



Case No: KB-2026-000056

[2026] EWHC 1694 (KB)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 07/07/2026

Before :

MR JUSTICE GRIFFITHS

Between :

ISAAC AMEYAW

Claimant

- and -

PENNY ANTHONY

Defendant

Chris Zabilowicz (instructed by Lawhive Legal Ltd) for the Claimant
Mariyam Kamil (instructed by Carter Lemon Camerons LLP) for the Defendant

Hearing date: 30 June 2026

Judgment (Approved)

This judgment was handed down remotely at 10.30am on 7 July 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE GRIFFITHS

MR JUSTICE GRIFFITHS :

1. This is the trial of preliminary issues in a defamation action. It has been ordered by Steyn J pursuant to CPR 3.1(2)(i) and (j) and CPR PD53B para 6. The questions I have to decide are:
 - i) The natural and ordinary meaning of the words complained of by the claimant.
 - ii) Whether the meanings are defamatory of the claimant at common law.
 - iii) Whether the words complained of were statements of fact or statements of opinion and, to the extent that they were statements of opinion, whether they indicated the basis of the opinion.

The facts

2. The claimant is a youth minister who for a number of years served as Youth Minister at Edmonton Baptist Church. The defendant is a member of that church.
3. On 4 January 2025, the defendant sent an email (“the Email”) addressed to three recipients: namely, the Human Resources Department of The Baptist Union of Great Britain, the Church Office of Edmonton Baptist Church and a director of the London Baptist Association called Phil Barnard.
4. The defendant signed the Email with the pseudonym “Verity Clarke”. The subject line of the Email was “Edmonton Baptist Church Youth Minister – Isaac Ameyaw”.
5. The full text of the Email was:

“Dear Brothers and Sisters in Christ,

I sent the Baptist Union an e-mail about some irregularities concerning Edmonton Baptist Church's Youth Minister in 2023, I believe. Unfortunately, matters have deteriorated since then.

Edmonton Baptist Church is short of funds, but the Youth Minister has been, and is being paid for doing virtually nothing on his job description. Instead, he spends most of his time engaged in private filming activities - which is a job that he has not declared. Some of these videos are fundraisers, and he has done some of his filming on the Church premises, again without declaring it. The Youth Minister is physically present on the Church premises for only a few hours per week. He didn't even bother to put in an appearance at the Nativity Service - led by the youth of EBC - on December 22nd; and Sunday is his working day.

If Isaac Ameyaw devoted as much time to the youth ministry, for which he is paid, as he does to this media job, Edmonton Baptist Church could, once more, have a thriving youth ministry. In fact, the way things stand, something's got to give - and it's currently his role at Edmonton Baptist Church.

Isaac coerced the previous Lead Minister into purchasing expensive media equipment which he uses for his media job - not for his Edmonton Baptist Church role. I challenge anyone to ask Isaac for the evidence of how this equipment has been used for benefit of the Youth Ministry.

His social media posts are outrageous, and they dishonour the Baptist Union - and God. As I said before, he spends most of his contracted working hours devoted to film-making. The Church hierarchy knows about this but has done nothing.

This job is extra income that Isaac is earning while supposedly employed as a Youth Minister. Please investigate because it is unethical both in the secular world and in the Church. Why should the congregation of Edmonton Baptist Church pay - in their tithes and offerings - for a Youth Minister who is earning money elsewhere to the detriment of the youth in the Edmonton area?

The situation would be less problematic if the Youth Minister were more proactive at fulfilling his job description. In the secular world, his nonchalant attitude towards his contract would be scrutinised. This should also be the case in the Baptist Union. Mr Ameyaw should be aiming to further the Kingdom of God at Edmonton Baptist Church, but his actions are not those of the Good Shepherd referred to in the following Bible verses:

- John 21: 15-17 - let God be the judge, but the Youth Minister is not feeding Jesus's lambs.
- John 10: 1-42 - let God be the judge, but the Youth Minister is more like a robber and a thief with the salary he is being paid.
- Mark 10: 42-45 - let God be the judge, but the Youth Minister serves only himself and his hobbies.

1 Timothy 3: 1-5 demonstrates that the Youth Minister does not live up to Paul's exhortation not to be quarrelsome. Isaac is very quarrelsome. He argues ferociously - even threatening legal action - when he doesn't get his own way; furthermore, he has, in the past, caused many faithful, Godly and long-standing members of the Church to leave. This can be verified by any member of Edmonton Baptist Church.

Isaac Ameyaw must be held to account. The congregation and members of Edmonton Baptist Church cannot be expected to pay for a Youth Pastor to do this secular work instead of adhering to his work contract; or at the very least, if this continues, everything should be revealed to the Church. The Church should be notified of the following:

- The Youth Minister is **very rarely** on the premises.
- How often the Youth Minister is **not** available due to (frequent) illness.
- One of the foci of the youth minister will **not** be the preteens.
- The Youth Minister will **not** provide team leadership over the whole of children and young people's ministries.
- The Youth Minister will **not** provide leadership in viable and credible young people's evangelistic programmes with a bias towards the preteen, teenage and young adults (11-20 age group).
- The Youth Minister will **not** establish mutually beneficial links with local authorities' youth provision programmes, and other Christian Youth organisations, e.g. Oasis, N:flame, CYM, etc.
- The Youth Minister will **not** maintain a working youth office on the Church premises.
- The Youth Minister will **not** develop, maintain and implement efficient administrative structures for youth work (duty of care and legal responsibilities, child protection policies, First Aid, working with volunteers, finance and insurance, Health and Safety, Copyright law, Data Protection, Counselling young people, Special young people's needs and health, Discipline and codes of behaviour, equal opportunities, planning and preparation, transport, food preparation and catering, etc.).
- The Youth Minister will **not** develop and provide links between young people at EBC and other young people's programmes within the Baptist organisations and more widely.
- The Youth Minister will **not** be present and available to help with the Sunday Clubs as needed.
- The Youth Minister will **not** provide logistical support for Sunday clubs.
- The Youth Minister will **not** manage, along with others, all special events, conferences, work parties, camps, trips, etc.

