

ENGLAND AND WALES / JUDGMENT

BPA v NXT

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Neutral Citation Number: [2026] EWHC 1095 (KB) IN THE HIGH COURT OF JUSTICE KING'S BENCH DIVISION Case No: KB-2025-003669 Royal Courts of Justice Strand, London, WC2A 2LL Date: 8 May 2026 Before : THE HONOURABLE MRS JUSTICE HEATHER WILLIAMS DBE

- ----- Between : BPA
- and – NXT
- -----
- ----- Claimant Defendant Claimant appeared as a Litigant in Person with a McKenzie Friend Catherine Foster (instructed by Freemans) for the Defendant Hearing date: 30 April 2026
- ----- Approved Judgment This judgment was handed down remotely at 10.30am on 8 May 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives. Judgment Approved by the court for handing down. BPA v NXT Mrs Justice Heather Williams:

Introduction

1. 2. 3. Two applications were listed for hearing before me. First, the Defendant's application dated 12 November 2025, seeking an order that unless the Claimant served a medical report in support of her claim by 24 November 2025 the claim be struck out and, in the alternative, an extension of time granted for service of his Defence ("the First Application"). Secondly, the Defendant's application dated 17 December 2025, to strike out the claim on the basis that it discloses no reasonable grounds and/or is an abuse of the Court's process and/or for reverse summary judgment; and, in any event, for an anonymity order in his favour ("the Second Application"). My order dated 3 February 2026 gave directions for the hearing of the two applications and granted anonymity orders in favour of both parties for the period until the hearing and consequential Court order, so as to "hold the ring" until then. The hearing took place on 30 April 2026, at which Ms Foster accepted that the First Application had been superseded by the Second Application. At the hearing it was clarified that the provisions of the Sexual Offences (Amendment) Act 1992 apply to the Claimant. Under those provisions, where an allegation has been made that a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the

victim of the offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act and no such waiver or lifting has occurred in relation to the Claimant. I have avoided reference to any potentially identifying details in this

judgment.

At the request of the Claimant, the hearing was held remotely. I permitted her mother to assist her as a McKenzie Friend during the hearing and, when requested, I gave the Claimant the opportunity to pause her submissions and speak with her mother, who sat alongside her. Ms Foster was careful to make her submissions at a relatively slow pace so that the Claimant could follow what was being said; and to avoid interrupting the Claimant, I let her make her submissions in full before asking her questions about matters that required clarification. The procedural history The Claim Form, Particulars of Claim and Schedule of Loss 4. 5. The Claim Form was received by the Court on 29 September 2025 and issued on 9 October 2025. The “Brief details of the claim” section referred to claims for “sexual assault, harassment and coercive control” and breaches of the Claimant’s rights under the Human Rights Act 1998 (“HRA”). The text said that the Claimant had suffered severe psychiatric injuries, relapse of illness, homelessness and loss of amenity and general damages, special damages, aggravated and exemplary damages were claimed. The Claimant had earlier sent the Defendant a letter dated 25 September 2025, in which she said she was now notifying him pursuant to the Pre-Action Protocol for Professional Negligence of her intention to bring proceedings against him in her own right. The letter said the claim arose out of his professional misconduct and breach of Judgment Approved by the court for handing down. BPA v NXT 6. 7. 8. 9. 10. 11. duty during the course of his dealings with her in 2022 – 2023. The letter also said that sensitive medical exhibits would be disclosed in the ordinary course of litigation under directions of the Court. The Particulars of Claim are dated 29 September 2025. The Claimant is described as a “vulnerable adult with a history of mental health difficulties including hospitalisation under the Mental Health Act” (para 1). Reference is made to an Airbnb/B&B business run by the Claimant and to two specific properties (paras 1, 4 and 5). Para 2 states the Defendant is a barrister, who acted for the Claimant’s mother in family proceedings in 2022 and, through this connection, came into direct contact with the Claimant, who was acting as her mother’s McKenzie Friend and case manager. It is said that he then cultivated personal contact with the Claimant (para 3). Para 4 of the Particulars of Claim alleges that “Between 12 and 18 October 2022, the Defendant subjected the Claimant to non-consensual sexual intercourse” at his barrister’s chambers. Reference is then made to two addresses associated with the Claimant. It is not clear whether it is alleged that non-consensual sexual intercourse also took place at one or both of these locations. Para 5 says, “The Defendant’s intrusion struck at both her home and livelihood”. Para 6 alleges that thereafter “the Defendant engaged in coercive and controlling behaviour”, which is described in the following terms: “He arrived most evenings after 6 p.m. on excuse such as being locked out, kept his belongings in his car, and slept in the front room of the property. He left early each morning before others could discover his presence... This clandestine pattern continued after the Claimant’s abortion, when he attempted to move her to [another location], stating his intention to cause further

