

ENGLAND AND WALES / JUDGMENT

Christopher Ness v Jennifer Miller

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Neutral Citation Number: [2025] EWHC 1784 (KB) IN THE HIGH COURT OF JUSTICE KING'S BENCH DIVISION MEDIA AND COMMUNICATIONS LIST Case No: KB-2025-000232 Royal Courts of Justice Strand, London, WC2A 2LL Date: 15 July 2025 Before : THE HONOURABLE MRS JUSTICE HEATHER WILLIAMS DBE

- ----- Between : CHRISTOPHER NESS
- and - JENNIFER MILLER
- -----
- ----- Claimant Defendant The Claimant in person David Hughes and Emma Meadows (acting pro bono via Advocate) for the Defendant Hearing date: 01 July 2025
- ----- Approved Judgment This judgment was handed down remotely at 10.30am on 15 July 2025 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. Ness v Miller MRS JUSTICE HEATHER WILLIAMS 1. The Claimant, Christopher Ness, brings claims for libel, false imprisonment and breach of the UK GDPR / Data Protection Act 2018 (“DPA 2018”). The libel claim relates to a YouTube video first published on 3 February 2024 and to five emails sent in the period 10 February – 8 March 2024. Although the five emails were not all sent to the same recipient, as I detail below, they have been referred to compendiously as the England Athletics emails and I will adopt that shorthand. The Defendant accepts that she spoke the words the Claimant relies upon in the YouTube video, but denies that she was involved in the publication of the emails. 2. By Order dated 7 March 2025, Master Davison directed a trial of the following preliminary issues (in whatever order the judge at trial decided appropriate): i) The natural and ordinary meaning of the words complained of in the YouTube video and the England Athletics emails; ii) Whether any meaning found is defamatory of the Claimant at common law; iii) Whether in each case the words are (or include) a statement of fact or opinion; iv) Whether the YouTube video refers to the Claimant; and v) Whether the Defendant was the author and/or publisher of the England Athletics emails. I will refer to these collectively as “the Preliminary Issues”. By an Application Notice dated 19 February 2025, the Defendant had earlier applied to strike out the claim. In his 7 March 2025 Order, Master Davison directed that the strike out application be stood over to the Preliminary Issues Trial for further case management or, if appropriate, determination by the judge hearing that trial. In the week before the hearing, the Defendant secured the services of Mr Hughes and Ms Meadows representing her on a

pro bono basis. In their Skeleton Argument for the Preliminary Issues Trial, they addressed a number of substantive issues that went beyond the five issues identified by the Master (para 2 above) (“the Additional Issues”). These were: whether the “serious harm” test in section 1(1) of the Defamation Act 2013 was met; whether the defamation claim was an abuse of process in the *Jameel (Yousef) v Dow Jones & Co Inc* [2005] EWCA Civ 75, [2005] QB 946 (“Jameel”) sense; whether the false imprisonment claim as pleaded should be struck out as having no reasonable prospect of success; and whether the UK GDPR / DPA 2018 claim should be struck out on the bases that: (i) the Defendant was not the author of the England Athletics emails; (ii) the Claimant was not identifiable in the video and (iii) in any event, this claim was a Jameel abuse. I indicated at the outset of the hearing that I did not propose to hear submissions on or rule on the Additional Issues at the Preliminary Issues Trial. Skeleton Arguments were exchanged on 27 June 2025. The Additional Issues went significantly beyond the scope of Master Davison’s 7 March 2025 Order. The Claimant had not been given sufficient advanced notice of these matters and he had not had the opportunity to address them in his Skeleton Argument. Whilst I gave Mr Hughes an opportunity to 3. 4. 5. Judgment Approved by the court for handing down. *Ness v Miller* address me on this aspect, he indicated that having heard my provisional view, he did not seek to persuade me otherwise. I agree with him that it was in any event helpful for counsel to have identified the additional contentions that the Defendant would or may seek to pursue in relation to the outstanding strike out application (depending on the outcome of this Preliminary Issues Trial). I indicated that I would give the parties an opportunity to address consequential matters, including the outstanding strike out application, once this reserved judgment was handed down. A trial of preliminary issues is now a common stage of defamation proceedings. The Preliminary Issues identified at (i) – (iii) are determined without the Court hearing any evidence. At the time when the Master directed the Preliminary Issues Trial, it did not appear that the Claimant was relying upon anything beyond the contents of the Particulars of Claim to support the proposition that the words complained of in the YouTube video referred to him. I explain how this position subsequently developed when I summarise the chronology of the proceedings below. It was apparent at the time of the 7 March 2025 Order that the determination of issue (v) would likely involve the Court hearing disputed evidence as to whether or not the Defendant played a role in the publication of the England Athletics emails. In the event, the Claimant did not serve any witness evidence; the Defendant served statements dated 3 April, 3 May and 26 June 2025. The Defendant gave oral evidence at the Preliminary Issues Trial and I permitted Mr Ness to cross-examine her, limiting his questioning to the issue of whether she was a publisher of the England Athletics emails. For the avoidance of doubt, I emphasise (as I did at the hearing) that I am not concerned at this stage with any disputed matters that go beyond the scope of the Preliminary Issues. As the Claimant was self-representing, I took steps at the outset of the hearing to check that he had access to all the relevant documentation and that he was clear about the issues that the Court would and would not decide at this trial. Mr Ness indicated that he would prefer to make his submissions after Mr Hughes had addressed me and so I adopted this course (after first hearing Ms Miller’s

evidence). I indicated to Mr Ness that he was welcome to check with me if any aspect was not clear to him as the trial proceeded. He did this on several occasions. 6. 7. 8. The background 9. 10. 11. I will deal with the background briefly and only to the extent that it is relevant, given the limited issues that are before the Court at this stage. The Claimant pleaded at para 1 of the Particulars of Claim that he is a British Masters athlete, who obtained coaching qualifications with England Athletics (the relevant governing body for athletics) and that he has served on the committee for Walton AC, a registered athletics club. The Claimant pleaded at para 2 of the Particulars of Claim that from March 2023 he created a personal blog on the online content platform, Substack, which is titled “Chris’s Substack”, where he posts about issues of interest to him (“the Substack blog”). He stated that one of the issues he posted about was the disappearance of Nicola Bulley on 27 January 2023 in St Michael’s on Wyre and the related criminal investigation, which he describes as a matter of “national concern and attention” that Judgment Approved by the court for handing down. Ness v Miller 12. 13. 14. 15. “generated much public debate and comment by both established media outlets and individuals online” (para 3). The Claimant stated that he has posted about Ms Bulley’s case on the Substack blog and that as part of what is described as his investigations into Ms Bulley’s disappearance, he had occasionally attended St Michael’s on Wyre, including on 27 January 2024 (para 4). The Claimant pleaded at para 5 of the Particulars of Claim that the Defendant, along with Michelle Sojka and Joanna Sojka, posts online content under the name of “Truth Finders”, who have an account on the YouTube video sharing website. Truth Finders has also taken an interest in events relating to Ms Bulley’s case. The “Defence Case Summary” document (para 28 below), drafted by the Defendant herself, did not adopt the conventional approach of indicating, paragraph by paragraph, which of the allegations contained in the Particulars of Claim were admitted, not admitted or denied. However, it does not appear from that document that the Defendant positively disputes any of these averments, save that she refers to the Substack blog being called “Outside the Cave”. For present purposes it is not appropriate or necessary to refer to the details of the Substack blog. The views the Claimant expresses are controversial and others, including the Defendant, have published posts and other online content expressing disagreement with him. The pleaded claim in libel 16. 17. 18. Although the Claimant has represented himself for the majority of the litigation, his Particulars of Claim were drafted by counsel. Paragraph 8 of the Particulars of Claim stated that the YouTube video and the England Athletics emails “were published or caused to be published by the Defendant”. The video was then identified at para 8.1 as a livestream video co-presented by the Defendant and published on the Truth Finders’ YouTube account on 3 February 2024. The text continued that during the video; “the Defendant referred to the Claimant using the following words complained of: “When children are involved and you’re mentioning children, that takes it to a whole new level because that potentially endangers children and anyone that does that is automatically in my case and in my friends’ cases going to get reported to the police.” 19. Para 8.3 addressed the First Email, pleading: Judgment Approved by the court for handing down. Ness v Miller “On 10 February 2024 at 14:44hrs the Defendant sent an email to England Athletics with the subject line ‘Concerning conduct of Chris Ness, of [address] in