I am including EBC Office in this e-mail because I would like the email to be sent it to the Deacons, please. I do not have their e-mail addresses.

Please note, I am not angling for Isaac to be dismissed; I think it's only right for him to be held to account by someone - anyone - who isn't intimidated by him, and whom he cannot accuse of being racist. Historically, his Line Manager seems either not to

have held Isaac to account, or to have turned a blind eye to his misdeeds. Now that Stephen Peake has retired, I hope and pray that something will be done.

Here are details of his social media accounts and images from them.

Few church members (many of whom are middle-aged or elderly) have social media accounts, so they will be unaware that Isaac is spending most of his time developing the content.

[The Email at this point inserted links to and screenshots of a YouTube video, an Instagram story and a podcast.]

Please investigate.

God’s blessing and many thanks in advance for taking the time to read my e-mail.”

The law on meaning

6. In accordance with usual practice in these cases, I read the Email before considering the submissions about meaning set out in the pleadings and other written submissions, and before hearing the submissions made to me at the hearing. This allowed me to form my own initial impression, before considering those submissions and reaching my final conclusions on meaning.
7. The principles to be applied when determining meaning are uncontroversial and were summarised by Nicklin J in *Koutsogiannis v Random House Group Ltd* [2020] 4 WLR 25, [2019] EWHC 48 (QB) at para 12, approved by the Court of Appeal in *Millett v Corbyn* [2021] EMLR 19 at para 8.
 - “i) The governing principle is reasonableness.
 - ii) The intention of the publisher is irrelevant.
 - iii) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. A reader who always adopts a bad meaning where a less serious or non-defamatory meaning is available is not reasonable: s/he is avid for scandal. But always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.
 - iv) Over-elaborate analysis should be avoided and the court should certainly not take a too literal approach to the task.

v) Consequently, a judge providing written reasons for conclusions on meaning should not fall into the trap of conducting too detailed an analysis of the various passages relied on by the respective parties.

vi) Any meaning that emerges as the produce of some strained, or forced, or utterly unreasonable interpretation should be rejected.

vii) It follows that it is not enough to say that by some person or another the words might be understood in a defamatory sense.

viii) The publication must be read as a whole, and any 'bane and antidote' taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning (for example the classic "rogues' gallery" case). In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation (e.g. bane and antidote cases).

ix) In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.

x) No evidence, beyond publication complained of, is admissible in determining the natural and ordinary meaning.

xi) The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication's readership.

xii) Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader.

xiii) 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 that is more injurious than the claimant's pleaded meaning)."

8. Part of the dispute in this case is about which of the *Chase* levels of meaning is applicable, following *Chase v Newsgroup Newspapers Ltd* [2002] EWCA Civ 1772; [2003] EMLR 11. Chase Level 1 means a person is guilty. Chase Level 2 means there are reasonable grounds for suspecting a person is guilty. Chase level 3 means there are grounds for investigating whether a person is guilty. However, "Reflecting the almost infinite capacity for subtle differences in meaning", Chase levels "are not a straitjacket forcing the court to select one of these prescribed levels of meaning, but they are a

helpful shorthand”: per Nicklin J in *Brown v Bower* [2017] EWHC 2637 (QB); [2017] 4 WLR 197, at para 17.

The parties’ contentions on meaning

9. The claimant has identified particular words in the Email which are said to support his pleaded meaning: see paras 3 and 4 of the Particulars of Claim.
10. The claimant’s pleaded meaning, as set out at paragraph 5 of the Particulars of Claim, is:

“The Claimant is a dishonest, unethical and self-serving youth minister who is rarely present on church premises, spends the majority of his contracted hours on undeclared private filming work to the detriment of the youth he is responsible for, dishonestly coerced the former Lead Minister into purchasing media equipment for his private filming work, fails to carry out any of the duties listed in his job description, and responds to legitimate criticism by threatening legal action and making accusations of racism.”

11. The defendant’s pleaded meaning, in her Notice of Case on the Preliminary Issues, is:

“There are grounds to investigate whether the Claimant, in his capacity as the Youth Minister of the Edmonton Baptist Church, has engaged in unethical and self-serving conduct by: (a) being physically present on church premises for only a few hours per week; (b) spending most of his contracted working hours on private filming activities, to the detriment of the youth associated with the Church; (c) coercing the previous Lead Minister into purchasing expensive media equipment which the Claimant uses for his filming activities; (d) carrying out very little of the duties in his job description; and (e) threatening legal action when he does not get his own way.”

12. Key differences between these proposed meanings are:

- i) The claimant’s proposed meaning is unqualified (*Chase* level 1), whereas the defendant’s proposed meaning is that “there are grounds to investigate” (*Chase* level 3).
- ii) The claimant suggests a meaning that the claimant is “dishonest” whereas the defendant does not.
- iii) The claimant’s formulation has him “rarely” present on church premises, whereas the defendant’s has him present “for only a few hours per week”.
- iv) The claimant’s wording describes the private filming as “undeclared” whereas the defendant’s wording does not.