pregnancies". Para 7 refers to the Claimant becoming pregnant and then undergoing a medical abortion on 29 November 2022. Para 8 states the Claimant reported the Defendant's conduct to the police and to the Bar Standards Board and that he persisted in contacting her "including an unsolicited email on 2 October 2024". The Particulars of Claim allege that the Defendant owed the Claimant duties as a barrister to avoid exploitation and to respect her rights under the HRA and that he breached these duties "by pursuing a sexual relationship, committing rape, exercising coercive control, harassing the Claimant and contacting her despite formal complaints" (paras 10 and 11). The Claimant says that in consequence, she suffered "psychiatric injury, unwanted pregnancy and abortion trauma, relapse of psychosis, homelessness, loss of her business income, disruption to her education, long-term financial hardship, and breaches of her rights" (para 12). Para 13 indicates that she claims general damages, special damages, aggravated and exemplary damages declarations under the HRA, interest and costs. 12. In her Schedule of Loss, also dated 29 September 2025, the Claimant claims largely unquantified sums in respect of the following: i) Loss of business income of approximately £108,000 to date, arising from disruption to her Airbnb/B&B business; Judgment Approved by the court for handing down. BPA v NXT ii) Loss of future earning capacity, due to psychiatric injury and relapse of psychosis, as she had intended to continue in self-employment, expand her business and pursue higher education; iii) Medical costs related to psychological therapy and counselling; hospitalisation for pneumonia and relapse of mental illness; and ongoing costs of care and support needs; iv) Losses related to periods of homelessness following harassment, loss of possession in December 2023 whilst in temporary accommodation and associated relocation and rehousing costs; v) General damages for pain, suffering, loss of amenity, including psychiatric injury and trauma of abortion; vi) Aggravated and exemplary damages for "breach of professional duties, abuse of position of trust and sustained harassment"; and vii) Interest. Master Dagnall's direction 13. No medical report was served with the Particulars of Claim. On 10 October 2025, the Court emailed the parties indicating that Master Dagnall had directed: "The claimant must serve the claim form and particulars of claim with a medical report relied on regarding any mental or physical injury caused (or an explanation why such has not been obtained)". 14. On 4 November 2025, the Defendant acknowledged service, indicating an intention to defend the claim. The First Application 15. 16. The First Application was supported by a witness statement from the Defendant's solicitor dated 12 November 2025. The statement pointed out that the Claimant has not served a medical report as directed by Master Dagnall. The Claimant provided a response to the First Application dated 14 November 2025. She said she had complied with Master Dagnall's directions by sending a written explanation to the Court on 10 October 2025 regarding her medical condition and her vulnerability, which had been acknowledged by the Court the following day, but which had been returned to her "for safeguarding reasons". The Defendant was not provided with a copy of her communication with the Court and I have not seen a copy. This response document described the claim as one for "professional negligence, breach of duty and safeguarding failures". The Second Application 17. The Second Application was filed before the Court had determined the First Application. This application sought: (i) the striking out of the claim under CPR 3.4(2)(a) and/or (b), as it disclosed no reasonable grounds for bringing it and/or was an abuse of the Court's process; (ii) summary judgment in favour of the Defendant Judgment

Approved by the court for handing down. BPA v NXT under CPR 24.3(a) and (b), on the basis that the claim had no reasonable prospect of success and there was no compelling reason why the case should be disposed of at trial; (iii) an anonymity order in favour of the Defendant; (iv) an order that the Claimant pay the Defendant's costs of the action; and (v) in the event the application was unsuccessful, an extension of four weeks from the date of the Court's order or the date when the Claimant's medical evidence was served for the Defendant to file and serve a Defence. 18. 19. This application was supported by a second witness statement from the Defendant's solicitor, dated 17 December 2025. The statement indicated that the Defendant had been in a short-lived relationship with the Claimant in the period between 7 October and 5 December 2022 and that consensual sexual intercourse had taken place on a number of occasions between 11 October 2022 and 21 November 2022. The statement said the relationship had ended on 5 December 2022, when the Claimant made a demand for £100,000, which she described as an "out of court" settlement. She had then repeated her demand for payment in a message sent on 17 December 2025, with a threat she would report him to the police. It is common ground that the Claimant made an allegation of rape to the police and that he was interviewed by police officers in March 2023. Ultimately, no further action was taken. The Claimant also reported the Defendant to the Bar Standards Board, who informed him in October 2025 that the matter was closed as the Claimant had not provided evidence in support of her complaint. 20. The witness statement submitted that the claim should be struck out on the following grounds: i) ii) The Claimant was in breach of Master Dagnall's direction of 10 October 2025; Para 4 of the Particulars of Claim fails to provide any or any sufficient particulars of the nature, circumstances and context of the alleged non- consensual sexual intercourse; iii) The Particulars of Claim fail to attach a Schedule of Loss that is compliant with CPR PD16 para 4.2 and fail to attach a medical report, as required by PD16 para 4.3; iv) The Claimant failed to comply with the Pre-Action Protocol and has failed to disclose her medical records; v) vi) The Claimant's allegation that she became pregnant in the short period of time between 7 October 2022 and the first week of November 2022 is probably unfeasible; There is "a glaring inconsistency" between the Claimant's alleged characterisation of the relationship as non-consensual and coercive and the objective evidence, in particular contemporaneous WhatsApp messages passing between the Claimant and the Defendant and the audio recording of a conversation on 16 November 2022 involving the Claimant, her mother and the Defendant; Judgment Approved by the court for handing down. BPA v NXT vii) The Defendant is not subject to the HRA, which imposes obligations on public authorities, not individuals; and viii) The Claimant's claim for damages for homelessness, disruption to her education and, long term financial hardship lacks any evidential basis or legal basis. Ms Foster's oral submissions focused on the first three of these points. 21. The witness statement also addressed the application for anonymity, making the following points: i) The Defendant is a man of good character, who is not subject to criminal charges or further investigation in respect of the Claimant's allegations; ii) The Defendant denies that he raped the Claimant; and the transcript of the recording of 16 November 2022 shows she had admitted that her allegation was untrue and was made in the context of a psychotic episode; iii) The Defendant's reputation and standing as a barrister would be significantly and irreparably damaged by any publicity around this claim; iv) In turn, this would have a significant impact on