the last 12 months', which included the following words complained of: '...many complaints have already been made to the police [redacted] who have not only been approached by Chris Ness but have threatened them also. Chris Ness has also intimidated several witness (sic) to a public enquiry by calling them on the phone to their business no. invaded a private gated residential community called Rowanwater to further intimidate that witness by filming outside their property, and filming inside a private campsite and into other private properties – all of these activities have been recorded in his blog above [Redacted] another police investigation is currently ongoing for his continuing threatening behaviour towards members of the public.'" 20. Para 8.4 addressed the Second Email, pleading: "On 12 February 2024 at 14:38hrs the Defendant sent an email to England Athletics which included the following words complained of: 'He's been writing [redacted] blogs and making accusations online, including threats...[Redacted] said this chap has been involved with the police, who are aware of his activities. [Redacted] has a concern that the chap has access to children and teaches.'" 21. Para 8.5 addressed the Third Email, pleading: "On 12 February 2024 at 15:22hrs the Defendant sent an email to England Athletics with the subject line 'Concerning conduct of Chris Ness of [address] in the last 12 months' which included the following words complained of: 'It has been confirmed that there is an ongoing police investigation into Chris Ness threatening and approaching children of his latest harassment victim from the Kent area This is on top of all the other [redacted] stunts he has carried out which are listed in his [redacted] – link found below.'" 22. Para 8.6 addressed the Fourth Email, pleading: "On 12 February 2024 at 21:18hrs the Defendant sent an email to England Athletics with the subject line 'Concerning conduct Judgment Approved by the court for handing down. Ness v Miller of Chris Ness of [address] in the last 12 months – [redacted]', which included the following words complained of: 'He's been to Allotment lane about 5 times further harassing people, one 7th June, two videos in late June at the time of the Inquest just before he left for Belgium, one later in the year when the river was in flood and one on 27th Jan 2024 before competing at Sheffield to harass even more locals and the family of the dead person by visiting the grave yard (sic) and was chased away by the police [Redacted] he's been making up many different social media accounts in order to get at and harass others which has led to another police report being filed against him, this time with Kent police.'" 23. Para 8.7 addressed the Fifth Email, pleading: "On 8 March 2024 at 18:37hrs the Defendant sent an email to England Athletics with the subject line: 'Chris Ness – Committee member and coach Walton AC – Update', which included the following words complained of: 'Update: - Chris Ness has been formerly charged at Surrey Police (sic) this afternoon with bail conditions facing Magistrates court for harassment of 4 women of whom he is no longer allowed to make malicious communications about in the interim facing his next hearing.'" 24. 25. 26. Para 9 indicated that the emails (with redactions) were attached at Annex A to the pleading and that the Claimant relied upon the entirety of the emails for their context. The text indicated that the Claimant would seek disclosure of the emails in their native form and that "the Claimant reserves his right to amend these Particulars upon such disclosure". At the pleading stage, the Claimant had obtained the redacted versions of the emails from England Athletics via a subject access request. The pleading then addressed the natural and

ordinary meaning of the words relied upon. No innuendo meanings were pleaded. The text said: “The Video 10.1 The words complained of at paragraph 8.1 above meant and were understood to mean that the Claimant improperly identified children in online posts and in so doing put them at risk of harm. Judgment Approved by the court for handing down. Ness v Miller The First Email 10.2 The words complained of at paragraph 8.3 meant and were understood to mean that the Claimant had serially threatened and intimidated many members of the public. In relation to several of those people the Claimant’s conduct related to their participation as witnesses in judicial proceedings. The Second Email 10.3 The words complained of at paragraph 8.4 above meant and were understood to mean that the Claimant engaged in threatening online conduct of such severity that he should not have access to children. The Third Email 10.4 The words complained of at paragraph 8.5 above meant and were understood to mean that the Claimant is guilty of serially harassing people. His victims include an individual from the Kent area. There are grounds to investigate whether he has threatened and improperly approached the individual’s children. The Fourth Email 10.5 The words complained of at paragraph 8.6 above meant and were understood to mean that: (a) (b) The Claimant is guilty of serious and serial harassment against multiple individuals in various parts of the country, including members of a grieving family; In order to perpetrate his harassment the Claimant has used the deceptive method of ‘sock puppet accounts’ to hide his identity on social media. The Fifth Email 10.6 The words complained of at paragraph 8.7 above meant and were understood to mean that: (a) The Claimant is a serial harasser, including of four women in relation to whom the evidence was so strong that there was a realistic prospect of conviction;

- (b) The Claimant had sent malicious communications to the same women.” Judgment Approved by the court for handing down. Ness v Miller 27. The pleading contended that these imputations caused serious harm to the Claimant’s reputation (para 11). The Particulars of Claim then addressed the other two causes of action that I am not concerned with at this juncture. The litigation 28. The claim was issued on 22 January 2025. It appears that the Particulars of Claim were served with the Claim Form. By Application Notice dated 19 February 2025, the Defendant applied to strike out the claim or for a hearing on the meaning of the words relied upon. The ‘Defence Case Summary’ documented dated 28 February 2025 (and filed on 3 March 2025) contended that the Defendant did not send the England Athletics emails, did not procure anyone to write the England Athletics emails and “the Defendant has no idea who sent these emails to England Athletics”. The document also said that the YouTube video did not mention the Claimant’s name and that the presenters were responding to a question in the chat on the video. 29. The Claimant filed a Reply dated 13 March 2025, which addressed various aspects of the Defence Case Summary, but not specifically the two contentions I have referred to in the previous paragraph.
30. When ordering the Preliminary Issues Trial on 7 March 2025, Master Davison made various directions. These included at para 4 that by 4.30pm on 4 April 2025: “...(A) the Claimant shall serve and file a document setting out his case on how and why he says that (i) the video refers to him and (ii) the Defendant is the author / publisher of the emails and (B) the

Defendant shall file and serve a document setting out what she says in the meaning of the video. (The Defendant is not ordered to set out her case on the meaning of the emails (given her stance that she was not the author or publisher of those emails)).” 31. The Master also directed the parties to exchange witness statements “which are to be limited to the preliminary issues identified” in the Order, by 4.30pm on 9 May 2025. He indicated that if the Claimant wanted to pursue an application against England Athletics for disclosure of unredacted copies of the emails, so as to reveal the identity of the sender, any such application was to be issued and served by the dates that he stipulated. The “Claimant’s case for Trial of Preliminary Issues” document 32. Pursuant to para 4 of the 7 March 2025 Order, the Claimant filed a document headed “Claimant’s case for Trial of Preliminary Issues” dated 3 April 2025. The document ranged more widely than the Preliminary Issues, however paras 16 – 24 addressed whether the YouTube video referred to the Claimant. Mr Ness sought to derive some support from the fact that Ms Miller had set out a defence of truth. He then included a screenshot from the live chat accompanying the video, contending that the verbal exchanged between the Defendant and Michelle Sojka (her co-presenter) which included the words complained of in the Particulars of Claim was initiated by a comment from someone called Charlotte in the chat who messaged, “Chris Substack saw you guys in the field last Saturday” followed by a laughing face emoji. The Judgment Approved by the court for handing down. Ness v Miller document continued that the Claimant had published a Substack blog on 31 January 2024 (which was included at his Appendix 2) and a related Substack audio post on 2 February 2024. He asserted that the audience member who made the comment was familiar with either or both of these Substack posts; and that the location of the field referred to was St Michaels-on-Wyre in Lancashire on Saturday 27 January 2024. He said that the video plainly referred to him. He also made reference to Google search engine returns for “Chris Substack”. The Claimant appended a transcript of parts of the YouTube video. I have appended a shorter transcript of the relevant parts of the video at Appendix 1 to this judgment. 33. Paras 28 – 44 of the same document addressed the question of whether the Defendant was a publisher of the England Athletics emails. In summary, the Claimant said that the evidence the Defendant published or caused to have published the redacted emails was provided by: (1) false statements she had made in her Defence Case Summary document; (2) defamatory social media posts she had made about the Claimant; (3) the contents of the YouTube video; and (4) the Fifth Email containing information regarding the Claimant’s bail conditions that were “known only to the Defendant (and team)”. The Defendant’s first two statements 34. 35. The Defendant filed a witness statement headed “Meanings Witness Statement” dated 3 April 2025. Again, the document was wider in scope than the Preliminary Issues. The document included a transcript of the section of the YouTube video from 10.55 – 15.04 minutes into the broadcast, indicating by the colour of the font when Ms Miller was speaking and when her co-presenter was speaking. She stated she made no mention of the Claimant’s full name and that only “Chris” was used in the video. Ms Miller reiterated that she had not written the England Athletics emails, nor procured anyone to send them. Pursuant to Master Davison’s direction for the exchange of witness statements, the Defendant also filed a document dated 3 May 2025 headed “Defence Witness

