WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

No. HQ18M03090

[2018] EWHC 3900 (QB)

Royal Courts of Justice

Friday, 14 December 2018

Before:

MR JUSTICE NICKLIN

B E T W E E N :

DANIEL POULTER MP — Claimant

- and -

TIMES NEWSPAPERS LIMITED — Defendant

MS A. PAGE QC and MR A. SPEKER (instructed by Payne Hicks Beach) appeared on behalf of the Claimant.

MR G. MILLAR QC (instructed by RPC) appeared on behalf of the Defendant.

J U D G M E N T

MR JUSTICE NICKLIN:

1. This is the trial of the preliminary issues of meaning in this libel action. It is brought by the Claimant against the Defendant. The Claim Form was issued on 30 August 2018. No defence has been served by consent of the parties. On 16 October 2108, Master Gidden ordered the trial of meaning as a preliminary issue.

2. The claim arises from the publication of two articles, both in the print edition of *The Sunday Times* and online. The two articles appeared on p.3 of the print edition of *The Sunday Times* of 5 November 2017. The page was dominated by a picture of the Claimant with the caption "*Poulter: Practising Doctor*". The headline, spanning the whole page, was "*Tory former minister accused of putting hands up MPs' skirts*". The strapline above the headline was "*Westminster Scandal*".

3. On the left-hand side of the Claimant's picture was an article with the sub-headline "*First reported years ago, the ex-minister, Daniel Poulter, is finally being investigated*". Under that, and printed in red, were the words "*Formal Complaint*". The article's by line was Caroline Wheeler, who is described as the deputy political editor ("the Wheeler Article"). The text of the Wheeler Article as it appeared in the print edition of *The Sunday Times* is set out (with paragraph numbers added) in Section 1 of the Appendix to this judgment.

4. On the right-hand side of the Claimant's picture was a further, but separate, article with its own sub-headline, "*I'm doing what the whips wouldn't*". The picture by line is shown as "Andrew Bridgen" ("the Bridgen Article"). The Bridgen Article is enclosed in large, red inverted commas. At the foot of the article, appeared the following text: "*Andrew Bridgen is MP for North West Leicestershire.*" The text of this article as it appeared in the print edition, again, with paragraph numbers added is set out in Section 2 of the Appendix to this judgment.

5. Superimposed on the picture of the Claimant is a single pair of inverted commas with the words "*three female MPs said they were reluctant to go in to the lift with Poulter*".

6. In Sections 3 and 4 of the Appendix to the judgment I set out respectively the versions of the Wheeler and Bridgen Articles as they appeared online.

7. At the foot of the online Wheeler Article was a section headed "*Related Links*". Two articles were featured. The left hand one was a link to the online Bridgen Article. The reader was not otherwise directed towards the Bridgen Article. Correspondingly, at the foot of the Bridgen Article, the Wheeler Article was included under related links again, but the reader was not directed specifically to that article. Both online articles are marked with the sentence "*This article is the subject of a legal complaint from Daniel Poulter*" immediately above the text of the relevant article.

8. The Claimant, in his Particulars of Claim, has pleaded each of the articles as a separate publication and allocated to each article a meaning that the Claimant contends the words bear in their context.

9. Mr Millar QC, for the Defendant, contends that the print articles have to be read together when determining the meaning of the publication as a whole. The cause of action arises from the publication of the totality of the words complained of across the Wheeler and Bridgen Articles. He makes the same argument that the two online articles should be read together and that the court should attribute a meaning to the two articles when read together.

The parties' pleaded cases on meaning

10. In his Particulars of Claim, the Claimant pleads that the meaning of the Wheeler Article (both in print and online) was:

> "that there were reasonable grounds to suspect the Claimant of sexual assault by putting his hand up the skirts of at least three female Members of Parliament without their consent."

11. As to the Bridgen Article, the Claimant pleads the meaning that it bore as:

> "The Claimant is guilty of sexual assault by putting his hand up the skirts of at least three female Members of Parliament without their consent; alternatively, that there were reasonable to so suspect the claimant."

12. The Defendant identified the meaning that it contended the words bear in its letter of 15 December 2017. In line with its submission on the proper approach the Court should adopt, the Defendant advances a meaning that it contends the Wheeler and Bridgen Article bear when they are read together. That meaning is

> "that there are grounds to investigate whether [the Claimant], whilst an MP, sexually harassed or assaulted women in Parliament".