his earning capacity; and v) Taking account of the Defendant's rights guaranteed by Article 8 of the European Convention on Human Rights ("ECHR") and balancing this against the Article 10 ECHR right to freedom of expression, it was appropriate for the Court to make an anonymity order to protect his interests and to put the parties on an equal footing. 22. The Second Application was also supported by a witness statement from the Defendant, dated 17 December 2025. In this, he provided a short account of his relationship with the Claimant, consistent with that given in his solicitor's statement. He explained that the Claimant had accused him of rape, but that she had retracted the allegation on 16 November 2022 in a conversation he had recorded as he was becoming increasingly concerned by this stage. The Defendant denied that any non-consensual sexual intercourse had taken place. He said that he did not recognise the Claimant's characterisation of their loving relationship. He said that she did not have an Airbnb business in play during the time that he knew her and he did not understand how it was said that he had caused her to become homeless or her education to be disrupted. He referred to the factors I have summarised at para 22 (i) – (iv) in support of his application for anonymity. The order of 3 February 2025 23. In January 2026, the case was assigned to me by the President of the King's Bench Division. 24. By my order of 3 February 2025, I directed that: i) Pursuant to CPR 39.2(4), there was not to be disclosed in any report of the proceedings or otherwise published, the name or address of the Claimant or the Defendant or their immediate family members or any details that could lead to Judgment Approved by the court for handing down. BPA v NXT their identification as parties to these proceedings. The Claimant was to be referred to as BPA and the Defendant as NXT in any report of these proceedings or other publication; ii) Pursuant to CPR 5.4C and 5.4D, a person who was not a party to the proceedings could not obtain a copy of a statement of case, judgment or order from the Court records unless this document had been anonymised in accordance with the directions I have just summarised; and if such a person applied for permission to inspect or obtain a copy of any document or communication, such application was to be made on at least three working days' notice to the parties; iii) The orders referred to at (i) and (ii) above were to remain in force until the hearing of the First and Second Applications and until the Court's order made at or consequent upon that hearing; iv) Any interested person could apply to the Court to vary or discharge all or part of the above orders, provided that three working days' notice was given to the parties; v) The First Application and the Second Application would be listed for a 3-hour remote hearing before me as soon as was reasonably practicable after 9 March

2026. I also set out a timetable for the provision of the Claimant's response to the Second Application and the filing of bundles and skeleton arguments. 25. In my accompanying reasons, I noted that the purpose of the Defendant's application for anonymity would likely be defeated before his application had been heard, unless I granted anonymity on an interim basis. At that stage, there was no copy of the Particulars of Claim on the Court file and I noted it was not completely clear whether the Sexual Offences (Amendment) Act 1992 prohibition on identification applied to the Claimant or whether she was seeking anonymity. In light of this uncertainty, I also made provision for the Claimant's anonymity on a similar interim basis. I confirmed that the Defendant was not required to file a

Defence pending the hearing of the applications. 26. The order was published on the Judicial Website of the High Court of Justice, but no application was made to vary or discharge the anonymity orders or the related orders concerning public access to documentation. The Claimant's response to the Second Application 27. The Claimant provided a witness statement in response to the Second Application dated 16 February 2026. She said that her claim was properly arguable, supporting evidence existed, the Defendant's account was disputed and required determination at trial following disclosure and testing of the evidence. She disputed the Defendant's characterisation of their relationship and her motives. She said she was vulnerable, that she remained under the care of specialist mental health services and psychiatric supervision and that medical evidence existed in relation to her condition, treatment and vulnerability. She also said that documentary records existed that did not align with aspects of the Defendant's account, although she did not elaborate on this point. She indicated that medical evidence would be disclosed in accordance with the Judgment Approved by the court for handing down. BPA v NXT Court's directions and the normal litigation process. The Claimant said she relied upon her Particulars of Claim and she was not seeking to amend or expand them. The legal framework Pleading requirements 28. 29. CPR 16.4(1)(a) provides that the Claim Form must "contain a concise statement of the nature of the claim". CPR PD16 para 4 addresses additional requirements in respect of personal injury claims. Para 4.2 states that "the Claimant must attach to his particulars of claim, a schedule of details of any past and future expenses and losses which he claims". Para 4.3 provides: "Where the claimant is relying on evidence from a medical practitioner, the claimant must attach a report from the medical practitioner about the claimant's personal injuries". Strike out and summary judgment 30. CPR 3.4(2) provides: "(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."

31. When the court strikes out a statement of case, it may make any consequential order it considers appropriate (CPR 3.4(3)). Limbs (2)(a) and/or (b) are relied upon by the Defendant.
32. CPR 24.3 provides that the Court may give summary judgment against a claimant on the whole of a claim or on a particular issue if: (a) "it considers that the party has no real prospect of succeeding on the claim, defence or issue" and (b) there is "no other compelling reason" why the case should be disposed of at trial.
33. When applications are made to strike out Particulars of Claim pursuant to CPR 3.4(2)
 - (a) as disclosing "no reasonable grounds" for bringing the claim and, in the alternative for summary judgment in the defendant's favour, there is no difference between the tests to be applied by the Court under the two rules: *Begum v Maran (UK) Limited*