Statement”, in this she again denied that she had written or procured the emails sent to England Athletics. She also repeated the points she had made in her earlier document as to whether the Claimant was identified in the YouTube video. The unredacted England Athletics emails 36. The Claimant made an application for England Athletics to disclose the unredacted emails. In his Order dated 9 May 2025, Master Davison directed England Athletics to disclose the unredacted emails to the parties by 4pm on 23 May 2025 (subject to England Athletics having the opportunity to apply to set aside or vary the order (in relation to which, no such application was made)). The Master also required the Defendant to disclose: (a) emails within the date range of 3 February -15 March 2024 that she had sent to or received from England Athletics and (b) any emails within that date range concerning the claimant. In his accompanying Reasons, the Master noted that disclosure of the unredacted emails should put their authorship beyond doubt and that this was a central issue for the Preliminary Issues Trial. He indicated that he had considered the interests of the author or publisher of the emails (if, as the Defendant maintained, it was not her), but had concluded “those interests are subordinate to the need to do justice in the particular case before me”. He went on to observe that the Judgment Approved by the court for handing down. *Ness v Miller* emails were likely to be sent on an occasion of qualified privilege (which is not an issue that is before me at this stage). 37. By his subsequent Order of 21 May 2025, the Master clarified that the Defendant was not obliged to disclose emails to or from the police or Victim Support and that she was entitled to redact purely personal information. 38. England Athletics duly disclosed the unredacted copies of the emails. This indicated: i) ii) The First Email was sent to Walton AC (the Claimant’s Athletics Club). It was written by a person whose name was withheld. The email was sent from the same email address as the sender of the Third, Fourth and Fifth Emails; The Second Email was sent from a Nick Bevan, an Education and Leisure Adviser at the Royal Society for the Prevention of Accidents (ROSPA), to an email address at British Athletics relating to safety and to a ROSPA email address relating to athletics safety. In his email, Mr Bevan described a conversation he said he had just had with a “Lindsey Gauntlett” (it appears from subsequent emails that the correct spelling is “Lindsay”). Mr Bevan provided Ms Gauntlett’s email address, which was the same email address as the First, Third, Fourth and Fifth Emails were sent from. Whilst I do not know the precise relationship between ROSPA, British Athletics and England Athletics, it is common ground that the emails were passed on to England Athletics. iii) The Third, Fourth and Fifth Emails were written from “Lindsay” to the athletics safety at ROSPA email address. The Fifth Email was also sent to a Sarah Harrison at England Athletics. The emails were all sent from the email address given for Ms Gauntlett in the Second Email. The disclosure from England Athletics also included an email from the same email address to Sarah Harrison at England Athletics which was sent on the same day as the Fifth Email, but prior to it at 14:20 hours. On 23 May 2025, the Defendant gave disclosure of her emails for the period stipulated by the Master. The Master subsequently made an Order dated 18 June 2025, dealing with several matters. He declined to set aside or vary his Order of 21 May 2025 relating to the Defendant’s disclosure. He refused the Defendant’s application for sanctions against the Claimant for not serving a witness statement, pointing out that the Claimant had a choice in

that respect and had chosen not to serve witness evidence. The Master also set aside witness summonses which the Claimant had obtained against PC Nick Whitman, Lindsay Gauntlett and Michelle Sojka. In his Reasons accompanying the 18 June 2025 Order, the Master reiterated that the evidence that would be relevant for the Preliminary Issues Trial was confined to the single factual issue of whether the Defendant was the author or publisher of the England Athletics emails. He could not see the relevance of the witnesses who the Claimant had summonsed and witness statements had not been served in respect of any of them. He noted that Ms Gauntlett had accepted that she was the author of the 39. 40. 41. 42. Judgment Approved by the court for handing down. Ness v Miller 43. 44. England Athletics emails in a recent email to the Court. He observed that unless it was to be said that Ms Gauntlett was acting on the instructions of the Defendant, which he did not understand to be alleged, there was nothing to be served by her personally attending the hearing. On 20 June 2025 (in response to a communication to the Court from the Claimant), a member of the Court staff emailed the parties saying that the Master had indicated that if the Claimant wishes to allege that the Defendant had procured or instructed Lindsay Gauntlett to publish the England Athletics emails “then he should set out the basis for that by amending or adding to the ‘Claimant’s Case for Trial of Preliminary Issues’ which he filed on 3 April 2025, or, if he prefers, in a fresh document”. The email did not impose a deadline for the Claimant to take this step. In any event, the trial bundle (which the Claimant prepared) included an undated document beginning at page 176 headed “Unredacted Emails: [Lindsay Gauntlett and Defendant]”. The gist of the document was that the Claimant alleged that the Defendant and Ms Gauntlett had acted in collusion with each other in respect of the publication of the emails and as part of a wider campaign aimed at discrediting him. Mr Ness’ position in this regard was developed in his cross-examination of Ms Miller and in his oral submissions to the Court (paras 51 and 71 – 73 below). Further Orders and the Defendant’s 26 June 2025 witness statement 45. 46. 47. By my Order of 25 June 2025, I refused the Claimant’s application to vary the Master’s Order setting aside the witness summons issued in respect of Ms Sojka, on the basis that no cogent basis for doing so had been identified. The Claimant had earlier indicated that he wanted to question Ms Sojka about her intention in respect of words spoken in the YouTube video. However, this would not be admissible evidence (para 55 below). By my Order of 30 June 2025, I granted the Defendant permission to rely upon her further witness statement (confusingly headed “First Witness Statement”) dated 26 June 2025. I explained my reasons for doing so in the Order. The Claimant did not oppose the application and indeed sought to rely on aspects of this witness statement to advance his case. In her 26 June 2025 statement, Ms Miller denied that she was the author or sender of the England Athletics emails. She said she now knew that Lindsay Gauntlett had written to the Court to confirm that she was the author of these emails; and she exhibited Ms Gauntlett’s emails that were sent to the Court on 6, 19 and 25 June 2025, to confirm this. The Defendant’s statement continued as follows: “5. I did not know that Lindsay Gauntlett had sent any emails or even know who she was. We have never even met in person or spoke to each other prior to Lindsay sending these emails. I had no idea that Lindsay Gauntlett had sent any emails, including the emails that include details of my police complaint to the

police. Judgment Approved by the court for handing down. Ness v Miller

6. I did not procure or instruct Lindsay Gauntlett to publish the emails to Athletics England and I had no part in the drafting of these emails.” 48. 49. By a further Order of 30 June 2025, I declined to address a without notice application from the Claimant dated 29 June 2025 (a Sunday) and seeking to add Ms Gauntlett as a defendant to the claim and to plead an additional defamation claim in relation to a recent email. I indicated that there was no good reason for the application to be made other than on notice. During the course of June 2025, Ms Gauntlett sent a number of emails to the Court expressing unhappiness about the disclosure of the unredacted England Athletics emails to the parties, as she had believed at the time that she was communicating her concerns in confidence. Ms Gauntlett requested various Court orders, including that she be anonymised for the purposes of these proceedings. Her emails were referred to me as the Judge hearing the Preliminary Issues Trial. At the hearing, I gave the parties an opportunity to address me on the various requests made by Ms Gauntlett. Thereafter, I made an Order dated 2 July 2025 addressing those requests. For present purposes, it will suffice to note that I refused her request for anonymity (and the associated reporting restriction) for the reasons that I identified in detail in that Order. However, for the reasons that I also explained in the Order, I did make a reporting restriction in respect of Ms Gauntlett’s home address and telephone number and an order relating to accessing her communications with the Court on the Court file. The Defendant’s evidence
50. Ms Miller confirmed her three witness statements as her evidence in chief. I indicated that I would only have regard to those aspects that pertained to the Preliminary Issues.
51. Mr Ness cross-examined Ms Miller on the basis that she had colluded with Ms Gauntlett in respect of the England Athletics emails. The main points explored during the cross-examination were as follows: i) ii) Ms Miller accepted that she had shared the trial bundle for this hearing with Ms Gauntlett shortly after receiving it from Mr Ness. Ms Miller said she did so because she wanted Ms Gauntlett to provide a witness statement in these proceedings and she wanted to check certain points regarding one of the documents. (I mention for completeness that Ms Miller indicated that Ms Gauntlett declined to provide a witness statement.) Ms Miller said the first time she had spoken to Ms Gauntlett was after she learnt that Mr Ness had obtained a witness summons for her to attend Court. She said she knew how stressful these proceedings were and she was concerned for Ms Gauntlett’s wellbeing and so she called her at the telephone number that was in one of the unredacted England Athletics emails; Mr Ness put to Ms Miller that a passage in the First Email where Ms Gauntlett said, “I’m told yet another police investigation is currently ongoing for his continuing threatening behaviour towards members of the public”, was a reference to information that the Defendant had provided to her about her police complaint, which had been made earlier that same day. Ms Miller accepted she made a police complaint on 10 February 2024, but denied having Judgment Approved by the court for handing down. Ness v Miller iii) iv) v) any communication with Ms Gauntlett about this. She said that as she was

