



Neutral Citation Number: [2022] EWHC 2017 (QB)

Case No: QB-2020-002028

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/07/2022

Before:

THE HON. MRS JUSTICE STEYN DBE

Between:

REBEKAH VARDY

Claimant

- and -

COLEEN ROONEY

Defendant

Hugh Tomlinson QC and Sara Mansoori QC (instructed by Kingsley Napley LLP) for the Claimant

David Sherborne and Ben Hamer (instructed by Brabners LLP) for the Defendant

Hearing dates: 10 – 17 May and 19 May 2022

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MRS JUSTICE STEYN DBE

This judgment will be handed down by the Judge remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down is deemed to be 12.00 PM on Friday 29th July 2022

Mrs Justice Steyn:

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A. **Introduction**

1. This judgment is given following a seven day trial of this libel claim which is brought by the claimant, Ms Rebekah Vardy, against the defendant, Ms Coleen Rooney. The claimant and the defendant are well-known media and television personalities. They are both married to former England footballers, namely, Mr Jamie Vardy and Mr Wayne Rooney, respectively.
2. The claim is brought in respect of a post published by Ms Rooney on 9 October 2019 ('the Reveal Post') on Twitter, Facebook and her public Instagram account. The words complained of are these:

“For a few years now someone who I trusted to follow me on my personal Instagram account has been consistently informing The SUN newspaper of my private posts and stories.

There has been so much information given to them about me, my friends and my family – all without my permission or knowledge.

After a long time of trying to figure out who it could be, for various reasons, I had a suspicion.

To try and prove this, I came up with an idea. I blocked everyone from viewing my Instagram stories except ONE account. (Those on my private account must have been wondering why I haven't had stories on there for a while.)

Over the past five months I have posted a series of false stories to see if they made their way into the Sun newspaper. And you know what, they did! The story about gender selection in Mexico, the story about returning to TV and then the latest story about the basement flooding in my new house.

It's been tough keeping it to myself and not making any comment at all, especially when the stories have been leaked, however I had to. Now I know for certain which account / individual it's come from.

I have saved and screenshotted all the original stories which clearly show just one person has viewed them.

It'sRebekah Vardy's account.”

3. On Twitter and Facebook the above words were published in the form of an image preceded by introductory words stating,

“This has been a burden in my life for a few years now and finally I have got to the bottom of it.....”.

4. The single, natural and ordinary meaning of the words complained of that would be conveyed to the hypothetical ‘ordinary reasonable reader’ was determined as a preliminary issue by Warby J (as he then was), following a hearing on 19 November 2020: *Vardy v Rooney* [2020] EWHC 3156 (QB) (‘the single meaning’). The single meaning is:

“Over a period of years Ms Vardy had regularly and frequently abused her status as a trusted follower of Ms Rooney’s personal Instagram account by secretly informing *The Sun* newspaper of Ms Rooney’s private posts and stories, thereby making public without Ms Rooney’s permission a great deal of information about Ms Rooney, her friends and family which she did not want made public.”

5. Warby J rejected the defendant’s contention, based mainly on the use of the word “*account*”, that the Post bore a less serious meaning, observing at [29]:

“...The message was not that Ms Vardy might or might not be the wrongdoer. The reader was not being told that the ‘one person’ could be someone else, who had in some way gained access to Ms Vardy’s account and then misused it in order to misuse Ms Rooney’s personal information. If that had been the message, the ordinary reader would expect to see a good deal more than the word ‘account’. In the context of the post as a whole, that word would be read as just another way of identifying Rebekah Vardy as the wrongdoer.”

6. There is no dispute that the words complained of are defamatory of Ms Vardy i.e. the common law test, that the meaning or imputation would tend to have a substantially adverse effect on the way that right-thinking members of society generally would treat the claimant, is met.
7. Nor is there any dispute that the condition set out in s.1 of the Defamation Act 2013 (‘the 2013 Act’), that the “*publication has caused or is likely to cause serious harm to the reputation of the claimant*”, is met. Although the defendant’s pleaded position contains a denial that publication of the Reveal Post caused or is likely to cause serious harm to Ms Vardy’s reputation, the issue was conceded in the defendant’s skeleton argument filed two working days before the trial. That was a sensible and realistic (albeit rather late) concession, given the compelling evidence of harm, the inherent tendency of the words and the extent of publication. Ms Rooney’s public Instagram account has around 900,000 followers; her Twitter account has around 1,200,000 followers; and her Facebook account has about 950,000 followers. The Post was ‘liked’ on Instagram 193,284 times and on Twitter 300,000 times. There can be no doubt that the Post was published to vast numbers of people. On Twitter alone, by 14 October 2021, the activity for the Post was recorded as 30,872,531 impressions (i.e. “*times people saw this Tweet on Twitter*”) and 11,500,157 engagements (i.e. “*times people interacted with this Tweet*”).