- [2021] EWCA Civ 326, per Coulson LJ at paras 20 – 21. In para 22(a) he described the applicable test as follows: Judgment Approved by the court for handing down. BPA v NXT “The court must consider whether the claimant has a ‘realistic’ as opposed to a ‘fanciful’ prospect of success: Swain v Hillman
- [2001] 1 All ER 91. A realistic claim is one that carries some degree of conviction: ED & F Man Liquid Products v Patel
- [2003] EWCA Civ 472. But that should not be carried too far: in essence, the court is determining whether or not the claim is ‘bound to fail’: Altimor Holdings v Kyrgyz Mobil Tel Ltd [2012] 1 WLR 1804 at [80] and [82].” 34. 35. It is well established that the onus lies on the Defendant to establish that this test is made out. The extent to which it is appropriate for the Court to consider the evidential position when applying this test was summarised by Lewison J (as he then was) in Easyair Ltd v Opal Telecom [2009] EWHC 339 (Ch) as follows: “i) ii) iii) iv) v) The court must consider whether the claimant has a “realistic” as opposed to a “fanciful” prospect of success: Swain v Hillman [2001] 2 All ER 91; A “realistic” claim is one that carries with it some degree of conviction. This means a claim that is more than merely arguable: ED & F Man Liquid Products v Patel [2003] EWCA Civ 472 at [8]; In reaching its conclusion the court must not conduct a ‘mini-trial’: Swain v Hillman; This does not mean that the court must take at face value and without analysis everything that a claimant says in his statements before the court. In some cases it may be clear that there is no real substance in factual assertions made, particularly if contradicted by contemporaneous documents: ED & F Man Liquid Products v Patel at [10]; However, in reaching its conclusion the court must take into account not only the evidence actually placed before it but also the evidence that can reasonably be expected to be available at trial: Royal Brompton Hospital NHS Trust v Hammond (No 5) [2001] EWCA Civ 550; vi) Although a case may turn out at trial not to be really complicated, it does not follow that it should be decided without the fuller investigation into the facts at trial than is possible or permissible on summary judgment. Thus the court should hesitate about making a final decision... where reasonable grounds exist for believing that a fuller investigation into the facts of the case would add to or alter the evidence available to the trial judge and so affect the outcome of the case: Doncaster Pharmaceuticals Judgment Approved by the court for handing down. BPA v NXT Group Ltd v Bolton Pharmaceutical Co 100 Ltd [2007] FSR 63; vii) ...if the court is satisfied that it has before it all the evidence necessary for the proper determination of the question and that the parties have had an adequate opportunity to address it in argument, it should grasp the nettle and decide it...If it is possible to show by evidence that although material in the form of documents or oral evidence that would put the documents in another light is not currently before the court, such material is likely to exist and can be expected to be available at trial, it would be wrong to give summary judgment because there would be a real, as opposed to a fanciful, prospect of success. However, it is not enough simply to argue that the case should be allowed to go to trial because something may turn up which would have a bearing on the question of construction: ICI Chemicals & Polymers Ltd v TTE Training Ltd [2007] EWCA Civ 725.”

36. Ms Foster noted the examples given in para 1.4 of PD3A as to circumstances where the Particulars of Claim disclosed no reasonable grounds for bringing the claim, included “those claims which set out no facts indicating what the claim is about” and “those claims which are incoherent and make no sense”. She also referred to the following passages from para 3.4.2 of the 2026 edition of the White Book: “An unreasonably vague and incoherent statement of case which is likely to obstruct the just disposal of the case is liable to be struck out: see *Ashraf v Dominic Lester Solicitors* [2023] EWHC 2800 Ch at [71]... As Teare J observed in *Towler v Wills*
- [2010] EWHC 1209 (Comm) at [18]: ‘The purpose of a pleading or statement of case is to inform the other party what the case is that is being brought against him. It is necessary that the other party understands the case which is being brought against him so that he may plead to it in response, disclose those of his documents which are relevant to that case and prepare witness statements which support his defence. If the case which is brought against him is vague or incoherent he will not, or may not, be able to do any of those things. Time and costs will, or may be, wasted if the defendant seeks to respond to a vague and incoherent case. It is also necessary for the Court to understand the case which is brought so that it may fairly and expeditiously decide the case and in a manner which saves unnecessary expense. For these reasons it is necessary that a party’s pleaded case is a concise and clear statement of the facts on which he relies...’ Judgment Approved by the court for handing down. *BPA v NXT* 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. Thus there is no exact dividing line between ground (a) and ground (b)...or between either of them and Pt 24...”
37. Ms Foster also referred to a passage at para 3.4.3 of the White Book where the editors comment that the term “abuse of process” is not defined in a rule or practice direction, but 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” (*Attorney General v Barker* [2000] 1 FLR 759, DC per Lord Bingham of Cornhill, (then) Lord Chief Justice). The same paragraph also makes the following important point: “In *Biguzzi v Rank Leisure Plc* [1999] 1 WLR 1926; [1999] 4 All ER 954, the Court of Appeal drew attention to several alternatives to strike out under r.3.4. 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.” 38. To similar effect, the text at para 3.4.2, cites *In Soo Kim v Young* [2011] EWHC 1781 (QB), for the proposition that where a statement of case is found to be defective, the Court should consider whether the defect might be cured by amendment and, if it might be, the Court should give the party concerned an opportunity to amend. Open justice and anonymity 39. CPR 39.2(4) provides: “The court must order that the identity of any person shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administrations of justice and in order to protect the interests of any person.” 40. The general principles are well established. They are conveniently summarised in the Master of the Rolls’ Practice Guidance (Interim Non-Disclosure Orders) [2012] 1 WLR 1003, which includes the following: “Open Justice 9. Open

justice is a fundamental principle. The general rule is that hearings are carried out in, and judgments and orders are, public: see article 6.1 of the Convention, CPR r 39.2 and *Scott -v- Scott*

[1913] AC 417...