- v) Both formulations refer to coercion of the former Lead Minister into buying media equipment used for the claimant's private work (in slightly different terms) but only the claimant's formulation describes this as done "dishonestly".
 - vi) The claimant's proposed meaning is that the claimant fails to carry out "any" of the duties listed in his job description, whereas the defendant's interpretation is that he carries out "very little" of those duties.
 - vii) The claimant's interpretation is that he "responds to legitimate criticism by threatening legal action and making accusations of racism." The defendant's interpretation does not refer to racism at all. Also, the defendant's interpretation is that the claimant threatens legal action "when he does not get his own way", rather than in response to "legitimate criticism."
13. There is a degree of common ground between the two meanings, however. Both, although not always using identical words, agree that the meaning includes (subject to the dispute over *Chase* levels of meaning, which applies across the board as a difference between the parties):
- i) A reference to the claimant being "unethical" and "self-serving" (claimant) or engaging in specific "unethical and self-serving conduct" (defendant).
 - ii) A reference to the claimant's filming being "to the detriment" of the youth he is responsible for (claimant) or of the youth associated with the Church (defendant).
 - iii) A reference to the claimant coercing the former or previous Lead Minister into buying media equipment, either "for his private filming work" (claimant) or "which the claimant uses for his filming activities" (defendant).
 - iv) A reference to the claimant failing to carry out the duties in his job description.
 - v) A reference to the claimant threatening legal action.
14. I have considered exceptionally well-prepared and thoughtful submissions from Counsel on both sides, both in written skeleton arguments and in clear and structured submissions at the hearing. I am most grateful to them both.

Decisions on meaning

Chase level

- 15. I will first consider the dispute between the parties about whether the meaning is in this case that the claimant is guilty of the matters alleged against him (*Chase* level 1), or only that there are reasonable grounds to investigate them (*Chase* level 3).
- 16. The Email is addressed to persons who are asked, at the end, "Please investigate", which is a point strongly relied upon by the defendant. But those words have to be read in the context of the Email as a whole.
- 17. The Email begins by referring to an earlier email to the Baptist Union in 2023 about "irregularities concerning Edmonton Baptist Church's Youth Minister" and says

“Unfortunately, matters have deteriorated since then”. The framing is that the Email is from a person who knows about irregularities and knows that matters have got worse.

18. The Email is throughout asserting facts in unqualified terms, based on what appears to be first-hand knowledge. The allegations are made as statements of fact, not fears or concerns. For the most part, they defer to no-one else in their statements of fact.
19. On the rare occasions when other witnesses or persons are referred to, it is not by way of suggesting that the stated facts are capable of argument or open to disagreement. On the contrary, the Email says that “The Church hierarchy knows about this but has done nothing” and “This can be verified by any member of Edmonton Baptist Church”. The list of shortcomings in performing what the parties agree is obviously a bullet point list taken from a job description is prefaced “The Church should be notified of the following” which, again, asserts objective facts to be “notified”, not allegations or suspicions to be investigated.
20. When the involvement (by sending the Email) of outside bodies is referred to, it is in terms that the claimant should be “held to account”, not investigated. This is confirmed by the sentence “Please note, I am not angling for Isaac to be dismissed; I think it’s only right for him to be held to account”, because that is about the remedy for wrongdoing; it is not putting into question the fact of wrongdoing. The wrongdoing is asserted as fact. The Email is about what is to be done about it. The words at the end “Please investigate” do not suddenly suggest that the fact of wrongdoing is open to question; the whole thrust of the Email is that it is not open to question. The words “Please investigate” call for a holding to account and a reckoning, so that outside recipients with the power to act may act, not so that they may investigate things which may or may not turn out to be true. The only question is whether others will see what has been going on and take action, not whether they have been going on. That is confirmed by the sentence “Historically, his Line Manager seems either not to have held Isaac to account, or to have turned a blind eye to his misdeeds.” The problem is not that there may not have been anything to worry about; it is asserted and assumed that there is. The problem is that there has either been a failure to hold the claimant to account for what he did or what he failed to do (not what he might have done or what he might have failed to do), or that a blind eye has been turned to “his misdeeds” (there being no question about whether there were misdeeds, or whether there was anything for the eye to see).
21. The ordinary and natural meaning is not qualified by there being only grounds to investigate the matters stated. The ordinary and natural meaning is *Chase* level 1: the claimant is guilty of the matters stated.

Dishonesty

22. The claimant suggests a meaning that the claimant is “dishonest” whereas the defendant does not. This is a suggestion made generally. It is also in issue whether the allegation of coercion, in particular, should be characterised as an allegation of dishonest conduct.
23. In the course of submissions, the claimant’s Counsel refined his position so that, instead of arguing for a meaning that the claimant is a dishonest Youth Minister, the meaning should describe his conduct as dishonest; in other words, that he was dishonest in specific actions rather than generally as a person. That aligns with the claimant’s

treatment of dishonesty in the context of the alleged coercion, by applying it similarly to other conduct set out in the Email.