13. Before determining meaning I have to resolve an issue as to the correct approach.

14. Ms Page QC for the Claimant argues as follows:

   a. She accepts that the starting point always is that the offending publication (so far as it refers to the Claimant) must be considered as a whole. The whole of the Bridgen Article is complained of and all of that part of the Wheeler Article that refers to the Claimant, as well as the headlines, photograph and captions. Clearly, in the case of the print edition, each article provides context for the other, as do the headlines, the photograph and the captions, which provide context for both articles. This is not a case, she submits, in which the Claimant has sought to isolate the passage in the overall coverage and complain of that alone, while other parts are not complained of, tending to throw a different light on that passage. In that respect, she compares the decisions of ***Charleston -v- News Group Newspapers Ltd*** **[1995] 2 AC 65 HL** and ***Dee -v- Telegraph Media Group Ltd*** **[2010] EMLR 20**.

   b. She submits there is no rule that the Court must, in every case, attempt to find one single meaning to straddle disparate parts of coverage where, as here, she submits, it is on the face of that coverage, even the print edition, that it falls into two distinct parts which have been separately authored and where the authors are speaking with two distinct voices, not one. As will be self-evident, she submits, to readers of either the print or the online versions, the two authors are performing different roles in relation to the newspaper. Mr Bridgen, who, independent of the newspaper, is the source of and also plays a part in the story, and Ms Wheeler, who is the journalist/ reporter observing from the side lines, but also, she submits, giving momentum to

what is described. It would also be evident to the reader, she argues, that each author's relationship to the story signifies to the readers different levels of knowledge. Ms Wheeler is acting as a "reporter", whereas Mr Bridgen claims to have been the first-hand recipient of the three MPs' complaints.

c. Further, Ms Page argues that if a 'one single meaning' rule did exist, it would add another layer of complexity and artificiality to the single meaning rule, compelling the Court either to attribute contributors by separate authors and joint tortfeasors published within the same edition of a newspaper a common denominator meaning that is lower than the natural, ordinary meaning of one author's contribution or higher than the other author's contribution. This risks a reversion to the "*in mitiori sensu*" rule of the early 17th century, which, as Tugendhat J observed in ***Lord McAlpine -v- Bercow*** **[2013] EWHC 1342 QB 64**, has not been a rule of law since then and is not one now.

d. Finally, she contends that such a rule would have the potential also to interfere arbitrarily in the prospect of success or failure of a s.4 defence (or defences) or, for that matter, a s.2 defence (or defences) and conflict with the rule on aggravated damages. It could be unjust to one party and an undeserved windfall to the other. In the current case, she submits, the Defendant's one single meaning contention could have the effect of lowering the meaning of one of the articles (creating unfairness to the Claimant) or raising the meaning of the other if, as the Claimant recognises, the Bridgen Article may be of a different order of gravity to the Wheeler Article. Each case, she submits, must be just judged on its own facts.

15. In support of his argument that the Court should fix one meaning, the two articles read together, Mr Millar QC contends:

a. Relying on ***Dee -v- Telegraph Media Group*** **[2010] EMLR 20**, the key question in this context is whether the articles "*were sufficiently closely connected as to be regarded as a single publication*". Articles appearing in the same edition of a newspaper can be regarded as having a sufficient connection - depending upon the relevant facts - and this is so whether or not the articles are continuation pages or different items of published material relating to the same subject matter: see Sharp, at [27]–[31]. On the facts in ***Dee*** the judge concluded [32]:

> "It would… have been obvious to all readers of the front page article that, read alone, it did not constitute or purport to be the full story. In my view, in light of the clear and close connection between them, the two articles must be read together for the purpose of determining meaning and the contrary is not arguable."

b. He has also referred me to ***Budu -v- BBC*** **[2010] EWHC 616 (QB)**, a case that concerned three articles on the BBC's website in its archive.