not involved in the content of the email, she could not comment upon what this passage meant. She added, “I don’t know how she found that out” and then suggested that it might be through “Chinese whispers”; Ms Miller rejected Mr Ness’ suggestion that she had objected to him obtaining a witness summons for Ms Gauntlett because there were things that she preferred to keep hidden. She said she had objected to all of the witness summonses for the reasons set out in her 17 June 2025 communication to the Court, namely that the Claimant had not provided witness statements for any of the three summonsed individuals, so that the relevance and content of what they would say was unknown; A 16 March 2024 tweet from an anonymous account on X from “MVolunteer@76” was put to Ms Miller. Mr Ness suggested that this was posted by Ms Gauntlett. Ms Miller responded that she was unable to comment on this and that she had no knowledge of this account or its tweets at the time; Mr Ness put to Ms Miller that the reference in the Fifth Email to his bail conditions must have come from her. At the time when the email was sent, he was still in police custody (following his arrest earlier that day) and had yet to be notified of his bail conditions. He suggested that as she was one of the complainants, Ms Miller had been informed of the bail conditions by the police. Ms Miller denied having any direct contact with Ms Gauntlett on this topic. She said that North Wales Police had telephoned her to inform her that Mr Ness had been arrested. The officer had asked her to attend the police station to provide some further documentation, which she had done that day (8 March 2024). She said she went to the station at about midday and, whilst there, she did ask questions of the officers, but was told that there was very little they could say about the arrest. She did not recall being told about the bail conditions. Ms Miller added that she had mentioned to Michelle and Joanna Sojka that the Claimant had been arrested and she had also told a couple of other people who had messaged her to check that she was alright. She reiterated that she had had no direct contact with Ms Gauntlett and that if Ms Gauntlett had received any information regarding this it must have come through “Chinese whispers”; vi) Ms Miller denied Mr Ness’ suggestion that she was the source of a reference in the penultimate paragraph of the earlier email sent on 8 March 2024 (para 39 above) where Ms Gauntlett said she had been “told” about a police report being filed against the Claimant in Kent; vii) Ms Miller did not accept Mr Ness’s suggestion that there was an inconsistency between the latter part of para 5 of her 26 June 2025 statement, where she had referred to the “emails that include details of my police complaint” (para 47 above) and the oral evidence she had given disputing a link between her police complaint and Ms Gauntlett’s emails; and viii) More generally, Ms Miller denied Mr Ness’ contention that she was the co-ordinator of a group who had actively set out to defame him and which included Ms Gauntlett amongst a number of anonymous participants. Judgment Approved by the court for handing down. Ness v Miller The legal framework 52. A claimant must establish on a balance of probabilities that the defendant was responsible for the publication of the words complained, that the words referred to him and that they were defamatory. Publication 53. A defendant may be liable not only if they have written the words in question, but if they participated in or secured their publication; all those who procure or participate in the publication are liable for it on a joint and several basis: *Gatley on Libel and Slander*, 13th edition (“Gatley”), paras 7-10 and 7-11. Defamatory meaning 54.

55. The approach to determining meaning as a preliminary issue is well established. The judge reads or watches the offending publication to capture an initial reaction before reading or hearing the parties' submissions: *Millett v Corbyn* [2021] EWCA Civ 567,

[2021] E. M. L. R. 19 ("Millett") at para 8. The legal principles to be applied when determining the meaning of the words complained of were distilled by Nicklin J in *Koutsogiannis v Random House Group Ltd* [2019] EWHC 48 (QB), [2024] 4 WLR 25 ("Koutsogiannis") at paras 11 – 12. This distillation was approved by the Court of Appeal in *Millett* at para 8. I will summarise the elements that are or may be pertinent for present purposes. The Court's task is to determine the single natural and ordinary meaning of the words complained of (para 11). This is the meaning that the hypothetical reasonable reader or viewer would understand the words to bear (para 11). The intention of the publisher is irrelevant (para 12(ii)). The hypothetical reasonable reader is neither naïve nor unduly suspicious (para 12(iii)). Over elaborate analysis should be avoided and the Court should not take too literal approach to the task (para 12(iv)). The publication must be read as a whole (including any "bane" and "antidote") and account taken of the context in which it appeared and the mode of publication (para 12(viii) and (ix)). Sometimes, context may clothe the words in a more serious, or a weaker meaning, than would be the case if the words complained of were read in isolation (para 12(viii)). No evidence beyond the publication complained of is admissible in determining the natural and ordinary meaning of the words (para 12(x)). The hypothetical reader is taken to be representative of those who would read the publication in question (para 12(xi)). In determining the single meaning, the Court is free to choose the correct meaning; it is not bound by the meanings advanced by the parties, save that it cannot find a meaning more injurious than that pleaded by the claimant (para 12(xiii)). 56. Determination of the meaning of a publication also involves assessing whether the words in question convey fact or opinion. The applicable principles were summarised by Nicklin J in *Koutsogiannis* at paras 16 – 17. The ultimate question is how the words would strike the ordinary reasonable reader. The subject matter and context may be an important indicator of whether they are fact or opinion (para 16(iii)). The statement must be recognisable as comment, as distinct from an imputation of fact (para 16(i)). Opinion is something "which is or can reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation etc" (para 16(ii)). Judgment Approved by the court for handing down. *Ness v Miller* 57. As Steyn J explained in *Vine v Barton* [2024] EWHC 1268 (KB) at para 23, a statement is defamatory at common law if it: (a) attributes to the claimant behaviour or views that are contrary to common, shared values of our society (referred to as "the consensus requirement"); and (b) would tend to have a substantially adverse effect on the way that people would treat the claimant ("the threshold of seriousness"). Reference to the claimant 58. 59. 60. 61. 62. A claim in libel cannot succeed if a reasonable reader or viewer would not understand the statement complained of to bear a defamatory meaning about the claimant: *Dyson v Channel Four Television Corp*n [2023] EWCA Civ 884, [2023] 4 WLR 67 ("Dyson") at para 33. Giving a joint judgment, Dingemans and Warby LJ went on to

explain that there are two main ways in which a claimant could be proved to be the person identified or referred to in the words in question. The first way is if “the claimant is named or identified in the statement or where the words used would reasonably lead persons acquainted with the claimant to believe that he was the person referred to” (para 34). The second way, known as “reference innuendo”, is where a claimant is identified by particular facts known to individuals. The particular facts need to be pleaded in the Particulars of Claim and the issue of identification decided on the facts found to be proved (para 35). The Court of Appeal was only concerned with the first of these two ways in *Dyson*. *Dingemans and Warby LJ* explained that in deciding this issue, the Court must place itself in the position of the hypothetical reasonable reader and the approach to identifying the natural and ordinary meaning, summarised in *Koutsogiannis* (para 55 above), applies, save in one respect, namely: “37. ...For the purpose, however, of determining identification or reference...the hypothetical reader is taken to be ‘acquainted with’ the claimant...In other words, the court imputes to the hypothetical viewer some degree of knowledge about the claimant which need not be found within the statement of which complaint is made.” (Emphasis in original.) Their Lordships explained that the “acquainted with” test was endorsed by the House of Lords in *Knupffer v London Express Newspaper Ltd* [1944] AC 116, where it was said that if a plaintiff (now a claimant) is not named, the test to decide whether the words used refer to him is “whether the words are such as would reasonably lead persons acquainted with the plaintiff to believe that he was the person referred to” (para 38). *Dingemans and Warby LJ* went on to acknowledge that to apply the hypothetical reader or viewer who is acquainted with the claimant test, will likely involve consideration of some facts extrinsic to the words complained of (para 41). They explained that the test is “both objective and abstract”; the Court is not engaged in an investigation of what actual viewers subjectively knew about the claimant or who they took the statement to be about (para 42). The “right way to do this is to consider the nature and content of the statement complained of and the attributes of the claimant Judgment Approved by the court for handing down. *Ness v Miller* which would be known to the hypothetical acquaintance” (para 43). Their Lordships added: “44. Where there is room for doubt or dispute about whether the claimant has been identified or referred to...it becomes necessary to consider the attributes of the claimant the hypothetical viewer, acquainted with the claimant, would be deemed to know. The onus must of course lie on the claimant to identify those attributes. The starting point must be to plead the case. This is normally done by way of the introductory averments in the particulars of claim, as it was here.” 63. In *Dyson*, the parties were agreed about the attributes of the claimant that a person acquainted with them would know. Their Lordships indicated that they knew of no case in which the Court had been required to resolve a factual dispute about what a person acquainted with the claimant would know (para 45). They continued: “46. Having said that, it is important to emphasise that if ever there is a need for an evidential inquiry in a case which is not a reference innuendo, it will be a factual inquiry into the attributes of the claimant known to the reasonable reader or viewer acquainted with the claimant, and not what any person actually knew or thought...”