24. It is undeniable that the word dishonest or dishonesty does not occur in the Email in any form. Such a meaning could however be part of the gist, and, therefore, part of the meaning.
25. I do not, however, think that it is. Rather, the Email identifies specific conduct and acts. None of them are necessarily dishonest and I agree with the defendant's submission that to introduce the word "dishonest" or "dishonestly" into the meaning is to add something which is not there and, moreover, would raise questions about what exactly is meant by dishonesty in this context because it is not obviously apt to the context.
26. If, in a hypothetical case, a money manager is accused of "embezzling money", that is necessarily dishonest. But if he is accused only of "transferring money" that may or may not be dishonest depending on the context (the transfer might turn out to be correct or, if incorrect, negligent rather than dishonest).
27. It is important not to introduce words into a meaning which obscure (for example, because the word introduced is imprecise or ambiguous) rather than clarify the meaning. This is a danger particularly to be guarded against when the imported word is not in the original, and is not a cognate of the words in the original. If a new word is to be imported at all, it is essential that the word imported necessarily follows from the wording of the original.
28. To coerce a person is wrong, but it is not necessarily dishonest. Coercion is an act of force (literal or metaphorical), whereas dishonesty is something else. The claimant argues that the next sentence ("I challenge anyone to ask Isaac for the evidence of how this equipment has been used for the benefit of the Youth Ministry") is linked to the one before ("Isaac coerced the previous Lead Minister into purchasing expensive media equipment which he uses for his media job – not for his Edmonton Baptist Church role") and that, taken together, the allegation is an allegation of dishonesty. I do not agree. Using work equipment for another purpose is not necessarily dishonest (checking news headlines on a work laptop might be an honest example) even if it is not allowed. The challenge for evidence that the equipment was used at all for the benefit of the Youth Ministry is about use of the equipment after acquisition, and does not necessarily involve dishonesty in the transaction itself. The proposed meaning is not part of the ordinary and natural meaning of the wording complained of.
29. The Email says "This job is extra income that Isaac is earning while supposedly employed as a Youth Minister. Please investigate because it is unethical both in the secular world and in the Church". The word used is "unethical". That is not a synonym for dishonest. Therefore, there is no need to import the word dishonest into the meaning; the word "unethical" (which both parties agree should be included) can stand on its own.
30. The Email refers to the claimant's "private filming activities – which is a job that he has not declared". It is not necessarily dishonest not to declare private filming activities. It may or may not be. It is not part of the meaning that it is dishonest. Even if it is contrary to some rule, not to declare something which should be declared could be a rule infraction without being dishonest. Not everyone who breaks rules is dishonest. It

would be different if the allegation were necessarily an allegation of dishonesty, such as falsifying accounts for personal gain. Filming on church premises, and spending too much time on non-employment activities, is not necessarily dishonest, even if it is unethical or otherwise wrong or objectionable.

31. Working less than contracted hours might be negligent or lazy or a number of discreditable things but it is not dishonest. Falsifying hours to claim extra pay would be dishonest; nothing like that is alleged here.
32. Reliance is placed on the reference to John 10:1-42 followed by the words “let God be the judge, but the Youth Minister is more like a robber and a thief with the salary he is being paid.” Robbers and thieves are dishonest, there is no question about that. But using those words as part of colourful language may fall short of alleging dishonesty. To take a homely example, describing high prices as “daylight robbery” may be no more than hyperbole without necessarily making a solemn accusation of dishonesty. In the Email, the claimant is said to be “more like a robber and a thief with the salary he is being paid” which is in line with the rest of the Email whose whole theme is that he is not giving value for money; he is not doing his job properly; he is selling his employers and the youth of Edmonton Baptist Church short, but only figuratively. He is not even said to be a robber or a thief, he is said to be “more like” a robber and a thief, and that is linked to “the salary he is being paid”. In context, these words do not invest the Email, or any part of it, with an allegation of dishonesty properly so called. The claimant is said to be doing wrong, and the ways in which he is said to be doing wrong are identified, with particular emphasis on him not doing the job he is paid for, or at the very least not doing it properly. But not doing your job properly is not necessarily dishonest. Not delivering is not necessarily dishonest. Not giving full value is not necessarily dishonest especially if the explanation is that you are distracted by other things you are doing which are not part of your work. Not giving your full attention to the job, during all the hours you are paid to do it, is not necessarily dishonest. Dishonesty would require something more than is to be found in the Email; such as lying about what you are doing or not doing; or forging or falsifying claims for remuneration; or deceiving a paymaster about what is properly due. It is not part of the ordinary and natural meaning of this Email that the claimant is dishonest. Dishonest is a loaded word, not used in the Email, adding something which is not conveyed by the original text to the reader who is not avid for scandal and who does not select one bad meaning where other meanings are available.
33. I will not therefore include “dishonest” or “dishonestly” when formulating the meaning of the Email.

Undeclared?

34. The claimant’s wording describes the private filming as “undeclared” whereas the defendant’s wording does not. The Email says: “Instead, he spends most of his time engaged in private filming activities – which is a job that he has not declared.” Undeclared is clearly in there and so I will include it in the meaning. It does add something.

Time spent on church premises

35. The claimant's formulation is that the claimant was "rarely" present on church premises, whereas the defendant's formulation is that he was present "for only a few hours per week".
36. It is common ground that there is not much difference between these two.
37. The overall thrust of the Email is that the claimant spends "most of his time" on his private filming activities; and that he "spends most of his contracted hours" devoted to his film-making. The Email says he is "physically present on the Church premises for only a few hours per week" and that is more specific than the later statement that he is "very rarely on the premises". I therefore prefer to carry the more specific (former) wording into the meaning, rather than the less specific (latter) wording.