16. I consider that Mr Millar is correct in relation to the print articles. The starting point is that the Claimant includes for complaint words from both the Wheeler and Bridgen Articles. A reader that read only one and not the other print article is not an ordinary, reasonable

reader. Indeed, the reader of the Wheeler Article, in paragraph 6, is specifically referred to the Bridgen Article. The ***Charleston*** principle requires that the single meaning be ascertained by considering the words complained of *in context*. The ordinary, reasonable reader would have read both articles. S/he or he would not have been compartmentalised in that exercise, for example, reading the Wheeler Article and reaching a decision about what that article told him/her before moving onto the Bridgen Article and performing a separate analysis of what s/he learned from that article.

17. Applying ***Dee -v- Telegraph Media Group***, it seems to me that it is really unarguable but that the two print articles must be read together to ascertain meaning.

18. I do not consider that this, in practice, gives rise to the sort of problem that Ms Page suggests. The different roles of the reader would perceive Ms Wheeler and Mr Bridgen having, in relation to their separate articles *may* have an impact on the overall meaning. The liability of separate contributors to publications, although it can sometimes give rise to tricky points of assessment, causes no problem in principle. It simply requires an application of the principles relating to responsibility for publication. The individual defendant is liable for the publication of *his* words. If they are juxtaposed by the publisher in a wholly different manner from that expected by the contributor, then she or he is not liable for any higher resulting meaning, only the meaning of what he published: see the discussion in ***Alsaifi -v- Trinity Mirror & Anor*** **[2017] EWHC 1444 QB** [64]–[66] in the judgment of Warby J and my judgment in a related case, ***Alsaifi -v- Trinity Mirror & Anor*** **[2017] EWHC 2873 QB** [47]–[48].

19. No such complications arise here. The Defendant is liable, as publisher of both articles. Had the Claimant sued *only* on the Bridgen Article, that would have been a choice open to him but, as Ms Page accepts, the Defendant would have been entitled to rely on the surrounding context which, for these purposes, would include the Wheeler Article on the issue of the single meaning of the Bridgen Article.

20. The words complained of in the two print articles should be read together, in context, to ascertain the single natural and ordinary meaning. This does not risk a return to '*in mitiori sensu'* principle. Application of the established rules of meaning avoids that.

21. The position seems to me to be different in relation to the online publication. I noted in ***Falter -v- Altzmon*** **[2018] EWHC 1728 QB** that the rule from ***Charleston*** that readers are taken to read the whole of a publication has its limits in relation to links provided in an online version of an article:

> [12] The Internet provides a degree of challenge to [the] orthodoxy [of ***Charleston***] because it is possible to set out in on-line publications many hyperlinks to external material. It is perhaps unrealistic to proceed on the basis that every reader will follow all the hyperlinks, but everything depends upon its context. For example, if in a single tweet there is a single statement that says, "X is a liar" and then a hyperlink is given, it is almost an irresistible inference to conclude that the ordinary reasonable reader would have to follow the hyperlink in order to make sense of what was being said. At the other end of the spectrum, a very long article could contain a very large number of hyperlinks. Only the most tenacious or diligent reader could be expected to follow every single one of those

> hyperlinks. Such a reader could hardly be described as the ordinary reasonable reader. How many links any individual reader would follow would depend on an individual's interest in or knowledge of the subject matter or perhaps other particular reasons for investigating each of the hyperlinks in question.
>
> [13] It therefore does not seem to me to be possible to put forward a hard and fast rule that hyperlinks imbedded in an article that is complained of should be treated as having been read by the ordinary reasonable reader.

I referred to Warby J's judgment in ***Monroe -v- Hopkins*** **[2017] 4 WLR 68** in its treatment of hyperlinks in Tweets, before concluding:

> [15] ***Monroe -v- Hopkins*** gives very helpful guidance, but it does not extend the principle of ***Charleston -v- News Group*** into a rigid rule that requires the court, when determining meaning, to include in consideration material that is available to be read or watched by way of hyperlink. What, if I might summarise, I derive from ***Monroe -v- Hopkins*** is that everything is going to depend upon the context in which material is presented to the reader.
>
> [16] I suppose, ultimately, if it is a matter of dispute, the court is going to have to take a view as to what hypothetical reasonable reader is likely to do when presented by an online publication and the extent to which s/he would follow hyperlinks presented to him/her.

22. It is not possible to extract any sort of rigid rule from ***Budu***. That was a particular case on its facts. The evidence was that all three articles sued on could only be found following a search [9]. The first article was not retrievable at all by a search of the website [14]. The second and third articles *could* be accessed by search, but the only way of reaching the first article was if the reader went to the second and followed the link marked "see also", which took him or her to the first article [16].