8. Some members of the public have responded to the Reveal Post by subjecting Ms Vardy to vile abuse, including messages wishing her, her family, and even her (then unborn) baby, ill in the most awful terms. Nothing of which Ms Vardy has been accused, nor any of the findings in this judgment, provide any justification or excuse for subjecting her or her family, or any other person involved in this case, to such vitriol.
9. Given the concession that the Post is defamatory and has caused serious harm to Ms Vardy's reputation, the questions for determination are whether Ms Rooney has established a defence to the claim and, if not, the appropriate quantum of damages. Ms Rooney relies on two statutory defences, namely the defence of truth and the defence of publication on a matter of public interest; but it is common ground that the central issue is whether Ms Rooney has proved the single meaning is substantially true.

B. The case in outline

10. In short, Ms Rooney's primary defence is based on the allegation that the following articles resulted from leaks by Ms Vardy, using her agent Ms Caroline Watt as a conduit, of information Ms Rooney posted on her private Instagram account ('the Private Instagram Account'):
 - i) '**The Marriage Article**': An article first published in *The Sun Online* on 3 September 2017 at 22.22, under the headline "*Wayne Rooney fears his marriage is over as pregnant wife Coleen storms out of their £4m mansion – and takes the kids with her*". The byline names the writers as Richard Moriarty and Simon Boyle. It is clear from the evidence provided in support of Mr Boyle's application to set aside a witness summons served on him by the claimant, and from the seventh witness statement of the claimant's solicitor, Ms Charlotte Harris, explaining why the claimant did not seek permission to rely on the witness summary served in relation to Mr Moriarty (and consented to the witness summons served on him being set aside), that "*Mr Boyle provided information for the Marriage Article*" whereas Mr Moriarty was not aware of the source.
 - ii) '**The Pyjamas Article**': An article first published in *The Sun Online* on 1 November 2017, under the headline "*Wayne Rooney is back at home – and in bed with Coleen – as she shares snaps with pals celebrating Halloween together*". The byline names the writers as Amy Brookbanks and Issy Sampson. It is clear from the evidence provided in support of Ms Brookbanks' application to set aside a witness summons served on her by the claimant, and from the seventh statement of Ms Harris explaining why the claimant did not seek permission to rely on the witness summary served in relation to Ms Sampson (and consented to the witness summons served on her being set aside) that information was provided for the Pyjamas Article by a source (or sources) to Ms Brookbanks. Ms Sampson was not aware of the source.
 - iii) '**The Car Crash Article**': An article first published in *The Sun Online* on 25 January 2019, under the headline "*Coleen Rooney narrowly avoids injury in car crash and wrecks 4 x 4 just weeks after Wayne's arrest for 'public intoxication' in Washington*". The byline names the writer as Andy Halls and the evidence provided in support of his application to set aside the witness summons served on him by the claimant acknowledged that he is responsible for this article (as

well as the Soho House, Gender Selection and Flooded Basement Articles referred to below).