Duties in the job description

38. The last set of bullet points in the Email is agreed by Counsel on both sides to convey the elements of a job description, and in every bullet point the claimant is said not to be doing what he should be doing.
39. The claimant's proposed meaning is that the claimant fails to carry out "any" of the duties listed in his job description, whereas the defendant's interpretation is that he carries out "very little" of those duties.
40. The ordinary and natural meaning of the bullet-point passage, even taken in isolation from the rest of the Email, is not that the claimant does none of his work but that there is a lot, put into a long list, that he does not do. The bullet-pointed list of duties is said, either not to be performed, or to be performed inadequately, e.g. "very rarely on the premises", not never; "How often... not available due to (frequent) illness", not never available. There is then an accusation of falling short in specific areas which does not go as far as to accuse the claimant of a complete failure to do any work at all. No context is pleaded in this case. It is not alleged (no doubt, because it is not the case) that the recipients of the Email were familiar with the full terms of the job description; or that an examination of the job description and comparison with the bullet-points would show that none of the work required was being done at all. To the contrary, the Email says, earlier on, that the claimant is doing "virtually nothing" on his job description; not "absolutely nothing". He is said to spend "most of his time", not all of his time, engaged in the filming which the Email objects to. When the Email says that the claimant "is physically present on the Church premises for only a few hours a week", it is admitting that he is at his place of work for a few hours a week, and he is not alleged to spend all of that time on his private activities.
41. Hence, "very little" is a fairer reflection of the ordinary and natural meaning than that he does not carry out any of his duties.

Response to criticism

42. The claimant's interpretation is that he "responds to legitimate criticism by threatening legal action and making accusations of racism." The defendant's interpretation does not refer to racism at all. Also, the defendant's interpretation is that the claimant threatens

legal action “when he does not get his own way”, rather than in response to “legitimate criticism.” On this last point, the claimant’s Counsel conceded in oral argument that “responds to legitimate criticism by threatening legal action and making accusations of racism” might properly be refined to “when others seek to hold him to account he threatens legal action and accuses them of racism.”

43. The reference to racism is not spelled out fully in the Email. The key phrase is that he should be “held to account by someone – anyone - who isn’t intimidated by him and whom he cannot accuse of being racist”. This suggests that he is expected, if challenged, to intimidate in response and/or to allege that the motive is racist. It is not said or clearly implied that the risk of an allegation of racism is based on a pattern of past behaviour. It might just as well mean (for example) that because the claimant is (as the Particulars of Claim plead) himself black, there is a risk that he could suspect or allege racism, and this risk should be avoided by making sure he is held to account by a person “whom he cannot accuse of being racist”.
44. I therefore do not think that the meaning “responds to legitimate criticism by (...) making accusations of racism” is a fair reflection of the ordinary and natural meaning.
45. The allegation that “He argues ferociously – even threatening legal action – when he doesn’t get his own way” does mean that he threatens legal action “when he does not get his own way” and the alternative gloss about “legitimate criticism” is not part of the ordinary and natural meaning. A person can be (as the Email alleges) “quarrelsome” in response to criticism whether it is legitimate or not. The accusation is that he is quarrelsome and “argues ferociously – even threatening legal action – when he doesn’t get his own way”, not that this is only or even sometimes when the criticism is legitimate. The claimant’s concession on this point was, therefore, correctly made.

Conclusion on meaning

46. I conclude that the ordinary and natural meaning of the words complained of is:

“The claimant, in his capacity as the Youth Minister of the Edmonton Baptist Church, has engaged in unethical and self-serving conduct by (a) being physically present on church premises for only a few hours per week; (b) spending most of his contracted working hours on undeclared private filming activity, to the detriment of the youth associated with the Church; (c) coercing the former Lead Minister into purchasing expensive media equipment and (d) carrying out very little of the duties listed in his job description. He threatens legal action when he does not get his own way.”

Whether defamatory

47. It is common ground that the statements complained of are defamatory of the claimant at common law.

Fact or opinion – the issues

48. It is common ground that, to the extent that the words complained of were statements of opinion, the basis of the opinion was indicated in the Email.
49. There is, however, a dispute about whether there are any statements of opinion at all. The claimant's case is that all the defamatory statements are statements of fact, not expressions of opinion. The defendant (by reference to the defendant's case about meaning, which I have not entirely accepted) says that the following elements of the meaning are expressions of opinion and not statements of fact:
- i) The claimant has engaged in unethical and self serving conduct.
 - ii) The claimant has spent most of his contracted working hours on private filming activities, to the detriment of the youth associated with the Church.
 - iii) The claimant coerced the previous Lead Minister into purchasing expensive media equipment.
 - iv) The claimant was carrying out very little of the duties in his job description.
 - v) The claimant threatens legal action when he does not get his own way.

Fact or opinion – the law

50. The significance of this distinction is that, if a statement is an expression of opinion, it is a defence to prove that it is honest opinion within the meaning of section 3 of the Defamation Act 2013; but if it is a statement of fact, the honest opinion defence is not available. The alternative defence, under section 2, that the statement is substantially true, may be harder to establish.
51. Section 3 of the Defamation Act 2013 provides:

“3 Honest opinion

- (1) It is a defence to an action for defamation for the defendant to show that the following conditions are met.
- (2) The first condition is that the statement complained of was a statement of opinion.
- (3) The second condition is that the statement complained of indicated, whether in general or specific terms, the basis of the opinion.
- (4) The third condition is that an honest person could have held the opinion on the basis of—
 - (a) any fact which existed at the time the statement complained of was published;

(b) anything asserted to be a fact in a privileged statement published before the statement complained of.

(5) The defence is defeated if the claimant shows that the defendant did not hold the opinion.”