23. In my judgment, ***Budu*** is an example of the Court considering what, *on the facts*, the ordinary, reasonable reader would be taken to have read together.

24. Here, there was no exhortation, direction or even encouragement given to readers of either the Wheeler or the Bridgen Articles to read the other article, the availability of which was advertised under the heading "Related Links" at the foot of the relevant article. Equally, it is not immediately obvious from the link to the Bridgen Article how it relates to the Wheeler Article. Whether readers follow links provided like this is influenced by a number of factors, including: (1) their familiarity with the story or subject matter and whether they consider they already know that they are offered by way of further reading; (2) their level of interest in the particular article and whether that drives them to wish to learn more; (3) particular directions given to read other material in the article; (4) if the reader considers that he or she cannot understand what is being said without clicking through to the hyperlink. It might be reasonable to attribute items (3) and (4) to the hypothetical ordinary, reasonable reader, but (1) and (2) will vary reader by reader.

25. Mr Millar suggests that paragraphs 5 and 6 of the online Wheeler Article indicated to the reader that there was an "*accompanying article*" by Mr Bridgen. The article actually said, "*Writing for the Sunday Times, Bridgen claimed…*" No hyperlink was provided at this,

inviting or facilitating the reader to go to the article. It is to be noted that, unlike the print version of the Wheeler Article, the reader is not directed to the Bridgen Article. The paragraphs themselves give readers a summary of what Mr Bridgen had said, together with quotations. The reader was not *driven* to the conclusion that she or he was not getting the whole story if she or he limited his or her reading to the instant article.

26. Applying the principle from ***Dee***, it seems to me that the "*Related Links*" were not sufficiently closely connected as to be regarded as a single publication. It would not have been obvious to readers of one of the online articles that if read alone, it did not constitute or purport to be the full story. On the contrary, the Bridgen Article could easily have appeared to readers to be self-contained and the Wheeler Article itself summarised the Bridgen Article. The "*Related Links*" offered further reading, but did not suggest that it was *required* reading. Not following a "*related link*" would not make the reader 'unreasonable'.

27. In my judgment, the online articles are separate publications and I will determine the single meaning of each of the online articles.

Meaning: the Law

28. There has been no dispute as to the law and the proper approach to ascertaining meaning. I will apply the well-established legal principles as they are set out in my judgment in ***Brown -v- Bower*** **[2017] 4 WLR 197** [10]–[17]. They are very familiar.

29. Conveniently, in the same judgment, in [19] – [25] and [28] – [31], that case also explains and sets out what is called the repetition rule, which is relied upon by Ms Page in particular, in relation to the effect of the Bridgen Article.

30. Ms Page points out that the Explanatory Note 15 to s.2 of the Defamation Act 2013 (the new statutory truth defence) expressly recognised the continuing effect of the repetition rule. The paragraph said this:

> "15. There is a longstanding common law rule that it is no defence to an action for defamation for the defendant to prove that he or she was only repeating what someone else had said (known as the 'repetition rule'). Subsection (1) focuses on the imputation conveyed by the statement in order to incorporate this rule."

31. Mr Millar has relied upon ***Cruddas -v- Calvert*** **[2014] EMLR 5** [15]–[16] in support of his resistance of any suggestion that the articles bear a meaning (at whatever *Chase* level) that the Claimant was guilty of a criminal offence, i.e. sexual assault.

32. Applying the *Chase* taxonomy, the Claimant's meaning is a *Chase* level 2 for the Wheeler Article and *Chase* level 1 (with *Chase* level 2 as an alternative) for the Bridgen Article. The Defendant's meaning is a *Chase* level 3 meaning.

Meaning: the Parties' Submissions

33. Ms Page also referred me to the paragraphs in ***Yeo -v- Times Newspapers*** between [97]–[98] as to the proper approach to adopt as to meaning.

34. Ms Page contends that, when read together, the print Wheeler and Bridgen Articles allege that the Claimant is guilty, or, alternatively, reasonable grounds to suspect that he is guilty, of sexual assault.