10. Derogations from the general principle can only be justified in exceptional circumstances, when they are strictly necessary as measures to secure the proper administration of justice. They are wholly exceptional: *R -v- Chief Registrar of Friendly Societies, ex parte New Cross Building Society* [1984] QB 227, 235; Judgment Approved by the court for handing down. *BPA v NXT Donald -v- Ntuli* [52]-[53]. Derogations should, where justified, be no more than strictly necessary to achieve their purpose.
11. The grant of derogations is not a question of discretion. It is a matter of obligation and the court is under a duty to either grant the derogation or refuse it when it has applied the relevant test: *M -v- W* [2010] EWHC 2457 (QB) [34].
12. There is no general exception to open justice where privacy or confidentiality is in issue. Applications will only be heard in private if and to the extent that the court is satisfied that by nothing short of the exclusion of the public can justice be done. Exclusions must be no more than the minimum strictly necessary to ensure justice is done and parties are expected to consider before applying for such an exclusion whether something short of exclusion can meet their concerns, as will normally be the case: *Ambrosiadou -v- Coward* [2011] EMLR 419 [50]-[54]. Anonymity will only be granted where it is strictly necessary, and then only to that extent.
13. The burden of establishing any derogation from the general principle lies on the person seeking it. It must be established by clear and cogent evidence: *Scott -v- Scott* [1913] AC 417, 438- 439, 463, 477; *Lord Browne of Madingley -v- Associated Newspapers Ltd* [2008] QB 103 [2]-[3]; *Secretary of State for the Home Department -v- AP (No.2)* [2010] 1 WLR 1652 [7]; *Gray -v- W* [2010] EWHC 2367 (QB) [6]-[8]; and *JIH -v- News Group Newspapers Ltd* (Practice Note) [2011] 1 WLR 1645 [21].
14. When considering the imposition of any derogation from open justice, the court will have regard to the respective and sometimes competing Convention rights of the parties as well as the general public interest in open justice and in the public reporting of court proceedings. It will also adopt procedures which seek to ensure that any ultimate vindication of article 8 of the Convention, where that is engaged, is not undermined by the way in which the court has processed an interim application. On the other hand, the principle of open justice requires that any restrictions are the least that can be imposed consistent with the protection to which the party relying on their article 8 Convention right is entitled. The proper approach is set out in *JIH*.” 41. An order which withholds the names of a party to court proceedings is a derogation from the principle of open justice and an interference with the Article 10 rights of the public at large: *JIH v News Group Newspapers Ltd* at para 21. Judgment Approved by the court for handing down. *BPA v NXT* 42. 43.

Derogations from open justice, including orders for anonymity, may be justified by the need to protect the legitimate interests of others (as well as for the maintenance of the administration of justice): *Khuja v Times Newspapers Ltd* [2019] AC 161 at paras 29 – 30. The Court, as a public authority, is under a HRA duty to give effect to rights guaranteed by the ECHR. Where the derogation from open justice (which is protected by Article 10 ECHR) is sought on the basis of an interference with another qualified Convention right, the Court’s task was described as follows by Lord Steyn in *In re S*

[2005] 1 AC 593, para 17: “First, neither article has as such precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each...” As Nicklin J observed at para 41 in *PMC v A Local Health Board* [2024] EWHC 2969 (KB), when the Court is carrying out this kind of balancing exercise, “the scales do not start evenly balanced. The Court must start from the proposition that very substantial weight must be accorded to open justice”. Accordingly, the exercise “starts with a very clear presumption in favour of open justice unless and until that is displaced and outweighed by a sufficient countervailing consideration”. (Whilst the Court of Appeal allowed an appeal in *PMC v Cwm Taf Morgannwg University Health Board* [2025] EWCA Civ 1126, [2025] 3 WLR 887, in relation to specific issues that were in dispute, Sir Geoffrey Vos, MR, indicated that Nicklin J was right to emphasise the importance of the principle of open justice and that it should only be departed from where it is strictly necessary to do so in the interests of justice (para 107)). 44. It is well recognised that the names of people who are involved in Court proceedings are a very important aspect of open justice. As Lord Rodger observed in *In re Guardian News and Media Ltd* [2010] 2 AC 697 at para 63: “What’s in a name? ‘A lot’ the press would answer. This is because stories about particular individuals are simply much more attractive to readers than stories about unidentified people. It is just human nature.” Harassment 45. 46. Section 3(1) of the Protection from Harassment Act 1997 (“PHA”) provides that an actual or apprehended breach of section 1(1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question. Section 3(2) states that on such a claim, damages may be awarded for (among other things) anxiety and financial loss resulting from the harassment. Section 1(1) PHA provides that a person must not pursue “a course of conduct” which “amounts to harassment of another” and “which he knows or ought to know amounts to harassment of the other”. Section 1(2) says that the person in question ought to know their conduct amounts to or involves harassment of another “if a reasonable Judgment Approved by the court for handing down. *BPA v NXT* person in possession of the same information would think the course of conduct amounted to or involved harassment of the other”. Section 7(3) (a) PHA states that for these purposes a “course of conduct” must involve “conduct on at least two occasions in relation to” the person who has been harassed. Section 7(4) confirms that “conduct” includes speech. 47. Section 7(2) PHA states that references to

harassing a person “include alarming the person or causing the person distress” (emphasis added); the Act does not contain a definition of what amounts to harassment. Caselaw indicates that harassment for these purposes entails a persistent and deliberate course of unreasonable and oppressive conduct, which is calculated to, and does, cause the person in question alarm, fear or distress: *Hayes v Willoughby* [2013] 1 WLR 935 at para 1. To cross the boundary from regrettable conduct to unlawful harassment, the gravity of the conduct must be of an order that would sustain criminal liability under section 2 of the PHA: *Majrowski v Guy’s and St Thomas’s NHS Trust* [2007] 1 AC 224 at para 30; and *Dowson v Chief Constable of Northumbria Police* [2010] EWHC 2612 (QB) at para 142. The Defendant’s submissions 48. In support of the strike out application, Ms Foster submitted that the Claimant had failed to articulate any valid claim and that it was impossible for the Defendant to address the Particulars of Claim; given how vague and incoherent the pleading was, he did not know the case he had to meet. She pointed out that the Claimant had already had ample time to address the deficiencies in the Particulars of Claim, given that they were highlighted in the Second Application and supporting witness statements which she received as long ago as December 2025. Furthermore, the Claimant’s response to the Second Application and her Skeleton Argument for this hearing had markedly failed to engage with the detail of these deficiencies and she had failed to provide further supporting details and failed to clarify her claim. Ms Foster emphasised that the Defendant was facing very serious allegations.