- iv) **‘The Gender Selection Articles’**: An article first published in *The Sun Online* on 15 August 2019, under the headline “*Coleen Rooney travelled to Mexico to look into £8k ‘gender selection’ treatment in desperate bid to have baby girl*”; and a similar article published in the print edition of *The Sun* on 16 August 2019. The byline names the writer as Andy Halls and he has acknowledged responsibility for it. Following the Reveal Post, the online article was updated to include a statement that on 9 October “*Coleen Rooney said that she made this story up in an effort to find out who was leaking to the Press*”.
 - v) **‘The Difficult Year Article’**: An article first published in *The Sun* on 8 August 2019 at 22.09, under the headline “*ROON FOR ONE MORE Coleen Rooney made wayward Wayne return to England to have baby girl after antics including booze-up with US barmaid*”. The byline names the writer as Simon Boyle. His application to set aside the witness summons did not address whether he was responsible for this article because it was not referred to in the witness summary served by the claimant (in its original or amended form).
 - vi) **‘The Soho House Article’**: An article first published in *The Sun Online* on 13 August 2019 at 23.03, under the headline “*Coleen Rooney stunned guests at Beckhams’ favourite hangout by chugging wine from a bottle to celebrate Wayne’s return*”. The byline names the writer as Andy Halls and he has acknowledged responsibility for it.
 - vii) **‘The Flooded Basement Articles’**: An article first published in *The Sun Online* on 8 October 2019 at 21.00, under the headline “*Wayne and Coleen Rooney’s £20million ‘Morrisons mansion’ flooded during Storm Lorenzo*”; and an article published in *The Sun* on 9 October 2019, under the headline “*£20m pad in Roo-ins*”. Each article is in or from “*Simon Boyle’s Bizarre Column*”. Although the byline does not name Andy Halls as one of the writers, the evidence provided in support of the application by both Simon Boyle and Andy Halls to set aside the witness summonses served on them states that both Mr Boyle and Mr Halls are responsible for the Flooded Basement Articles. Following the Reveal Post, the online article was updated to include a statement that on 9 October “*Coleen Rooney said that she made this story up in an effort to find out who was leaking to the Press*”.
11. In addition, Ms Rooney relies on a request for comment by *The Sun* in March 2019 regarding a proposed article (**‘the Babysitter Enquiry’**) as showing a further leak from her Private Instagram Account for which she contends Ms Vardy is responsible, albeit it did not result in a published article.
12. Ms Vardy denies that she leaked any information from the Private Instagram Account. She accepts that it is *possible* that Ms Watt, accessing the Private Instagram Account via Ms Vardy’s Instagram account, may have had some involvement in the articles that appear to be derived from stories or posts on the Private Instagram Account. However, if that is so, Ms Vardy denies she authorised, approved, condoned or knew anything about the provision of information to the press from the Private Instagram Account. Mr

Tomlinson QC, Counsel for Ms Vardy, also submits that Ms Rooney's truth defence is not, in any event, sufficient to establish the substantial truth of the single meaning.

13. Ms Rooney had also relied in the Reveal Post and her Re-Re-Amended Defence on the '**TV Decisions Articles**': an article published on 28 September 2019 in *The Sun Online* under the headline "*Coleen Rooney in talks to join Strictly next year as she looks to revive TV career when Wayne returns to UK*"; and an article published in *The Sun* on 29 September under the headline "*Coleen to reboot TV star ambition*". The byline for each article names the writer as Michael Hamilton. He has given unchallenged evidence that he is the author of the TV Decisions Articles, Ms Vardy is not the source of the TV Decisions Articles, he has never communicated directly with her and he does not have a close relationship with her. In light of this evidence, Ms Rooney has conceded that the TV Decisions Articles were not the result of a leak of her information by Ms Vardy. Nonetheless, the TV Decisions Articles remain relevant in considering both parties' submissions in relation to the public interest defence.
14. Ms Rooney also relies on a number of other matters, most notably allegations that Ms Vardy leaked or sought to leak personal information about other people to the press, as supporting the inference that Ms Vardy leaked information from Ms Rooney's Private Instagram Account. Ms Vardy acknowledges that she sought to leak a story regarding Mr Danny Drinkwater, a professional footballer, but denies that she had an established practice of secretly leaking information about others, or that any of the matters relied on support the inference that Ms Rooney asks the court to draw.