35. She argues that the articles are not neutral or balanced reports; such as to indicate to readers that no judgment should be reached or that there were two sides to the story. In particular, she contends that the Bridgen Article is a one-sided denunciation of the Claimant. He is portrayed as someone who has evaded public exposure. The reader is given no reason to doubt the credibility of the Claimant's accusers. On the contrary, she submits the complainants are three MPs. Mr Bridgen is so convinced of the truth of the allegations that he has risked his own popularity (and perhaps his career) by exposing the Claimant.

36. The effect, she submits, of the repetition rule is that the meaning of guilt is not diluted by the frequent references to "*allegations*". She submits that "*allege*" is just another verb to convey that a statement has been made by another person.

37. She relies in that respect on Simon Brown LJ's decision in ***Stern -v- Piper*** **[1997] QB 123** at **135H**. She submits the Bridgen Article proceeds entirely on the basis that the allegations of the three MPs are true. Mr Bridgen has decided to "*call out*" the inappropriate behaviour of the Claimant. The insertion of the word "*alleged*" in the sentence is ineffective. It is not possible to "*call out*" someone's behaviour if it is yet to be established. She submits the peppering of "*alleged*", perhaps by some unsophisticated legal intervention, does not water down the meaning. Mr Bridgen's prior complaint to the whips had gone unheeded. He has chosen to speak out publicly "*in the hope that it will encourage others, especially those who have been victims of sexual harassment, to come forward*". Only by bringing the allegations into the public domain will those responsible for wrongdoing be stopped so they cannot cause harm to others and bring Parliament into further disrepute.

38. Ms Page submits that the overall message from the Bridgen Article is that the three MPs are victims of sexual assault; the Claimant is the perpetrator of those assaults and he will only be stopped from causing further harm and damage to the reputation of Parliament if he is publicly exposed. There is nothing, she submits, in either article which invites readers to suspend judgment, and neither article gives the reader any reason to doubt the MPs' claims.

39. In the Wheeler Article, although recognisable as a report of the allegations, nevertheless presents the complaints of the three MPs as a direct report of what they are said to have told Mr Bridgen. Ms Page suggests that there is an embellishment in the first paragraph in the words that "*at least three MPs*" had complained about the Claimant's behaviour, leaving the reader to speculate that there may be more victims. There is very little antidote. The Claimant is said to have "*chosen not to comment*" and that it is "*understood*" that he denied the allegations.

40. Mr Millar, in support of his argument that the Court should adopt the *Chase* level 3 for which he contends, argues:

   a. Both the Wheeler and Bridgen Articles indicated that:

      i. *allegations* had been made against the Claimant by three women MPs;

      ii. an *allegation* made by the three women was that the Claimant had put his hand up their skirts;

      iii. a complaint about the Claimant's behaviour had been made by a fellow Conservative MP, Mr Bridgen, under the party's new conduct procedure; and

      iv. the Claimant was understood to deny the allegations.

   b. The Wheeler Article reported that the complaint had been accepted for *further investigation* under the procedure.

   c. The Bridgen Article made clear his view that the allegations should be *properly investigated* and stated that the new procedure was set up to *investigate alleged breaches of the code of conduct*.

d. Neither article contained the word "*assault*".

41. As to the *Chase* levels, Mr Millar contends:

a. The Claimant wrongly seeks to elevate the Bridgen Article to a level one allegation of guilt of *sexual assault*. He submits this should be rejected; the Bridgen Article contains numerous qualifying words, including that the Claimant is understood to deny the allegations.

b. The argument that the Articles carry a level 2 meaning is, he says, misconceived. The thrust of the Bridgen Article is that he believed, as a matter of principle, that the women's allegations should be property investigated as code of conduct breaches. The key fact added by the Wheeler Article is that Mr Bridgen's complaint had been referred to the new Disciplinary Committee for *further investigation*. Beyond this, the published material does not enter into the merits or otherwise of Mr Bridgen's complaint. It does not say that there is any particular threshold for an investigation under the code of conduct, still less that any particular threshold was met when the further investigation was decided upon by the Conservative Party. There is certainly nothing in the articles that goes a step further so as to suggest reasonable grounds to suspect the Claimant acted in the way alleged by Mr Bridgen's complaint.