49. Ms Foster accepted that claims of assault are actionable per se, but she said that as the Claimant had pleaded that she had suffered from consequential injuries, it was incumbent on her to provide supporting medical evidence. 50. 51. In relation to the summary judgment application, Ms Foster submitted that as the claim was simply incomprehensible, it did not have a reasonable prospect of success. Further, the Claimant’s allegations were contradicted by the contemporaneous documents and she had not put forward a contrary factual account. As she had not done so thus far, there was nothing to suggest that the Claimant would be able to do so going forward; she had also not provided any of the documents which she said supported her case. In relation to the anonymity application, Ms Foster accepted that damage to a person’s reputation is not a reason per se to grant anonymity, but she stressed the potentially career destroying allegations that he faced in circumstances where the Claimant had been unable to articulate any coherent claim against him or provide supporting material. She relied upon the factors highlighted in the witness evidence. If I extended the current anonymity order, it would be kept under review. Judgment Approved by the court for handing down. *BPA v NXT* The Claimant’s submissions 52. 53. 54. 55. 56. The Claimant emphasised that the threshold for striking out a claim is high and that this case turned on heavily contested, fact sensitive issues which should be heard and resolved at a trial, when all the evidence was available. She submitted that there was a real issue to be tried. The Claimant said that her claim was appropriately identified in her Particulars of Claim and that the categories of loss were clearly set out in her Schedule of Loss. The provision of further details was a matter of refinement. She stressed that she had provided

an explanation in response to the direction made by Master Dagnall in October 2025 (para 16 above). The Claimant said she accepted that a focused medical report, supporting her claims for psychiatric injuries was required, but that she had encountered practical difficulties in obtaining a report so far. She said she had delivered a letter to her GP's surgery in December 2025 (which she read out to me), asking for a report to be prepared detailing her symptoms and the counselling and other forms of treatment that she had received, but the surgery had indicated that the GP would not be able to provide a report unless there was a Court order. She said her underlying medical records were extensive and included reference to many unrelated matters, including highly sensitive topics. She would be asking the Court to give case management directions in due course to ensure that there was a proportionate level of disclosure. The Claimant did not raise any objection to the Defendant being granted anonymity, but she stressed that this should be proportionate and kept under review. At the end of her submissions, I clarified a number of matters with the Claimant, which I refer to in the next section of my judgment. Discussion and conclusions

The strike out application 57. 58. 59. 60. In response to my questions, the Claimant confirmed that her claim against the Defendant was for sexual assault and harassment, rather than for negligence and/or breach of professional duties owed to her as a client, as her letters of 25 September 2025 and 14 November 2025 had suggested (paras 5 and 16 above). She also accepted that the HRA did not apply to the Defendant as he was not a "public authority". As I explained during the hearing, whilst conduct amounting to coercive control may be a crime (under section 76 of the Serious Crime Act 2015) it is not, in itself, a tort. However, conduct that constitutes controlling or coercive behaviour may well, depending on the circumstances, also amount to unlawful harassment under the PHA. Accordingly, at this stage I will strike out the references in the Claim Form and/or the Particulars of Claim to: (i) breaches of the HRA; (ii) coercive control; and (iii) breaches of the Defendant's duties as a barrister. The allegations in the Particulars of Claim, as currently pleaded, are unsatisfactorily vague. The pleading does not comply with CPR 16.4(1)(a) (para 28 above) and it does not enable the Defendant or the Court to sufficiently understand the case that is being Judgment Approved by the court for handing down. BPA v NXT brought against him. The following are the main problems with the pleading as it stands: i) ii) iii) iv) Para 4 does not properly particularise the allegation/s of non-consensual sexual intercourse. Whilst the period of 12 – 18 October 2022 is referred to, it is unclear how many times the Claimant alleges that she was raped, or the dates and approximate times of these incidents (within this period) or the location/s at which each incident took place. Additionally, the Claimant has not given any description of what she says occurred. This is required for each of the instances that she relies upon, so that the Defendant is given a fair opportunity to know what is being said against him and to respond; Although the Particulars of Claim refers to the Defendant "harassing the Claimant", she does not specify which aspects of his conduct are relied upon for these purposes. It is not clear whether the Claimant alleges that the matters described in para 6 and/or the unsolicited email described in para 9 and/or the contact he is said to have made with her despite her formal complaints in para 11 are said to constitute harassment. I also note that para 9 refers to the Defendant's conduct "including" the unsolicited email of 2 October 2024, which

suggests that she is also relying upon additional conduct that she has not identified at this stage. It is incumbent on the Claimant to identify each act of harassment that she relies upon, giving a short description of what she alleges the Defendant did or said, and indicating the date and approximate time when it occurred and the location. Insofar as the Claimant relies upon the “contacting her” in para 11 as constituting harassment, she also needs to identify the “formal complaints” that she refers to in this context; It is not at all clear how the Defendant’s conduct is said to have disrupted her livelihood from the Airbnb/B&B income, that the Claimant refers to in para 5; and It is not at all clear how the Defendant’s conduct caused the Claimant’s homelessness, loss of business income or disruption to her education. This is asserted in para 12 without any explanatory details being given. 61. The Claimant’s Schedule of Loss is also unsatisfactorily vague. Despite the wording of PD16 para 4.2, I recognise, as Ms Foster accepted, that Schedules of Loss served at any early stage of litigation, do not necessarily contain a quantification, or a full or precise quantification of the sums claimed; and that such details are provided in due course. I would not strike the claim out at this juncture if the Schedule was only missing a quantification of the losses claimed. However, the difficulties are more fundamental than that. As a minimum, it is important that the Defendant and the Court understand the basis upon which the various heads of claim are being made and the nature of those claims. In this regard, the following are the main issues with the current Schedule of Loss: i) It is unclear how it is said that the Claimant’s Airbnb/B&B business was disrupted by the Defendant’s conduct; ii) The Claimant does not say what she had intended to do in relation to her plans for self-employment, expansion of her business or pursuit of higher education Judgment Approved by the court for handing down. BPA v NXT had it not been for the Defendant’s conduct or how this changed as a result of his actions; iii) The Claimant does not explain how her hospitalisation for pneumonia is linked to the Defendant’s conduct and she gives no indication of the date/s when this occurred; iv) No indication is given as to the nature and extent of the ongoing “care and support” that the Claimant is receiving or of its cost; v) vi) The Claimant does not explain how she was made homeless as a result of the Defendant’s conduct, the types of loss or losses that she claims in relation to this or the period of time during which she was homeless; and The Claimant does not indicate how the Defendant’s conduct is said to have caused the loss of her possession, the possessions involved or the date when this occurred. As I have indicated, Ms Foster invited me to strike the claim out at this stage because of these deficiencies. However, it appears to me that these matters may be capable of being rectified by the Claimant and that the interests of justice therefore require that I give her an opportunity to do so, rather than taking the draconian course of striking out the claim at this juncture (para 37 and 38 above). I bear in mind that the Claimant is a litigant in person and that (whilst I have not seen any medical evidence at this stage) she describes a number of vulnerabilities. When I asked her about the current vagueness of her allegations, the Claimant said she would be able to amend her pleadings to address these points and that she wanted to have the opportunity to do so. The order I will make will give the Claimant four weeks to amend her Particulars of Claim and her Schedule of Loss, which is the period of time that she asked for. With a view to assisting her to understand what