47. It is not necessary to reach any general conclusion about the amount of detail which the hypothetical acquaintance would know about the claimant. No doubt the answer will depend upon the context. The authorities suggest that in the case of a company, the person acquainted with the claimant would know when it was incorporated and the general nature of its business activities...It seems likely that in the case of an individual, their age and other outwardly obvious characteristics would be known. We would be inclined to agree with Mr Tomlinson KC that the hypothetical reader or viewer is not to be considered omniscient or to know full details about the claimant..." 64. The second way of establishing that the words complained of referred to the Claimant was summarised by Collins Rice J in *Bridgen v Hancock* [2025] EWHC 926 (KB) ("*Bridgen*") as follows: "14....The second 'reference innuendo' arises where at least some readers of the alleged libel, because of particular facts known to them, are able to put two and two together and identify what has been published as being about the claimant." 65. 66. Rice Collins J also emphasised that, "Libel pleadings must identify which basis, or bases, are relied on, and the alleged facts supporting that basis" (para 14). A cause of action based on a reference innuendo is a distinct cause of action from that founded on the natural and ordinary meaning of the words complained of: *Fulham v Newcastle Chronicle and Journal Ltd* [1971] 1 WLR 651, Lord Denning MR at 654H. Judgment Approved by the court for handing down. *Ness v Miller* In terms of what must be pleaded, Lord Denning indicated at 655B-D, that in an innuendo case, the pleading must specify the particular person or persons to whom the words were published and the special circumstances known to those persons that are relied upon. The contemporary position reflects the earlier case law. In *BrewDog plc v Frank Public Relations Ltd* [2020] EWHC 1276 (QB) at para 35, Nicol J confirmed that the special facts relied upon should be pleaded, along with the identity of the publishees who had knowledge of the special facts and, where relied upon, any inference that the publishees would have known the specific facts and the basis upon which the pleader invites this inference to be drawn. The Claimant's submissions The YouTube video 67. The Claimant argued that everyone watching the YouTube video would have realised that the words complained of related to him because of their closeness in time to the reference in the accompanying chat to "Chris Substack saw you guys in the field last Saturday" (para 32 above). He said his Substack blog and his interest in the Nicola Bulley case were well known. Mr Ness described himself as "the only person on the planet who has thoroughly documented this since March 2023". Accordingly, he said, it would have been widely understood that he was "Chris Substack". On 31 January 2024, he had posted a blog that referred to his visit to St Michael's on Wyre on 27 January 2024. The YouTube video bore the same title as a recent Channel 5 programme about the Nicola Bulley case and those choosing to view the video would have been fully aware of its subject matter and would have an interest in this topic. He was the only "Chris Substack" and the Defendant had failed to suggest anyone else whom this reference could have applied to. In terms of not having amended his pleading to rely on these matters, the Claimant emphasised that he was a litigant in person.

68. Mr Ness suggested that his prominence as “Chris Substack” could be tested by the Court Associate performing a Google search on this phrase. I declined to permit this, given: (a) it was incumbent on the Claimant to provide the evidence that he relied upon in advance of the hearing to give the Defendant an appropriate opportunity of responding to it; and in any event (b) the position was to be judged by reference to the date of publication (3 February 2024) rather than the present date (1 July 2025). 69. The Claimant relied upon the meaning set out in the Particulars of Claim in terms of the natural and ordinary meaning of the words. He pointed to the reaction of a commentator in the chat, “Yes, that’s dodgy”. He spent some time taking me through documents which he said showed that the Defendant had been part of a deliberate campaign to smear and silence him and he argued that the Defendant’s purpose in this regard was relevant to the meaning of the words. He suggested the fact that the Defendant had raised a truth defence in her Defence Case Summary meant that she had accepted that the words were defamatory of him. He said that the words were clearly statements of fact. The England Athletics emails 70. The Claimant said that he had never intended to suggest that the Defendant was the author of the England Athletics emails; and he could see from their formatting in the Judgment Approved by the court for handing down. *Ness v Miller* redacted versions that the First and Second Emails had not been sent by the same person (albeit, he did not know at that stage who those persons were). The unredacted emails were not available when the Particulars of Claim were drafted. 71. In terms of the Defendant’s responsibility for the publication of the emails, Mr Ness’ case was that she had orchestrated a smear campaign aimed at damaging his reputation, which had involved not only Michelle and Joanna Sojka, but also a number of anonymous participants, including Ms Gauntlett.
72. Mr Ness took me through a timeline of the events and material that he relied upon. The first in time document was an email about his activities which Ms Gauntlett had sent to Walton AC on 28 September 2023. He drew attention to an anonymous blogpost from 20 December 2023 entitled “Conspiracy Coconut Chris Ness” which spoke of him in unflattering terms, including referring to him being “a narcissist that sits in his camper van munching his Doritos and wearing his tin foil hat”. He noted that a link to this blogpost had been tweeted by Joanna Sojka and a Jan Jordyn, who, he said, were both linked to Truth Finders. He then referred to a negative tweet about him from an anonymous account “Mvolunteer@76”, who he claimed was Ms Gauntlett, noting that the tweet had included the sentence, “Don’t think they give out Doritos in a police cell”. He relied on this further reference to Doritos as indicating that Ms Gauntlett was also the author of the 20 December 2023 blogpost. 73. The Claimant referred what he said was the Defendant’s leading role in a legal “cease and desist” letter that was served on him as indicative of her leading role more generally within what he termed “the Group”. He also relied on each of the points that he explored in cross-examination, which I have already summarised at para 51 above. In relation to the events of 8 March 2024 (when he was arrested and detained in the early hours), Mr Ness provided his bail notification form, indicating that the document was printed for him to sign at 18:45 hours that day. He emphasised that the Fifth Email had been sent prior to this time at 18:37

hours. He also referred to a document from Surrey Police, in which it was said, “On 8 March 2024 you were arrested in relation to this matter on suspicion of stalking and harassment. JM [the Defendant] was updated by email by PC Whitman in relation to your arrest”. 74. The Claimant relied upon the pleaded meanings in the Particulars of Claim, in terms of the natural and ordinary meaning of the words complained of in the emails. The Defendant’s submissions The YouTube video

75. Mr Hughes submitted that the case on reference had to be determined by reference to the Particulars of Claim, which had been professionally drafted. The Particulars of Claim made no reference to the “Chris Substack” comment and he contended the Claimant should not be permitted to rely upon this. The document that the Claimant filed to comply with para 4 of Master Davison’s Order of 7 March 2025 (para 30 above) was intended to be an opportunity for the Claimant to make supporting submissions on his pleaded case, not to alter his case without formal amendment. None of the specifics that were required for a reference innuendo claim had been pleaded and there was no evidence before the Court as to what viewers of the video would or would not have understood. Judgment Approved by the court for handing down. Ness v Miller
76. Mr Hughes argued in the alternative, that even if I did permit the Claimant to rely on the material in his “Claimant’s case for Trial of Preliminary Issues” document, the “Chris Substack” reference in the chat accompanying the video was not nearly specific enough to establish that the words complained of referred to the Claimant. He observed that the uncertainty over what was in fact relied upon underscored the importance of the Claimant properly pleading his case.
77. Whilst recognising that it was not an exhaustive list, Mr Hughes drew attention to the list of examples at para 8-002 in Gatley as indicative of the kinds of circumstances where there was sufficient for the Courts to find that the hypothetical reasonable reader acquainted with the claimant would believe that he was the person referred to. He suggested that there was nothing equivalent in this instance. Mr Hughes pointed out that “Chris” is a very common name and that Substack is a widely used platform. The pool of potential people referred to was not sufficiently narrow. 78. As for their natural and ordinary meaning, Mr Hughes submitted that the second part of the words in question was simply a statement of intention, referring to a hypothetical situation. He argued that the first part of the text was comment; it would be understood to be a conclusion drawn by the speaker as to the possible consequences of posting online about children. The England Athletics emails
79. Mr Hughes had addressed the natural and ordinary meaning of the words complained of in the England Athletics emails in his Skeleton Argument. However, he agreed with my suggestion that it would not be appropriate for the Court to proceed to determine the meaning of these passages in the emails if the effect of my conclusions was that the Defendant was not the publisher of the emails and the publisher of them was not before the Court.

80. Mr Hughes submitted that the Claimant should not be permitted to rely on a case that was not pleaded in the Particulars of Claim. The pleaded case was that the Defendant had “sent” the emails, not simply that she had procured them, whereas the case that the Claimant had sought to advance at trial was a fundamentally different one. Although acknowledging that it was “a point that can fairly be made against me”, Mr Hughes argued that the 20 June 2025 email from the Court did not absolve the Claimant from the need to plead his case properly in this regard. 81. Turning to the merits of the question of whether the Defendant was involved with Ms Gauntlett in the publication of the emails, Mr Hughes submitted that the Defendant’s evidence had been consistent and honest and she had given credible responses to the points that the Claimant had put to her in cross examination. There was no sound evidential basis before the Court upon which I could conclude that the Defendant had played any part in the publication of the emails.
82. Mr Hughes suggested that there was nothing improper or suspicious about Ms Miller sharing the trial bundle with Ms Gauntlett; she was acting in person at that stage and was in the equivalent position to a solicitor exploring the possibility of calling a particular person as a witness for their client. Analysis and conclusions; the YouTube video Judgment Approved by the court for handing down. Ness v Miller Reference to the Claimant Reliance on the unpleaded “Chris Substack” comment 83. 84. 85. 86. 87. As I have explained, the Particulars of Claim contain no reference to the “Chris Substack” comment that appears in the chat accompanying the YouTube video. The Claimant, quite rightly, does not suggest that the general words complained of at para 8.1 of the pleading (para 18 above) in themselves would reasonably lead persons acquainted with him to believe that he was the person being referred to, even if account is taken of the introductory averments in the Particulars of Claim (paras 10 – 13 above). Accordingly, it is quite clear that the Claimant’s case on reference cannot get off the ground if he is unable to rely upon the expanded case advanced in his “Claimant’s case for Trial of Preliminary Issues” document based on the “Chris Substack” comment (para 32 above). Having carefully weighed the competing considerations; I have decided that the Claimant should not be permitted to expand his case on reference in this informal way. I have borne in mind the terms of para 4 of the Master’s Order of 7 March 2025 (para 30 above). It could be said that this may have given the Claimant the impression that it was sufficient for him to set out his case on reference in the document that he was to serve by 4 April 2025. However, whilst, in fairness to the Claimant, I put this point to Mr Hughes during his submissions, Mr Ness did not positively suggest that this was the reason why he had not applied to amend the Particulars of Claim; on this issue, he simply emphasised that he was a litigant in person. It is well-established that litigants in person are expected to comply with the procedural rules: *Barton v Wright Hassall LLP* [2018] UKSC 12, [2018] 1 WLR
1119. Moreover, the Particulars of Claim in in this instance were professionally drafted and – unlike the position with the England Athletics emails – all of the relevant material was available to the Claimant and to the pleader at the time when the pleading was prepared. No explanation has been advanced as to why the “Chris Substack” comment was not relied

