving up his employment in 2006 and have prevented him from working since that time.

[74] I, therefore, make an award of £170,000 in this case and an award of this nature usually carries interest from the date of the issue of the writ up to the date of payment of the damages. Having heard submissions on the issue of interest and in respect of the issue of costs, I award interest at 2% per annum on the sum of £170,000 from the date of the issue of the writ of summons up to the date on which damages are paid and I award the plaintiff his costs to include two counsel and I make an order for taxation of the plaintiff's costs in default of agreement.