C. Procedural history

15. The claim was issued on 12 June 2020, and Particulars of Claim were served on the same date. On 17 September 2020, Nicklin J ordered that meaning be determined as a preliminary issue. Time for service of the defence was extended until 28 days after the determination of the preliminary issue. However, the defendant chose to serve her Defence on 2 October 2020, prior to the meaning trial.
16. The trial of the preliminary issue as to meaning took place on 19 November 2020 before Warby J and he made a declaration as to the single meaning the following day (see §4 above).
17. In accordance with directions made by Warby J, Amended Particulars of Claim were served on 23 November 2020, an Amended Defence was served on 30 November 2020, and the Claimant's Reply was served on 8 December 2020. Directions Questionnaires were exchanged on 17 November 2020. The proceedings were then stayed until 8 February 2021 while a mediation took place. That was unsuccessful.
18. On 16 March 2021, a costs and case management conference ('CCMC') took place before Master Eastman. In accordance with the timetable set by Master Eastman, the claimant issued an application to strike out or obtain summary judgment on some of the allegations in the defendant's Amended Defence on 30 March 2021. I heard that application on 18 June 2021 and gave judgment on 7 July 2021, allowing it in part and dismissing it in greater part: *Vardy v Rooney (2)* [2021] EWHC 1888 (QB). The Re-Amended Defence was served on 16 July 2021 and the Amended Reply was served on 30 July 2021.

19. A further CCMC took place before Master Eastman on 4 August 2021 at which Master Eastman gave directions to trial and set a trial window of 26 April to 20 May 2022. The claimant served a Part 18 Request for Further Information on 17 September 2021, to which the defendant provided a response on 15 October 2021. Disclosure took place on 29 October 2021 and inspection on 12 November 2021.
20. On 8-9 February 2022, I heard the defendant's applications to join Ms Watt as a part 20 defendant, to file a Re-Re-Amended Defence and for disclosure orders; and the claimant's applications for further information and disclosure orders. I gave judgment on 14 February 2022, dismissing the application to join Ms Watt, granting limited permission to amend, and making specific and supplemental disclosure orders against the claimant: *Vardy v Rooney (3)* [2022] EWHC 304 (QB).
21. On 18 February 2022, the defendant served a Re-Re-Amended Defence and on 25 February 2022 the claimant served a Re-Amended Reply. On 28 February 2022, the claimant provided specific and supplemental disclosure pursuant to my order of 14 February 2022.
22. On 1 April 2022, the parties exchanged witness evidence. The claimant served two witness statements, namely, her own and a statement made by Ms Watt. In addition, she served eight witness summaries in relation to eight journalists, each of whom had been served with a witness summons. The defendant served seven witness statements, including her own.
23. The Pre-Trial Review took place before me on 13 April 2022. Amongst other matters, I heard an application by the defendant for disclosure from a non-party, News Group Newspapers Ltd ('NGN'), an application by the claimant for permission to rely on witness summaries and for relief from sanctions, and applications for orders in relation to further examination of data by the experts. I gave judgment on 21 April 2022 (*Vardy v Rooney (4)* [2022] EWHC 946 (QB)) and made the orders that were sealed on 26 and 27 April 2022. I granted the defendant's application for disclosure from NGN insofar as the defendant sought communications between the claimant and Mr Halls or Ms Watt and Mr Halls (but not in respect of communications with other journalists), subject to any claim by NGN to withhold information under s.10 of the Contempt of Court Act 1981 ('the 1981 Act'). I granted the claimant permission to serve the witness summaries of Mr Halls, Mr Boyle, Ms Brookbanks and Mr Hamilton. The witness summonses in respect of the other four journalists were set aside.
24. On 29 April 2022, I heard a number of pre-trial applications, including an application by Mr Halls, Mr Boyle and Ms Brookbanks to set aside the witness summonses served on them, and an application by the defendant challenging NGN's list of documents in which it asserted that it could neither confirm nor deny ('NCND') whether it has documents within its control falling within the scope of the order for disclosure made against it. The journalists and NGN relied on the source protection rights in s.10 of the 1981 Act and article 10 of the European Convention on Human Rights. I gave judgment the same day setting aside the three witness summonses, giving the claimant permission to rely on the amended witness summary of Mr Hamilton, and refusing the defendant's application for an order for disclosure and inspection against NGN: *Vardy v Rooney (5)* [2022] EWHC 1209 (QB).

25. The claimant's second and third statements were filed on 27 April 2022 and 10 May 2022. The defendant filed a statement made by Ms Harpreet Robertson on 5 May 2022 and her own second statement on 9 May 2022. I granted permission to rely on these (late) statements.
26. The trial began on 10 May and concluded on 19 May 2022.