upon in the pleading if, as is now said, it is central to the case on reference. The importance of the case on reference being clearly pleaded has been stressed by the Courts on multiple occasions, including by Dingemans and Warby LJ in *Dyson* (paras 59 and 62 above); and by Collins Rice J in *Bridgen* (para 65 above). At the very least, the Claimant was put on notice by the Defendant's Skeleton Argument of 27 June 2025 that this pleading point was being taken against him, but he did not apply to amend his case on reference nor supply a proposed Amended Particulars of Claim. Further, if and insofar as the Claimant wishes to rely upon a reference innuendo as the means of establishing that the words complained of referred to him, this is a separate and distinct cause of action to the pleaded case based on the natural and ordinary meaning of the words complained of (para 66 above). Accordingly, in this respect the Claimant is seeking to advance a case that is not only a substantial amplification of the pleaded claim, but a new claim altogether. 88. The "Claimant's case for Trial of Preliminary Issues" is not an effective substitute for a properly pleaded case. It is a more informal document. I accept that, in a general Judgment Approved by the court for handing down. *Ness v Miller* sense, it gave the Defendant some notice of the point being raised: the document includes a screenshot of the relevant part of the live chat, it emphasises the "Chris Substack" comment, its proximity in time to the words complained of and it makes reference to the Claimant's Substack blog of 31 January 2024, which is appended (without indicating which parts of the blog are relied upon for these purposes). The Claimant goes on to assert that there was no ambiguity as to who was being referred to in the video "either by the live audience or to any individual subsequently viewing the broadcast". However, the Claimant does not indicate: (a) whether he relies upon the natural and ordinary meaning of the words used or whether he is relying upon a reference innuendo or both (paras 59 and 65 above); (b) if he relies on the former, what are his particular attributes that he alleges the hypothetical reasonable viewer who is acquainted with him would know; or (c) if he relies on the latter, the special circumstances that he says were known to some or who those people are. These omissions are important. In order to evaluate the merits of the natural and ordinary meaning route, the Court and the Defendant need to understand the specific attributes that are relied upon as within the knowledge of the reasonable viewer; the Court then needs to know from the Defendant the extent to which these are in dispute; and, in turn, the Court will then be in a position to make an assessment, including making findings of fact on those matters, after hearing relevant evidence first if appropriate (paras 62 – 63 above). By way of example, as I have noted earlier, there appears to be a dispute between the parties as to the title of the Claimant's blog (paras 11 and 14 above). I heard no evidence on this point (although it appears from the link to the audio of the 31 January 2024 blog (at page 117 of the bundle) that the Defendant is correct in saying that the blog is called "Outside the Cave"). Moreover, although the Claimant asserted in his oral submissions that his blog is very well known, there is no indication in his Claimant's Case document as to, for example, the number of subscribers that it had at the material time and/or to the level of engagement with it on social media; the only matter he referred to was the outcome of a Google search undertaken over a year later. Furthermore, there is no clearly articulated case based on a reference innuendo in the

“Claimant’s case for Trial of Preliminary Issues”, if that is the case that he wants to advance; see further at para 100 below. Accordingly, the case on reference fails; the Claimant is not able to show that the words complained of referred to him. 89. 90. 91. Merits of the Claimant’s case 92. 93. Nonetheless, I have also considered the substantive position, that is to say whether the Claimant would succeed in establishing that the words complained of referred to him, if he was permitted to treat the “Claimant’s case for Trial of Preliminary Issues” document as part of his pleaded case (contrary to my primary conclusion set out above). The first way that reference may be established is where the words used are such that the hypothetical reasonable reader / viewer acquainted with the claimant would believe that he was the person referred to (paras 59 – 62 above). As I have explained, subject to the “acquainted with” aspect, the question is to be approached in the same way as when the Court determines the natural and ordinary meaning of the words Judgment Approved by the court for handing down. *Ness v Miller* 94. 95. 96. complained of (para 60 above). Accordingly, the question is what the hypothetical reasonable reader / viewer would understand; what any particular person knew or would understand is irrelevant, and the intention of the publisher is also irrelevant (para 55 above). Context is relevant and the hypothetical reader / viewer is taken to be representative of those who read / viewed the publication in question (para 55 above). For the reasons set out in the following five paragraphs, the Claimant has not shown that the words used were such that the reasonable viewer who was acquainted with him would understand that he was the person referred to. Firstly, this is not an instance where the Claimant relies upon something in the allegedly defamatory words themselves, contending that because of a known attribute of his, those words would be understood to refer to him (in their natural and ordinary meaning). There is nothing in those words themselves – set out at para 8.1 of the Particulars of Claim - that provides a link to the Claimant. The Defendant did not refer to “Chris Substack” when she spoke. Rather, the Claimant relies upon a proximate comment of a third party in the chat (Charlotte) regarding “Chris Substack”, as providing the basis for the reasonable viewer to have understood, in turn, that the words spoken by the Defendant referred to him. Accordingly, if there is to be a case on identification it is not one derived from the natural and ordinary meaning of the words complained of, but via a reference innuendo route – particular facts known to particular people that do not appear in the words themselves. Secondly, whilst the Court did not have to reach a final view on this matter, the observations of the Court of Appeal in *Dyson*, indicate that the scope of the attributes of a claimant that are to be regarded as known to the hypothetical reasonable reader / viewer is a relatively narrow one. The question is what an “acquaintance” would know. The example given by *Dingemans* and *Warby* LJJ was a claimant’s age and “other outwardly obvious characteristics” (para 63 above; emphasis added). In a similar vein, their Lordships did not anticipate that this inquiry would generally involve the resolution of factual disputes and they agreed with counsel that the hypothetical reader or viewer was not someone who knew “full details about the claimant” (para 63 above). It appears to me that a pastime of the Claimant, namely his authorship of a particular blog does not come within this relatively narrow scope. Whilst recognising, of course, that the particular context is always

important, further support for this view, is found in the nature of the non-exhaustive examples given at para 8-002 of Gatley, as Mr Hughes submitted (para 77 above). These included situations where the words complained of described the claimant by a nickname or pseudonym, a photograph, drawing or caricature, a description of his office or status, his residence or his physical likeness. 97. Although not articulated as such, the Claimant's central contention appears to be based on a reference innuendo along the following lines, that some viewers of the YouTube video would have read the accompanying chat, that some of this number would have known of the Claimant's Substack blog and some of these viewers would have known that he had recently posted about visiting St Michael's on Wyre on 27 January 2024 and so put two and two together to conclude that he was the person being spoken about by the Defendant in the words complained of. 98. Thirdly, the name "Chris" is a relatively common one; and, whilst I have no evidence as to the numbers involved, it is evident that many people post on Substack. It also Judgment Approved by the court for handing down. Ness v Miller appears to be common ground that very many people have commented on social media about the Nicola Bulley case (para 11 above). On the face of it, "Chris Substack" potentially encompasses a significant number of people and is insufficiently specific to be understood by the reasonable viewer as referring to the Claimant. Insofar as the Claimant relies on the particular knowledge of particular people, that would need to be advanced as a reference innuendo case, as I have explained. Mr Ness is wrong in suggesting that it was incumbent on the Defendant to positively identify someone other than him who could be "Chris Substack"; the onus is on him to establish that the words used were such that the reasonable viewer who was acquainted with him would understand that he was the person referred to. (I add, for completeness, that there is nothing in the Claimant's contention that by pleading a defence of truth, the Defendant accepted that the words referred to him; truth was plainly pleaded in the alternative and the Defendant made clear she disputed that the words used referred to the Claimant (paras 34 – 35 above). Fourthly, as I have already highlighted at paras 88 - 89 above, the Claimant's case as to the attributes he relies upon is less than clear. This is compounded by the fact that the Claimant chose not to file a witness statement and give evidence in support of his case. Accordingly, there is, for example, no evidence before the Court as to the number of subscribers that his blog had at the material time or as to the level of engagement with it on social media. Instead, the Claimant chose to rely on wide- sweeping assertions in his oral submissions (para 67 above), which were not set out in his Claimant's Case document in advance and which were not the subject of any supporting evidence. Finally, I turn to the second way that reference to the Claimant can be established, namely via a reference innuendo (para 59 above). As I have explained, this involves a distinct cause of action from a case based on the natural and ordinary meaning of the words used (para 66 above). It involves pleading the particular facts that are relied upon, the identity of those who had knowledge of these particular facts and any supporting inferences that are relied upon (para 66 above). Even if Mr Ness were permitted to rely on the "Claimant's case for Trial of Preliminary Issue" document, it is evident that the contents of this document fall a long way short of meeting these requirements. Secondly, the Claimant has adduced no evidence to

support a reference inuendo case. There are, for example, no witness statements from viewers of the YouTube video, indicating that they did understand that the Defendant was speaking of Mr Ness in the words complained of. 99. 100.