Meaning: Decision

42. Determining meaning is all about the context in which statements are made. This is particularly so in relation to the divide between articles that allege guilt of wrongdoing and those that suggest only reasonable grounds to suspect or grounds to investigate. An overly analytical approach is likely to lead the Court into error. Readers do not pore over articles like lawyers, and there is a danger that submissions made by parties on rulings on meaning like this stray over that line. That is why I make it my practice to read the article complained of *before* I read submissions or, indeed, the meanings contended for by the parties. That allows me to capture what my impression of the article is as an ordinary reader before considering other matters. Reflecting, as it does, the meaning the notional, ordinary, reasonable reader would understand the words to bear, the exercise has necessarily an impressionistic element to it. It is the overall impact, the lasting impression that the ordinary, reasonable reader takes away, that is the best guide to the meaning that the article bears.

43. In my judgment, when read together, the articles clearly suggest that the Claimant is guilty of sexual assault, as alleged by the three MPs. Although couched in the language of accusation and allegation, the overall effect is clear. The particular factors that lead me to this conclusion are:

a. The articles are unbalanced and one-sided. Apart from the statement in paragraph 11 of the Wheeler Article, and right at the end of the Bridgen Article the statement that the Claimant was "understood" to deny the allegations, there is no other antidote to what is presented to the reader.

b. Despite being peppered with the word "alleged", sometimes (e.g. in paragraph 3 of the Bridgen Article) it is done in a way that makes no sense. These devices do not affect the overall message. This is a good example that it is not enough for a night lawyer simply to inserted "alleged" in front of the stated wrongdoing to avoid the suggestion of guilt. That is because it is the overall effect of the article that counts.

c. The overall meaning of a publication is affected by the substance of what is being said, not just the form or the formulaic incantation of words like "alleged". As I observed in argument, that device has become so notorious that it has been a running joke on "*Have I Got News For You?*" for nearly three decades. "*Mr X has been having an affair, allegedly.*" Unbeknownst to the audience, the humour is being supplied by their immediate appreciation of the practical effect of the repetition rule.

d. The Bridgen Article is a condemnation of the Claimant. He presents (and is presented) as someone who is putting his own career in jeopardy by stepping forward to speak out. There is no doubt what he is doing. He is "*calling out*" the Claimant's behaviour. Why? Because he wants to encourage other victims of sexual assault to come forward.

e. There is absolutely no doubt about that from the text of his article. The Bridgen Article is directly alleging guilt. His article is entirely *premised* upon the fact that the Claimant is guilty. It would make no sense otherwise. There could be no "*conspiracy of silence*" by failing to speak out if it was yet to be determined that the Claimant had behaved as alleged by the three MPs. If other victims of sexual harassment were to be encouraged to come forward by the three MPs themselves coming forward, that presupposed that the three of them had been sexually harassed by the Claimant, or sexually assaulted by the Claimant.

f. A particularly powerful factor in the notional ordinary, reasonable reader's assessment is the source of the allegation. The ultimate source of this allegation has two aspects to it. First, the accusers are MPs. The articles give no reason to doubt the credibility of what they say the Claimant has done to them, as recorded by Mr Bridgen. There is no suggestion of a political motivation, revenge or any other reason to indicate to the reader that he or she should be wary of accepting what is said by the MPs. The second is the fact that there are, indeed, three complaints. Absent collusion, which is not suggested, the fact that the three MPs have made the same complaint would be recognised as a powerful factor corroborating each other's account.

g. The Wheeler article does not mitigate the effect of the Bridgen Article. Bridgen is, colloquially, in this article, 'the horse's mouth', relaying what he has been told by the three direct victims, and the Wheeler Article is a report of that in a wider context of the "*Westminster Scandal*", not, it is to be noted, the "*alleged Scandal*". The Claimant is of interest because he is "*believed to be one of the first MPs to be reported under a new code of conduct*". Paragraph 7 in the Wheeler Article repeats the allegations made to Mr Bridgen from three MPs and, importantly, previous complaints to the whips fell on "*deaf ears*", leading to a row as to whether the whips

had been complicit in a cover up. The words "*cover up*" presuppose that there has been wrongdoing to hide.