D. The law

27. There was no dispute between the parties as to the law.

The truth defence

28. The common law defence of justification has been abolished and replaced with a statutory defence of truth. Section 2 of the 2013 Act provides:

“(1) It is a defence to an action for defamation for the defendant to show that the imputation conveyed by the statement complained of is substantially true.

(2) Subsection (3) applies in an action for defamation if the statement complained of conveys two or more distinct imputations.

(3) If one or more of the imputations is not shown to be substantially true, the defence under this section does not fail if, having regard to the imputations which are shown to be substantially true, the imputations which are not shown to be substantially true do not seriously harm the claimant's reputation.

(4) The common law defence of justification is abolished and, accordingly, section 5 of the Defamation Act 1952 (justification) is repealed.”

29. The phrase “*substantially true*” has the same meaning as at common law, and the court should apply the established common law principles as summarised by Nicklin J in *Bokova v Associated Newspapers Ltd* [2018] EWHC 2032 (QB), [2019] QB 861, [28]:

“(i) A defendant must show the relevant defamatory imputation is “substantially true”: section 2(1). The Explanatory Notes to the Act refer to the Court of Appeal's decision in *Chase v News Group Newspapers Ltd* [2003] EMLR 11, para 34:

‘the defendant ... has to establish the ‘essential’ or ‘substantial’ truth of the sting of the libel. To prove the truth of some lesser defamatory meaning does not provide a complete defence.’

(ii) The court should not be too literal in its approach. Proof of every detail is not required where the relevant fact is not essential to the sting of the publication: *Rothschild v Associated*

Newspapers Ltd [2013] EMLR 18, para 17, per Laws LJ (approving *Turcu v News Group Newspapers Ltd* [2005] EWHC 799 (QB) at [109], per Eady J). The task is ‘to isolate the essential core of the libel and not be distracted by inaccuracies around the edge – however extensive’: *Turcu’s* case, para 105.”

30. Nicklin J added in *Riley v Murray* [2021] EWHC 3437 (QB), [2022] EMLR 8 at [51]:

“(iii) In deciding whether any given defamatory imputation is substantially true, the court will have well in mind the requirement to allow for exaggeration, at the margins, and have regard in that context also to proportionality. Having regard to its overall gravity and the relative significance of any elements of inaccuracy or exaggeration, has the substantial sting been proved? It is no part of the court’s function to penalise a defendant for sloppy journalism – still less for tastelessness of style: *Turcu v News Group Newspapers Ltd* [2005] EWHC 799 (QB) [105] and [111] per Eady J.”

31. The question whether proof of the various elements contained in the meaning is sufficient for the court to be satisfied that the allegation was substantially true is a highly fact-sensitive exercise: *Bokova*, Nicklin J, [40].

The public interest defence

32. The public interest defence has also been put on a statutory footing. Section 4 of the 2013 Act provides (so far as material):

“(1) It is a defence to an action for defamation for the defendant to show that –

(a) the statement complained of was, or formed part of, a statement on a matter of public interest; and

(b) the defendant reasonably believed that publishing the statement complained of was in the public interest.

(2) Subject to subsections (3) and (4), in determining whether the defendant has shown the matters mentioned in subsection (1), the court must have regard to all the circumstances of the case.

...

(4) In determining whether it was reasonable for the defendant to believe that publishing the statement complained of was in the public interest, the court must make such allowance for editorial judgment as it considers appropriate.

...”

33. I addressed the applicable principles in detail in *Banks v Cadwalladr* [2022] EWHC 1417 (QB) at [100] to [135]. I adopt the same approach here. In this case, given the

focus on, and my conclusions in respect of, the defence of truth, it is unnecessary to do more than reiterate a few key points.

34. There are three questions to be addressed:
- i) Was the statement complained of on a matter of public interest, or did it form part of such a statement?
 - ii) If so, did the defendant believe that publishing the statement complained of was in the public interest?
 - iii) If so, was that belief reasonable?

It is for the defendant who seeks to rely on the public interest defence to satisfy the court that the answer to all three questions is ‘yes’.