101. Accordingly, even if the Claimant was permitted to rely upon his “Claimant’s case for Trial of Preliminary Issue” document, he has failed to show that the words complained of referred to him. Meaning of the words complained of 102. For completeness, I will address the meaning of the words complained of in relation to the YouTube video. However, I do so briefly, given I have already concluded that the Claimant’s defamation case in respect of the video fails as he has not shown that the words complained of referred to him. I stress that in order to address this aspect, I have to proceed on the alternative assumption that the words complained of do refer to Mr Ness; what follows is not to be taken as undermining the firm conclusion I have just expressed that the words complained of do not do so. Judgment Approved by the court for handing down. *Ness v Miller* 103. 104. 105. 106. 107. 108. 109. I confirm that I adopted the approach described in *Millett* (para 54 above). I have directed myself in accordance with the well-established principles (para 55 above). I have considered the words in their context. Both parties expressed the view that “mentioning children” in the words complained of would be understood in the context of what was said shortly beforehand by Michelle Sojka at 14:19 (see Appendix 1), to refer to mentioning children when posting online. If the words complained of did refer to the Claimant (contrary to my primary conclusion), their natural and ordinary meaning was that “he had posted online about children in a way that could put their safety at risk”. I conclude that the words complained of contained an expression of opinion, rather than a statement of fact about the actions referred to. The words complained of included that these “takes it to a whole new level” and “potentially endangers children” (emphasis added). Thus, what was being said was in the nature of a deduction, a conclusion and/or an observation (para 56 above). Furthermore, the basis for the comment (the online posting mentioning children) was included. If it did refer to the Claimant (contrary to my primary conclusion), the statement was defamatory at common law as it attributed behaviour that was contrary to the common shared values of our society and would tend to have a substantially adverse effect on the way that people would treat him (para 57 above). The second part of the words quoted at para 8.1 is simply a statement of intent on the part of the Defendant and does not contain any defamatory imputation in respect of the Claimant. For the reasons I have explained at para 55 above, the additional points raised by the Claimant in his oral submissions (para 69 above) are not relevant to the natural and ordinary meaning of the words. The *England Athletics emails Publication* 110. I will permit the Claimant to rely upon the case on publication that he set out in his “Unredacted Emails” document (para 44 above). The position is distinct from his non- pleading of a case on reference (paras 84 – 90 above). Firstly, unlike the position with the YouTube video, the unredacted emails were not available to the Claimant when the Particulars of Claim were prepared and they have only recently become available. Secondly, the 20 June 2025 communication from the Court positively indicated to the Claimant that he could set out his case on the Defendant having procured

Ms Gauntlett to publish the emails in an amended version of his “Claimant’s case for Trial of Preliminary Issues” document or in a fresh document (as opposed to a pleading) and no time limit was imposed (paras 43 – 44 above). Thirdly, the case that is advanced is relatively clear so that it can be responded to and assessed by the Court. Fourthly, I am satisfied that the Defendant had an adequate opportunity to respond to the Claimant’s case in this respect and that she will not be prejudiced by this decision. I turn to the merits of Mr Ness’ contention. Judgment Approved by the court for handing down. *Ness v Miller* 111. 112. The Claimant’s case is largely based on a series of assertions. I have summarised his submissions at paras 70 – 73 above. He alleges that the Defendant played the lead tactical role in coordinating a smear campaign against him aided by her Truth Finders “teammates” involving a number of anonymous participants including Ms Gauntlett. Assertions are not a substitute for evidence. As I have indicated, the Claimant chose not to give evidence. However, I address below as part of my reasoning each of the central points that he made in questioning the Defendant and in his oral submissions. I note that the Claimant’s case rests on inference; there is no direct evidence that the Defendant procured the publication of the England Athletics emails. There are, for example, no messages passing between the Defendant and Ms Gauntlett to that effect in the disclosure that Ms Miller gave (para 40 above). Ms Miller has denied any involvement; and in the emails exhibited to Ms Miller’s 26 June 2025 witness statement, Ms Gauntlett denied that Ms Miller was involved.

113. Whilst giving her evidence, the Defendant said that at the time when the emails were sent, she had never heard of England Athletics. The Claimant replied that he accepted this. This in itself is not fatal to the Claimant’s case. It would not be necessary for the Defendant to know the precise name of the athletics body in question, if she had indeed knowingly caused the emails to be sent. 114. 115. I did not hear evidence from Ms Gauntlett and I am not in a position to make specific findings as to the sources of the material contained in the emails. However, I am satisfied on the evidence before me that Ms Miller did not ask or encourage Ms Gauntlett to send the England Athletics emails and that she had no advanced knowledge that Ms Gauntlett was going to send the emails. It therefore follows that she did not procure their publication. In these circumstances, the sheer fact that Ms Gauntlett may (and I stress may) have come to learn indirectly of some information that had originated from Ms Miller and, unbeknown to the Defendant at the time, relied upon it in her communications with the athletics bodies, does not in itself make Ms Miller liable as a publisher of the England Athletics emails. (She is not being sued as a publisher of information to Ms Gauntlett.) I do not consider it appropriate or necessary on the limited evidence before me to make findings, one way or the other, as to whether Ms Gauntlett is or was the anonymous person who posts as “MVolunteer@76” (para 51(iv) above), although I observe that the supporting material identified by Mr Ness appeared to be limited. It is unnecessary for me to do so because the Claimant’s line of reasoning (summarised at para 72 above) is in any event unsustainable. The alleged link between the Defendant and the publication of the England Athletics emails is no more than speculative. The sheer fact that the Defendant and (potentially) Ms Gauntlett had both published online posts that are critical of the Claimant is

unremarkable for present purposes and does not begin to prove that they conspired to send the England Athletics emails. The views that the Claimant has posted about the Nicola Bulley case (which there is no need for me to rehearse here) are unusual and controversial and that there have been expressions of disagreement and contrary views posted is not in itself evidence of a co-ordinated plan or campaign to defame him. 116. In terms of the Claimant's specific chain of reasoning (para 72 above), there is no clear evidence that Ms Gauntlett is the author of the "Conspiracy Coconut Chris Ness" post. The sheer fact that this post of 20 December 2023 and the subsequent Judgment Approved by the court for handing down. Ness v Miller tweet from "MVolunteer@76" of 7 January 2024 both refer to Doritos does not prove that the authors are the same person. As the Claimant accepted when I put it to him, the reference in the later tweet to Doritos may be because the person who sent it had read the 20 December 2023 post (as opposed to written it). Furthermore, even if the authors were the same, the sheer fact that two people involved with Truth Finders tweeted / retweeted those posts, shows no more than that they agreed with them. It does not begin to prove that there was a mutually agreed plan to defame the Claimant via the England Athletics emails. 117. I listened carefully to the Defendant's evidence and I accept the credibility of her account. I accept her denial of involvement in the England Athletics emails.