44. What is the reader to make of the fact that the Claimant is to be investigated? In my judgment, readers would not conclude that the investigation was to decide whether the Claimant was guilty of not of the sexual assaults, but more likely what or would or should be done about. The Claimant was presented as a test of what Parliament was going to do about people like him who are guilty of sexual harassment. Insofar as any reader might have thought that the investigation might involve a formal adjudication of the complaints about the Claimant, the case against him was overwhelming. It is not possible to avoid an allegation of guilt simply by reporting that someone is subsequently going to stand trial or face an investigation. For example, if an article publishes the accounts of five eye witnesses, all of which are consistent that X stabbed Y in a town square, the resulting article is going to convey the meaning of guilt if it provides no reason to doubt the eye witnesses' accounts that are set out. Reporting that X has been arrested and charged (and even that he has vigorously denied the charge) and is awaiting trial, does not affect that.

45. For those reasons, in my judgment, the meaning of the print publication of the two articles is:

> "the claimant was guilty of sexual assault by putting his hand up the skirts of three female Members of Parliament".

46. The articles do not, themselves, address the issue of whether the conduct is or might be criminal. I doubt any reader would fail to appreciate that such conduct was serious and could possibly amount to a criminal offence, but that goes to the gravity of what was being alleged. It is unduly legalistic to include it in the meaning itself and neither party does so.

47. Turning to the online publications, for the reasons I have explained above the online version of the Bridgen Article is also:

> "the Claimant was guilty of sexual assault by putting his hand up the skirts of three female Members of Parliament".

48. The assessment of the meaning of the online Wheeler Article, in isolation, might not have been so clear cut. However, I do not need to decide this point. The Claimant has limited the meaning he attaches to this article as *Chase* level 2. I therefore find that the meaning of the online version of the Wheeler Article is:

> "there were reasonable grounds to suspect that the Claimant was guilty of sexual assault by putting his up the skirts of three female Members of Parliament".

49. Had I been deciding the meaning of the online articles if they had to be read together as a single publication, then the meaning would have been the same as I have found for the print versions of the articles.

Appendix

Section 1: Print version of the Wheeler Article

[1] The Conservative MP Daniel Poulter has been reported to his party's new disciplinary committee after allegations about his behaviour towards at least three female MPs.

[2] Last night, a Downing Street spokesman said: "Following a conversation with him, the chief whip has referred Daniel Poulter to the party's new disciplinary committee for further investigation."

[3] It comes after The Sunday Times reveals today that Poulter had been the subject of a formal complaint by his fellow Conservative MP Andrew Bridgen.

[4] Poulter, 39, a former health minister, has been accused of breaching the new code of conduct published last week in wake of a growing number of sexual harassment allegations.

[5] He is believed to be one of the first MPs to be reported under the new procedure.

[6] Writing for The Sunday Times (see panel, right), Bridgen claims that he first complained to the whips' office about Poulter's alleged behaviour seven years ago.

[7] The complaint came after three female MPs had told him they were reluctant to get in a lift with Poulter after he allegedly put his hand up their skirts.

[8] Bridgen claims the allegation fell on deaf ears — a suggestion that is likely to reignite the row over whether whips have been complicit in a cover-up.

[9] "My complaint was not acted upon by the whips and was met with no interest," Bridgen writes.

[10] "Two years later Poulter was promoted to junior health minister – a position he left after the 2015 election so he could return to the medical profession part-time."

[11] The Sunday Times has put the allegations to Poulter, but he has chosen not to comment on the record. It is understood he denies the allegations.

Section 2: Print version of Bridgen Article

[1] When you become an MP you don't stop being a member of the human race. We have all the failings and frailties of those we represent.

[2] It is my belief that many of the claims made on the now notorious "spreadsheet of shame" are nothing more than examples of those frailties — but there are some claims that are much darker and warrant further investigation. As MPs, we must all be equal with our electorate under the law.

[3] It is for this reason, among others, that I have decided to call out the alleged inappropriate behaviour of my fellow Conservative MP Daniel Poulter.

[4] I made a word-of-mouth complaint about him to the whips' office in 2010, after complaints from three female MPs. They said they were reluctant to go into the lift with him after he reportedly put his hand up their skirts. I felt that was more appropriate than confronting Poulter about the allegations.

[5] My complaint was not acted upon by the whips and was met with no interest. Two years later, Poulter was promoted to junior health minister – a position he left after the 2015 election so he could return to the medical profession part-time.