needs to be done, my order identifies the matters that the Claimant needs to address. Ms Foster agreed that it would be a good idea for me to do this. In addition, I have summarised what needs to be shown for conduct to amount to harassment at paras 45 – 47 above. The Claimant will want to bear this in mind when setting out the actions that she alleges amounted to harassment in her Amended Particulars of Claim. I stress that my order itemises the matters that the Claimant needs to address as a minimum, in order to avoid her claim being struck out. If she is also able to give further details of, for example, valuations for what she claims under the various heads in her Schedule of Loss, that is desirable, but I have not required it at this stage. I also emphasise that this is not an opportunity for the Claimant to expand her claim or to introduce new causes of action at this stage; she is being given this time to properly particularise her existing claims. Given the history of this matter, I am in no doubt that I should attach “unless orders” to the directions requiring the Claimant to provide a properly pleaded Amended Particulars of Claim and Amended Schedule of Loss. The Claimant has been aware from as long ago as December 2025 that the Defendant was challenging her pleadings as vague and incoherent. Some of the specific deficiencies were pointed out to her, for example in relation to the rape allegation in para 4 of the Particulars of Claim. 62. 63. 64. 65. Judgment Approved by the court for handing down. BPA v NXT However, the Claimant has taken no steps since then to rectify the position, instead (incorrectly) insisting in her communications with the Court and in her submissions at the hearing that her pleadings were sufficient. In the circumstances, I cannot have confidence that these matters will be addressed unless the Claimant faces the sanction of her claim being struck out if she does not comply with the Court’s order. When I asked her during the hearing, the Claimant indicated that she did not oppose the inclusion of “unless orders”. I explained the effect of an “unless order” to her and I emphasised that if she was unable to comply with the order for any reason she must make a formal application for an extension of time before the deadline expires, in order to avoid her claim being struck out. I also consider that the Claimant should be given a further opportunity to provide a medical report that supports her claim for consequential psychiatric injury. On her account, she did respond to Master Dagnall’s direction by sending an explanation to the Court (para 16 above) and she has taken some steps to obtain a report from her GP (para 54 above). The Claimant accepted that she needed to provide a report and she asked for four weeks in which to do so. I will give her eight weeks, as it appears to me that a four-week period may be unrealistically short. In light of her account of her dealings with her GP’s surgery (para 54 above) and to ensure that there was no misunderstanding, I explained that it would not be appropriate in the present circumstances for the Court to order a particular GP’s surgery to provide a report; the order requires the Claimant to provide the report and it is a matter for her as to how she complies with this. I will attach an “unless order” to this part of my directions as well, for the reasons I have already identified. After I indicated my provisional intention to proceed in this way, Ms Foster asked that I adjourn the strike out application, rather than dismissing it at this stage; she said that even if the Claimant provides some further detail of her claims, the Defendant may still wish to argue that her claim is insufficiently coherent or particularised and it would be unfair for the Defendant to have to begin again with a new

strike out application at that stage. I agree with her that this is the appropriate course to take in the circumstances and my order makes provision for this. For the avoidance of doubt, the Defendant is not required to serve a Defence prior to the Claimant's provision of the Amended Particulars of Claim, Amended Schedule of Loss and medical report that I will direct; and this will remain the position if the Defendant then renews the strike out and/or summary judgment application. 66. 67. 68. It may be helpful to both parties, if I indicate certain matters at this stage, so that the strike out application, if pursued, can be appropriately focused. I do so using the same lettering as in para 20 above, for ease of cross reference: i) ii) It is unlikely that I would strike out the claim in relation to the alleged breach of Master Dagnall's direction, in light of the account given by the Claimant (para 16 above); This may remain a live issue if the Amended Particulars of Claim does not provide sufficient particulars of the alleged non-consensual sexual intercourse; iii) This may remain a live issue if the Amended Schedule of Loss does not contain sufficient particulars or the Claimant fails to provide a medical report that complies with PD16 para 4.3; Judgment Approved by the court for handing down. BPA v NXT iv) During the hearing, Ms Foster clarified that she did not pursue this allegation as a ground for striking out the claim and she relied upon it as no more than background. She also confirmed the Defendant was not contending that the Claimant was required to provide her medical records (as opposed to the medical report) at this stage; v) This point relates to the summary judgment application rather than the strike out application; vi) This point also relates to the summary judgment application rather than the strike out application; vii) The HRA claim is to be struck out with the Claimant's agreement; and viii) Insofar as this is a complaint about the Claimant's pleading it may remain a live issue, as I have indicated at (iii) above. Insofar as it is a point regarding the evidence, it relates to the summary judgment application. The summary judgment application 69. 70. As will be apparent from my earlier account of the parties' submissions, the summary judgment application is partly based on the inadequacy of the Claimant's pleadings and partly on the evidential position (para 50 above). Ms Foster agreed with my observation that if I was prepared to give the Claimant a chance to amend her pleadings, it would make sense for the application for summary judgment (if pursued), to be determined after the Claimant has been given that opportunity. I will therefore adjourn the summary judgment application on the same terms as I will adjourn the strike out application. I emphasise, however, that the Court will not engage in a mini-trial and that generally the Court will not go behind the pleaded allegations at the summary stage, save where it is clear that there is no real substance to the factual assertions made (para 35 above). Anonymity 71. 72. 73. As I explained at para 2 above, the Claimant is protected by the provisions of the Sexual Offences (Amendment) Act 1992. Any identification of her as the Claimant in these proceedings or the publication of details that would enable her to be identified as such would constitute a breach of the statutory prohibition. Nonetheless, I have also extended the anonymity order that I previously made in relation to the Claimant (para 24 above), to reinforce this and to provide for her to continue to be known as BPA. I turn to the question of the Defendant's anonymity. I accept that his rights guaranteed by Article 8 ECHR are engaged in this instance, given the nature of the Claimant's pleaded allegation and