52. It is implicit in section 3(3) that it does not necessarily follow from the fact that the statement complained of indicates “whether in general or specific terms, the basis of the opinion” that the statement is a statement of opinion. Otherwise, section 3(2), which establishes as a threshold requirement the requirement that the statement complained of is a statement of opinion, would be redundant.
53. When considering whether the words complained of are statements of fact or expressions of opinion, the principles are summarised in *Koutsogiannis v Random House Group Ltd* [2020] 4 WLR 25, [2019] EWHC 48 (QB) at para 16, which was approved by the Court of Appeal in *Corbyn v Millett* [2021] EWCA Civ 567 at para 14.

“...there is no dispute as to the principles to be applied. Drawn from *Grech v Odhams Press Ltd* [1958] 2 QB 275, *Branson v Bower* [2001] EWCA Civ 791; [2001] EMLR 32, *Lowe v Associated Newspapers Ltd* [2006] EWHC 320 (QB); [2007] QB 580, *Joseph v Spiller* [2010] UKSC 53; [2011] 1 AC 852, *British Chiropractic Association v Singh* [2010] EWCA Civ 350; [2011] 1 WLR 133, *Yeo v Times Newspapers Ltd (No 2)* [2014] EWHC 2853 (QB); [2015] 1 WLR 971, paras 88–89, *Wasserman v Freilich* [2016] EWHC 312 (QB), *Morgan v Associated Newspapers Ltd* [2018] EWHC 1850 (QB) at [13] and *Zarb-Cousin v Association of British Bookmakers* [2018] EWHC 2240 (QB), when determining whether the words complained of contain allegations of fact or opinion, the court will be guided by the following points:

(i) The statement must be recognisable as comment, as distinct from an imputation of fact.

(ii) Opinion is something which is or can reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation, etc.

(iii) The ultimate question is how the word would strike the ordinary reasonable reader. The subject matter and context of the words may be an important indicator of whether they are fact or opinion.

(iv) Some statements which are, by their nature and appearance opinion, are nevertheless treated as statements of fact where, for instance, the opinion implies that a claimant has done something but does not indicate what that something is, ie the statement is a bare comment.

(v) Whether an allegation that someone has acted “dishonestly” or “criminally” is an allegation of fact or expression of opinion will very much depend upon context. There is no fixed rule that a statement that someone has been dishonest must be treated as an allegation of fact.”

54. Per Warby LJ in *Blake v Fox* [2023] EWCA Civ 1000 at paras 23-24:

“23. Opinion is synonymous with “comment”. It is something which is or can reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation or the like. As with meaning, the court deciding whether a statement is one of fact or opinion looks only at the words complained of and their immediate context, and the ultimate question for the court is the objective question of “how the words would strike the ordinary reasonable reader”. This question may be considered after the meaning has been decided, or at the same time, or in the reverse order, which is common practice.

24. This is a highly fact-sensitive process that focuses on the particular statement at issue. One factor for consideration is whether the statement contains any indication of the basis on which it is made. At common law a statement that contains no indication of or reference to any supporting facts is liable to be treated as a statement of fact. The second condition for the statutory defence of honest opinion is “that the statement complained of indicated whether in general or specific terms the basis of the opinion”: s 3(3) of the 2013 Act. Beyond these extreme cases, “[t]he more clearly a statement indicates that it is based on some extraneous material, the more likely it is to strike the reader as an expression of opinion” [quoting Sharp LJ in *Butt v Secretary of State for the Home Department* [2019] EWCA Civ 933, [2019] EMLR 23, at para 37].”

55. In *Swan v Associated Newspapers Ltd* [2020] EWHC 1312 (QB), Warby J said, at para 26:

“(3) “Not every statement that ‘is or can be inferred to be ... [an] inference’ is necessarily to be treated as an expression of opinion”: see *Sheikh v Associated Newspapers Ltd* [2019] EWHC 2947 (QB) [23], where I continued:

The Explanatory Notes to the Defamation Act 2013 say that “an inference of fact is a form of opinion”. But as Sharp LJ observed in *Butt v Secretary of State for the Home Department* [2019] EWCA Civ 933 [37], the matter is “perhaps expressed too broadly” in that passage, as “this is often, but not invariably the case.”

(4) A statement which appears to be one of opinion, but contains no indication of or reference to any supporting facts, may be

treated as a statement of fact: *Joseph v Spiller* [2010] UKSC 53 [2011] 1 AC 852 [88–89] (Lord Phillips).

(5) When considering whether a statement is one of fact or opinion it is relevant to consider whether it asserts something verifiable (*Greenstein v Campaign Against Antisemitism* [2019] EWHC 281 (QB) [19]) but this is not conclusive, and there is no fixed rule about this (*Zarb-Cousin v Association of British Bookmakers* [2018] EWHC 2240 (QB) [26] (Nicklin J)).

(6) The subject-matter and context will often be important indicators of whether a statement is, to the ordinary reader, an expression of opinion or a statement of fact: *British Chiropractic Association v Singh* [2010] EWCA Civ 350 [2011] 1 WLR 133 [26], [31].”