118. More specifically, I accept the answers that Ms Miller gave in relation to the First Email, which I have already set out at para 51(ii) above, namely that she did not know Ms Gauntlett at the time, that she had not communicated with her about her 10 February 2024 police complaint and she did not know Ms Gauntlett was intending to send the email. As I have explained at para 114 above, if the reference in the First Email to a police investigation was to the Defendant's police complaint and this information had come to Ms Gauntlett indirectly (by "Chinese Whispers" as Ms Miller put it), that in itself would not make her liable for the publication of the First Email. I reach a similar conclusion in relation to the passage in the penultimate paragraph of the first 8 March 2024 email that the Claimant put to her, where again I accept Ms Miller's answers (para 51(vi) above). 119. 120. I also accept the Defendant's account that she did not contact Ms Gauntlett in relation to the reference to the Claimant's bail conditions that appears in the Fifth Email (para 51 (v) above). The Surrey Police document that the Claimant relied upon (para 73 above) does not establish that the Defendant was told of the Claimant's bail conditions (as opposed to his "arrest" earlier in the day). The Defendant accepts that she was told of the arrest (para 51(v) above). Accordingly, this document does not undermine the credibility of the Defendant's account in the way that the Claimant suggested. I have already explained that even if the information regarding the bail conditions did originate from the Defendant and found its way to Ms Gauntlett via a series of "Chinese Whispers" this in itself would not make Ms Miller a publisher of the England Athletics emails (para 114 above). I do not accept that the Defendant's oral evidence contradicted para 5 of her 26 June 2025 witness statement. The Claimant placed considerable store on the proposition that the Defendant's oral evidence was inconsistent with her reference in the statement to "the emails that include details of my police complaints to police" (para 47 above). However, as I have explained, Ms Miller's evidence

allowed for the possibility that some information that originated from her had found its way to Ms Gauntlett via “Chinese Whispers”. Accordingly, she did not positively dispute that the references in the emails that Mr Ness highlighted were or could have been references to her police complaints. What she did dispute was that she knew Ms Gauntlett at the time, that she had communicated with her directly and that she was aware of the intended England Athletics emails. All of that is consistent with her witness statements and I accept her evidence in these respects. 121. I accept that the Defendant had proper reasons for objecting to the witness summons obtained by the Claimant. Master Davison agreed and set this aside (para 41 above). I Judgment Approved by the court for handing down. Ness v Miller also accept that, more recently, the Defendant did ask Ms Gauntlett to provide a witness statement, as she said. I do not consider that the sharing of the bundle with Ms Gauntlett was suspicious or improper in the circumstances. I accept the explanation given by the Defendant and by Mr Hughes (paras 51(i) and 82 above). For the avoidance of doubt, this entailed using the disclosed documents for the purposes of the proceedings. I record that a suggestion made in one of the Claimant’s documents that the Defendant had bribed Ms Gauntlett to send the England Athletics emails was not even put to Ms Miller in cross examination, nor mentioned in Mr Ness’ oral submissions. There is no supporting evidence for this whatsoever and I reject this allegation. For completeness, I also record that there is nothing in the YouTube video, in the sending of the cease and desist letter or in the contents of the Defence Case Summary that supports the Claimant’s case on publication. 122. 123.

124. Accordingly, I conclude that the Claimant has failed to show that the Defendant caused or procured the publication of the England Athletics emails. Natural and ordinary meaning
125. As the Defendant was not involved in the publication of the England Athletics emails and I have not heard from the publisher of the emails, I consider that it would be inappropriate for me to reach any decision as to the natural and ordinary meaning of the words complained of. Mr Hughes agreed with this position (para 79 above) and Mr Ness did not express a view on it. Conclusions and consequential matters 126. For the reasons I have explained at paras 83 – 91 above, the Claimant’s pleaded claim does not provide a basis for him to show that the words complained of in the YouTube video referred to him. In the alternative and even if it would be appropriate to take account of the contents of his “Claimant’s case for Trial of Preliminary Issues” document, the Claimant has failed to show that the words complained of in the YouTube video referred to him (paras 92 – 101 above). 127. For the reasons I have explained at paras 110 – 124 above, the Claimant has failed to show that the Defendant caused or procured the publication of the England Athletics emails. 128. It therefore follows that the claim in libel must be dismissed.
129. As I indicated at the hearing, I will give the parties an opportunity to make concise written submissions on the way forward in relation to the remaining claims and any other consequential matters (in particular, costs and permission to appeal).

130. As regards the Data Protection claims, it appears to follow that the part of the claim that relates to the England Athletics emails also falls to be dismissed, as I have found that the Defendant was not involved in their publication. However, I will not strike it out without giving the Claimant an opportunity to address this. I emphasise that this is not an opportunity to re-argue the conclusions that I have reached on publication. It is simply to give both parties a chance to address how these conclusions impact on the Judgment Approved by the court for handing down. *Ness v Miller* Data Protection aspect of the case. As regards the YouTube video, para 16 of the Particulars of Claim is less than clear as to how the Data Protection claim is put and as to what is relied upon. I also note that a Jameel abuse argument is raised as an alternative basis for striking out the Data Protection claim (para 94 of Mr Hughes' Skeleton Argument). 131. The false imprisonment claim is unaffected by the decisions I have made at this stage. However, there is an outstanding strike out application in respect of this claim, which Mr Hughes indicated would be pursued. It will therefore be necessary for the Court to make directions in relation to the hearing of that application. I anticipate that the Claimant will want an opportunity to respond in writing to the contentions raised at paras 81 – 87 of Mr Hughes' Skeleton Argument before any hearing.
132. As the Claimant is a litigant in person and the Defendant was only represented for the purposes of the Preliminary Issues Trial, I have not circulated a version of this judgment in draft. The Order accompanying the handed down judgment dismisses the libel claim and sets out a timetable giving the parties the opportunity to make sequential written submissions on the following matters: i) ii) Any costs application(s) arising from my judgment; Any application for permission to appeal; iii) Whether the Data Protection claim regarding the England Athletics emails should be struck out at this stage on the basis that it is bound to fail in light of my decision on publication; iv) Whether the Data Protection claim is pursued in respect of the YouTube video and, if so, on what basis. If it is pursued, whether the Defendant still seeks to strike it out; and v) Any observations they wish to provide on the directions to be made for the hearing of the Defendant's strike out application in respect of the false imprisonment claim (and, if relevant, the Data Protection claim). Judgment Approved by the court for handing down. *Ness v Miller* . Appendix 1: Transcription of relevant sections of the YouTube Video [The speakers are the Defendant and Michelle Sojka. Words spoken by the Defendant are denoted by italics. The times shown indicate where these passages appear in the video. The words in bold are those complained of in the Particulars of Claim] 10:55 Charlotte yep we saw him as as well um I can't comment on stuff because we do have a 11:04 case with the police open against him um for harassment um yeah so I can't go into 11:11 details with that but um yeah he was trying to follow us and 11:18 take pictures and the fact that he's mentioned our kids in it now is going to take it a lot more serious so that's all 11:25 I can say on that I'm afraid but yeah a bully He's a bully 11:30 There's a lot of people um have a lot of issues with him it's not just our Channel um but yeah at the end of the 11:38 day you know when children come into it, the police will be all over it like a 11:44 rash yeah...But yeah these signs were everywhere even outside the Caravan Park [Discussing the field in St Michaels] 11:51 so there's more signs that have gone up now which

I found quite bizarre not just [Discussing the field in St Michaels] 11:57 one and one of them literally was on two posts as you walked through the kissing gate and it looked like someone has [Discussing the field in St Michaels] 12:04 pulled that down so it's all broken Yeah a lot of them have being [Discussing the field in St Michaels] 12:11 ripped down haven't they as well like some maybe some of the um the dog [Discussing the field in St Michaels] 12:16 walkers might have got annoyed with all the signs yeah I know where the dogs and dog [Discussing the field in St Michaels] 12:25 walkers walk their dogs Judgment Approved by the court for handing down. Ness v Miller [Discussing the field in St Michaels] 12:31 yeah you know it's it's a public walk [Discussing the field in St Michaels] 12:36 way Yeah the public right of way it's a public field isn't it [Discussing the field in St Michaels] 12:43 if there is a livestock you do have to be careful with your dogs and you know it's just [Discussing the field in St Michaels] 12:48 a sort of Common-Sense thing isn't it really that you obviously keep you dog on a lead if you there's cows in the [Discussing the field in St Michaels] 12:55 field and then if the cows are not in the field we can um let your dogs run free and stuff and you just find [Discussing the field in St Michaels] 13:01 somewhere else let your dogs go free...Is it hold on Jen, Charlotte I just want to say on this right, he saw our kids eight 13:08 months ago for a short period of time he recognised our kids but he didn't 13:14 recognise the adults. That's all I'm going to say okay and he doesn't need to bring 13:20 them into this, leave the kids out of it so that's the last thing I'm going to 13:26 say on this because I am very, very annoyed about that and the police will be dealing with 13:32 him so yeah Yeah right Chris has obviously gone 13:40 to the area um for whatever reason he's got for being there, and it's a public 13:47 place and we can't stop him from going there, and in the same way we've got every right to go there for our own reasons, 13:53 which our reasons were to go and pay our respects to Nikki and to go put some flowers on her grave 13:59 and we went there, and we recognised him. We recognised him as 14:06 we know he was at the um inquest, we recognised him from back then 14:12 and so as soon as we saw him, we knew exactly who he was um and he's 14:19 writing horrible stuff about us and almost anyone that's on YouTube. At the 14:26 moment there's been so many people who've got YouTube channels that are covering Nikki's case that are just 14:32 getting it so bad, but when children are involved and you're mentioning children 14:38 that takes it to a whole new level because that potentially endangers children and anyone that does that is Judgment Approved by the court for handing down. Ness v Miller 14:46 automatically in my own my case and my friends' cases going to get it reported 14:52 to the police hi Hargreeve, hi Jess...so yeah let's 14:58 get back, back to the documentary anyway we are sorry we got a bit angry about that. I just 15:04 said, I don't know if any of you all noticed last night when watching it because a lot was getting put out on social media... [Discussing the television documentary] 30

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