the very substantial effect they could have upon his career, his reputation and his livelihood. I have set out the applicable legal principles between paras 39 – 44. I should only grant the Defendant's application for an anonymity if he has shown by clear and cogent evidence that doing so is strictly necessary in the circumstances and no lesser measure would suffice. I must weigh the fundamental principles of open justice and Judgment Approved by the court for handing down. BPA v NXT freedom of expression against the Article 8 considerations that he advances and I start with a clear presumption in favour of open justice. I also bear in mind the importance of the press being able to name those who are involved in legal proceedings and that anonymity should not be granted simply because proceedings contain an allegation or allegations that may be damaging to a party. 74. Nonetheless, I am satisfied that it is in the interests of justice to grant the anonymity order sought in order to protect the Defendant's qualified Article 8 rights. This is for the following, cumulative reasons: i) The allegations made in this claim are very serious. The Defendant's reputation and standing as a barrister would be significantly and irreparably damaged by any publicity around this claim in which he is identified; and in turn this would have a significant impact upon his livelihood; ii) The Defendant did not initiate these proceedings; iii) The claim that is brought against him is at a very early stage and at least so far, no properly pleaded claim has been articulated against him, despite the Claimant having had the opportunity to do so. It is currently unclear whether the Claimant will be able to do this or not in the additional four week period that I will afford her. It may be that the claim will be struck out at an early stage; iv) There is evidence (and I stress I put it no higher than that at this stage) which may undermine the Claimant's allegations and suggest an alternative motivation for them having been made (paras 18 and 22 above); v) The Claimant has the benefit of anonymity as a result of the Sexual Offences (Amendment) Act 1992; vi) No application was made by the press or by any other third party to discharge or vary the earlier "hold the ring" anonymity order that I made on 3 February 2026 (paras 24 and 26 above) and no members of the press sought to attend the hearing on 30 April 2026; and vii) The order I will make includes provision for third parties to make applications (on notice) to vary or discharge the order and, in any event, I will keep its terms under review. I am satisfied that no lesser measure would suffice at this stage. 75. Accordingly, I will extend the anonymity order that I granted in my 3 February 2026 order until further order. I will also extend the orders that I made pursuant to CPR 5.4C and 5.4D (para 23 above). Costs

76. Ms Foster submitted that I should award the Defendant his costs of the applications at this stage, with the amount of the costs to be assessed in due course. She argued that the First Application and the Second Application had been necessitated by the Claimant's default. Judgment Approved by the court for handing down. BPA v NXT
77. Whilst I accept that an application was required in light of the issues I have identified with the Claimant's pleadings and that she needs to serve a medical report in support of her claim for psychiatric injuries, I have not at this stage made any determination, one way or the other, in respect of the application for summary judgment and it does not appear to me that all of the points made in support of the strike out application were well-founded.

Furthermore, part of the Defendant's costs were occasioned by the application for anonymity and, whether or not he should recover his costs for this aspect is likely bound up with the merits of the claim. I do not know at this stage whether or not the Claimant will provide an adequately pleaded claim, as directed. For all these reasons, I consider the more appropriate course is for me to reserve costs at this stage. As I am the assigned judge in respect of this litigation, I will determine the costs application in due course (if it is not agreed) and I will be fully aware of the relevant circumstances. 78. Accordingly, I will make provision in the Court's order for the Defendant to request the determination of his application for costs on the papers if the claim is struck out pursuant to the "unless orders" or, if the claim is not struck out, for him to seek a determination of his costs in the context of him applying to the Court for a further order and/or a further hearing date in relation to his outstanding applications. Outcome 79. For the reasons I have explained above, I will: i) ii) Grant the anonymity order sought; Strike out the claims for breach of the HRA, coercive control and breach of the Defendant's duties as a barrister; iii) Give the Claimant four weeks to serve an Amended Particulars of Claim and an Amended Schedule of Loss addressing the matters I have specified in this judgment and in the Court's order. If this aspect of my order is not complied with, and before the expiry of the stipulated period no formal application has been made for an extension of time, the claim will be struck out; iv) Give the Claimant eight weeks to serve a medical report in support of her claim for psychiatric injuries. If this aspect of my order is not complied with, and before the expiry of the stipulated period no formal application has been made for an extension of time, the claim will be struck out; v) Adjourn the Defendant's applications to strike out the claim and/or for reverse summary judgment, permitting him to pursue these applications on notice if the claim is not struck out pursuant to the unless orders that I will make; and vi) Reserve the question of costs.

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