56. The relevance of a statement asserting something verifiable is that such a statement is more likely to be a statement of fact than an expression of opinion, although this is not a fixed rule: see *Greenstein v Campaign Against Antisemitism* [2019] EWHC 281 (QB) per Nicklin J at para 19, the dictum of Eady J in *Hamilton v Clifford* [2004] EWHC 1542 (QB) at para 60 that a defendant cannot “seek shelter behind a defence of fair comment when the defamatory sting is one of verifiable fact”, a similar observation by Eady J in *Wasserman v Freilich* [2016] EWHC 312 (QB) at paras 16 and 21-22 and the caveat that there is no fixed rule about this in *Zarb-Cousin v Association of British Bookmakers* [2018] EWHC 2240 (QB) at para 26.
57. A common application of these distinctions has, for more than a century, been that an allegation of dishonesty has typically been characterised as a statement of fact and not an expression of opinion. Per Eady J in *Wasserman v Freilich* [2016] EWHC 312 (QB) at paras 16-22:

“The common sting in the various natural and ordinary meanings, pleaded in paragraph 27 of the particulars of claim, is that the Claimant was dishonest. That has generally been regarded as a factual allegation. It has long been recognised that “the state of a man's mind is as much a fact as the state of his digestion”: *Edgington v Fitzmaurice* (1885) 29 Ch D 459. Juries are deciding on every day of the week, as a matter of fact, whether a particular defendant was, or was not, dishonest. Accordingly, it is an allegation which in the context of libel is readily understood as being susceptible to a plea of truth under s.2 of the 2013 Act (as was the case with justification). It is not thought to be a matter of opinion: nor can one convert an allegation of dishonesty (or, for that matter, of murder or rape) into a matter of opinion by merely inserting in front of it a formula such as “I believe ...” or “she thinks ...”: see e.g. *Hamilton v Clifford* [2004] EWHC 1542.

(...)

The first condition to be fulfilled under s.3(2), unsurprisingly, is that the relevant statement must be one of opinion. If a statement is one of fact, therefore, this defence is not appropriate. If a statement can be proved to be substantially true, then a defendant has available the defence now provided for in s.2 (just as the common law defence of justification was available in the past). The question is bound to arise sometimes, however, whether a particular statement is in its context one of fact or opinion. This is naturally so, given the complexity and subtlety of language, and the issue was considered on a number of occasions in accordance with principles of the pre-existing common law.

It is true that sometimes a defendant is able to rely on a s.3 defence in respect of an inference; for example, where it is clear that he or she is not in a position to know, or to establish definitively, that it represents the true position: see e.g. *Branson v Bower* [2002] QB 737. There, the author was permitted to rely on a defence of fair comment in relation to inferences he had drawn as to the dominant motives of the claimant when making a bid to run the national lottery. Readers would know from the context of the newspaper article, if they thought about it, that the journalist was speculating, indeed could only be speculating, and expressing an opinion rather than (say) revealing a fact which he had discovered in his research.

There has been some debate as to whether the appropriate dividing line between statements of fact and statements of opinion depends on whether the relevant defamatory allegation is verifiable or not: see e.g. the discussion in *Gatley on Libel & Slander*, cited above, at 12.10. It is surely a matter of plain English. The word “verifiable” means “capable of being proved to be true”. If a statement is capable of being proved to be true, then a defendant would now be able to rely on a s.2 defence (if the evidence is available). If, on the other hand, it is not capable of being proved to be true, it would follow that neither he nor anyone else could do so. In such circumstances, however, a defendant might well be able to take advantage of s.3: it is likely that the statement will be recognised by readers (and ultimately the court) as the expression of an opinion.

In the present case, these refinements do not need to be considered: the question is relatively straightforward to resolve. An allegation of dishonesty, fraud or attempted fraud will usually fall fairly and squarely on the side of fact rather than opinion. The same is true also, as I have already mentioned, where the allegation is of “reasonable grounds to suspect”.”

58. This was qualified by Nicklin J in *Zarb-Cousin v Association of British Bookmakers* [2018] EWHC 2240 (QB) at paras 25-26:

“Ms Marzec, for the claimant, submits that allegations attacking somebody's integrity or alleging that they are dishonest or lying are not generally treated as statements of opinion. She relies for that proposition upon passages from Eady J's judgment in *Wasserman v Freilich* [2016] EWHC 312 (QB) [16] and [21]-[22] (...)

I think that some caution must be applied before overly prescriptive rules are adopted as to the assessment of fact or opinion. The pitfalls of doing so are perhaps demonstrated by *Singh*. In my judgment, what Eady J is saying in those passages is that context is likely to play a critical role in this assessment. It is the fourth point from *Morgan* about bare comment.

[i.e. “Some statements which are, by their nature and appearance comment, are nevertheless treated as statements of fact where, for instance, a comment implies that a claimant has done something but does not indicate what that something is, i.e. that the statement is a bare comment...”: *Morgan v Associated Newspapers Limited* [2018] EWHC 1850 QB para 13]

There is no fixed rule that a statement that someone has been dishonest must be treated as an allegation of fact. The real question is whether, in context, the allegation of dishonesty would be understood to be the deduction or inference of the speaker. In most cases, it will be the context in which the words appear or are spoken that will provide the answer to whether the words are (or would be understood to be) opinion or whether the statement is ‘bare comment’ and therefore potentially liable to be treated as an allegation of fact. Asking a question of whether the statement is “verifiable” is perhaps a dangerous gloss on this approach.”

59. Nicklin J in *Zarb-Cousin v Association of British Bookmakers* [2018] EWHC 2240 (QB) at para 27 then referred to *Lowe v Associated Newspapers Ltd* [2007] QB 580 where Eady J said this (at paras 55-58):

“(...) readers need to be able to distinguish facts from comment for the defendant to be permitted to rely upon the defence of fair comment. A bald comment, made in circumstances where it is not possible to understand it as an inference, it is likely to be treated as an assertion of fact which will only be susceptible to a defence of justification or privilege.

Where facts are set out in the words complained of, so that the reader can see that an inference or opinion is based upon them, then the defence of fair comment will be available; but the defendant is not tied to the facts stated in the article. He may invite the jury to take into account extrinsic facts 'known to the writer' as part of the material on which they are to decide whether

a person could honestly express the opinion or draw the inference.