[6] While I appreciate that speaking out about an MP in my own party will not make me particularly popular and could damage my own career prospects, I have chosen to do so in the hope that it will encourage others, especially those who have been victims of sexual harassment, to come forward. It is very important that they do speak out. Only by bringing these allegations into the public domain and having them properly investigated will those responsible for wrongdoing be stopped, so they cannot cause harm to others or bring parliament into further disrepute.

[7] Those of us who are told things must speak out, or else we become complicit in a conspiracy of silence. I have now submitted my complaint about Poulter's alleged behaviour to the party's new regulatory body, set up to investigate alleged breaches of the code of conduct."

[8] The Sunday Times has put these allegations to Daniel Poulter, but he has chosen not to comment on the record. It is understood that he denies all the allegations.

Section 3: Online version of the Wheeler Article

[1] The Conservative MP Daniel Poulter has been reported to his party's new disciplinary committee after allegations about his behaviour towards at least three female MPs.

[2] A Downing Street spokesman said: "Following a conversation with him, the chief whip has referred Daniel Poulter to the party's new disciplinary committee for further investigation."

[3] The move came in response to today's revelation in The Sunday Times that Poulter had been the subject of a formal complaint by his fellow Conservative MP Andrew Bridgen.

[4] Poulter, 39, a former health minister, has been accused of breaching the new code of conduct published last week. He is believed to be one of the first MPs to be reported under the new procedure.

[5] Writing for The Sunday Times, Bridgen claims that he first complained to the whips' office about Poulter's alleged behaviour seven years ago. The complaint came after three female MPs had told him they were reluctant to get in a lift with Poulter after he allegedly put his hand up their skirts.

[6] Bridgen claims the allegation fell on deaf ears — a suggestion that is likely to reignite the row over whether whips have been complicit in a cover-up. "My complaint was not acted upon by the whips and was met with no interest," Bridgen writes. "Two years later Poulter was promoted to junior health minister." He resigned after the 2015 election to return to part-time practice as a doctor.

[7] The Sunday Times put the allegations to Poulter, but he chose not to comment on the record. It is understood he denies the allegations.

Section 4: Online version of the Bridgen Article

[1] When you become an MP you don't stop being a member of the human race. We have all the failings and frailties of those we represent.

[2] It is my belief that many of the claims made on the now notorious "spreadsheet of shame" are nothing more than examples of those frailties — but there are some claims that are much darker and warrant further investigation. As MPs, we must all be equal with our electorate under the law.

[3] It is for this reason, among others, that I have decided to call out the alleged inappropriate behaviour of my fellow Conservative MP Daniel Poulter.

[4] I made a word-of-mouth complaint about him to the whips' office in 2010, after complaints from three female MPs. They said they were reluctant to go into the lift with him after he reportedly put his hand up their skirts. I felt that was more appropriate than confronting Poulter about the allegations.

[5] My complaint was not acted upon by the whips and was met with no interest. Two years later Poulter was promoted to junior health minister — a position he left after the 2015 election so he could return to the medical profession part-time.

[6] While I appreciate that speaking out about an MP in my own party will not make me particularly popular and could damage my own career prospects, I have chosen to do so in the hope that it will encourage others, especially those who have been victims of sexual harassment, to come forward. It is very important that they do speak out. Only by bringing these allegations into the public domain and having them properly investigated will those responsible for wrongdoing be stopped, so they cannot cause harm to others or bring parliament into further disrepute.

[7] Those of us who are told things must speak out, or else we become complicit in a conspiracy of silence. I have now submitted my complaint about Poulter's alleged behaviour to the party's new regulatory body, set up to investigate alleged breaches of the code of conduct.

[8] The Sunday Times has put these allegations to Daniel Poulter, but he has chosen not to comment on the record. It is understood that he denies all the allegations.

[9] Andrew Bridgen is MP for North West Leicestershire

CERTIFICATE

Opus 2 International Ltd. hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.

Transcribed by ***Opus 2 International Ltd.***

(Incorporating Beverley F. Nunnery & Co.)

Official Court Reporters and Audio Transcribers

5 New Street Square, London EC4A 3BF

Tel: 020 7831 5627 Fax: 020 7831 7737

civil@opus2.digital

This transcript has been approved by the Judge