Whilst it is necessary for readers to distinguish fact from comment, it is not necessary for them to have before them all the facts upon which the comment was based for the purpose of deciding whether they agree with the comment (or inference). I draw that conclusion with all due diffidence, since Lord Nicholls has twice expressed the opposite view, but it does seem consistent with principle and, in particular, with the undoubted rule that people are free to express perverse and shocking opinions and may nevertheless succeed in a defence of fair comment without having to persuade reasonable readers, or the jurors who represent such persons, to concur with the opinions. It is difficult to see why it should matter whether a reader agrees; what matters is whether he or she can distinguish fact from comment. Sometimes that will be possible, as it was in *Kemsley v Foot*, without any facts being stated expressly, because either they are referred to or they are sufficiently widely known for the readers to recognise the comment as comment.

I can give examples of each situation:

- i) The minister is unfit to hold public office because he lied to the House of Commons;
- ii) The minister is unfit to hold public office because of what he said in the House last week;
- iii) Mr A [who is widely known to have pleaded guilty to perjury] is unfit to hold public office.

Obviously, in the first example the fact is stated, in the second it is referred to, and in the third the facts are notorious.”

60. The upshot of these authorities, and of others to which they refer, is that there are indicators which may be helpful when deciding whether a statement is of fact or opinion, but there are no fixed rules. Ultimately, it is always a case-specific assessment to be made by the judge, based upon the words in question, in the context of the other words around them; applying common-sense, not being led astray by technical grammatical analysis, and never losing sight of the fact that the arbiter is the ordinary reasonable reader. The question is no more or less than whether the ordinary reasonable reader would regard the statement as a fact or an opinion.

Fact or opinion - decision

61. Applying the guidance in the authorities, and in the exercise of my own judgment, I find that the following statements would be taken by the ordinary reasonable reader as statements of fact, not expressions of opinion.

- i) The claimant has spent most of his contracted working hours on private filming activities, to the detriment of the youth associated with the Church.
 - ii) The claimant coerced the previous Lead Minister into purchasing expensive media equipment.
 - iii) The claimant was carrying out very little of the duties in his job description.
 - iv) The claimant threatens legal action when he does not get his own way.
62. They are all verifiable assertions of fact. By their nature, it will be straightforward to try a defence of truth in respect of them under section 2 of the Defamation Act 2013, if such a defence is raised.
63. I need say nothing more in respect of the statements numbered (i), (ii) and (iv) in paragraph 61 above. It is, to my mind, obvious that they are statements of fact. The reader cannot assess them and see them as a mere matter of contestable opinion by reference to other materials in the Email, because there is so little else in the Email about them.
64. Statement (iii), that the claimant was carrying out very little of the duties in his job description, does have more underlying fact stated in the Email, particularly in the bullet point section going through specific duties and stating that he does not fulfil them. However, the Email does not set out materials from which the reader might conclude that it is too harsh to say he carries out “very little” of the duties in his job description; it is entirely one sided in that respect. This supports the view that the underlying assertion, that the claimant was carrying out very little of the duties in his job description, is itself a statement of fact and not an expression of subjective opinion, because it follows irresistibly from all the facts stated throughout the Email on that point.
65. Statements (i), (ii) and (iv) are assertions of fact; that is, they are suitable for a defence of truth to be canvassed and decided, because they assert facts which can, as a result of evidence at trial, be tested and either proved to be substantially true or not, as the case may be.
66. That leaves only the opening statement of those in para 49 above: “The claimant has engaged in unethical and self serving conduct.”
67. The statement that he has engaged in unethical conduct is a statement of opinion. The opinion is based on the facts identified in the Email. Whether something should be judged “unethical” is by its nature a subjective assessment, depending on factors which include the reader’s own ethical standards. The rest of the Email allows the reader to judge whether “unethical” is a fair description. Whether the conduct is “unethical” is so subjective that it is not really verifiable as such.
68. The ordinary reasonable reader would, however, form a different view of the statement that the claimant has engaged in “self-serving” conduct. That is more akin to the description of a person as “dishonest”. The conduct itself is identified in the Email, but whether it is “self-serving” is not only a comment on the underlying conduct (in the way that “unethical” is), it also ascribes a motive to the claimant. It asserts that, in acting

in the way described, the claimant was “self-serving” and not serving some altruistic or higher purpose. Whether the claimant’s conduct was or was not “self-serving” is a question of fact; because, to retrieve the phrase already quoted from *Edgington v Fitzmaurice* (1885) 29 Ch D 459, 483, “the state of a man's mind is as much a fact as the state of his digestion”.

Summary and conclusion

69. My conclusions following this trial of preliminary issues can therefore be summarised as follows.
70. I conclude that the ordinary and natural meaning of the words complained of is:

“The claimant, in his capacity as the Youth Minister of the Edmonton Baptist Church, has engaged in unethical and self-serving conduct by (a) being physically present on church premises for only a few hours per week; (b) spending most of his contracted working hours on undeclared private filming activity, to the detriment of the youth associated with the Church; (c) coercing the former Lead Minister into purchasing expensive media equipment and (d) carrying out very little of the duties listed in his job description. He threatens legal action when he does not get his own way.”
71. This meaning is defamatory of the claimant at common law.
72. The words complained of are all statements of fact, with the exception of the statement that the claimant, in his capacity as the Youth Minister of the Edmonton Baptist Church, has engaged in “unethical” conduct, which is an expression of opinion.
73. The basis of that opinion was indicated in the Email.