35. In assessing whether the public interest defence is established, the court is required to have regard to all the circumstances of the case: s.4(2) of the 2013 Act. The first question is an objective one for the court. The second concerns the defendant’s actual state of mind at the time of publication. The third question involves an objective assessment, and the focus is on things the defendant said or knew or did, or failed to do, up to the time of publication. When addressing the third question, the court is required to make such allowance for editorial judgment as it considers appropriate (s.4(4) of the 2013 Act): *Banks v Cadwalladr*, [105]-[114].
36. The public interest defence is not assessed by reference to the single meaning, but by reference to the statement complained of and the range of meanings that it bears. If the single meaning is “*obviously one possible meaning*” or “*glaringly obvious*” it would not have been reasonable for the defendant to have ignored it. But if that threshold is not reached, the reasonable belief of a defendant who did not perceive the more damaging meaning falls to be assessed by reference to the less damaging meaning: *Banks v Cadwalladr*, [115]-[123].

E. Overview of the evidence

Witness evidence on behalf of the claimant

37. The witnesses for the claimant were Ms Vardy herself and Mr Hamilton. Mr Hamilton’s short witness statement was unchallenged and I accept it. Ms Vardy made three witness statements and she gave evidence for about two and a half days (over the course of four days). It was evident that Ms Vardy found the process of giving evidence stressful and, at times, distressing. I bear in mind when assessing her evidence the degree of stress she was naturally feeling, given the high profile nature of the trial, the abuse that she has suffered since the *Reveal Post* was published, and the length of time she was in the witness box.
38. In assessing Ms Vardy’s credibility, I have also borne in mind that she sought to call the journalists responsible for the articles that are central to this claim, and on 17 March 2022 Ms Vardy signed a waiver of any right to source protection in relation to eight articles (‘the Waiver’). In the Waiver, Ms Vardy confirmed that the authors “*can disclose publicly if I was the source of the Marriage Article, the Pyjamas Article, the*

Car Article, the Confidential Article [regarding Mr X], the Soho House Article, the Gender Selection Article, the TV Decisions Article and/or the Flooded Basement Article". Ms Vardy was unable to call the journalists who had knowledge of the source(s) because I set aside the witness summonses for the reasons given in *Vardy v Rooney (4)* and *Vardy v Rooney (5)*. (Ms Watt signed a waiver in the same terms but, as I explain below, it was subsequently withdrawn.)

39. Nevertheless, I find that it is, unfortunately, necessary to treat Ms Vardy's evidence with very considerable caution. There were many occasions when her evidence was manifestly inconsistent with the contemporaneous documentary evidence (e.g. in relation to the World Cup 2018 and the photoshopped pictures), and others where she was evasive (e.g. in relation to the Car Crash Post and Mr X). I have addressed these and other instances in my review of the evidence below. Ms Vardy was generally unwilling to make factual concessions, however implausible her evidence. This inevitably affects my overall view of her credibility, although I have borne in mind that untruthful evidence may be given to mask guilt or to fortify innocence.
40. In my judgment, in serving witness summaries on behalf of the journalists which purported to, but did not, reflect the evidence they had indicated they would give – to the effect that neither Ms Vardy or Ms Watt were the source of the named articles – as well as the Waivers, it is probable that Ms Vardy was seeking to press Ms Rooney into settling a case that would have appeared to be fatally weakened, and so avoid a trial.
41. Although significant parts of Ms Vardy's evidence were not credible, my assessment is that she is genuinely offended by the accusation made against her by Ms Rooney in the Reveal Post. However, that is not because she was not involved in disclosing information from the Private Instagram Account: I have found that she was. Rather, her indignation at the accusation flows, in my judgment, from a combination of factors. Ms Vardy's part in disclosing information to *The Sun* was, it seems to me, unthinking rather than part of a considered and concerted business practice. Consequently, there has been a degree of self-deception on her part regarding the extent to which she was involved, as well as a degree of justified resentment at the exaggerated way in which her role has at times been presented during the litigation.
42. Ms Vardy was keen to be the subject of (positive) press coverage and it is apparent that she thought Ms Rooney was, too. Ms Vardy's perception seems to have been that the information on the Private Instagram Account was harmless and, when Ms Rooney repeatedly made clear her objection to her private posts being given to the press, Ms Vardy seems to have viewed this as making a fuss about nothing and attention-seeking. In addition, it is evident that Ms Vardy genuinely believed that some information about Ms Rooney was being given to the press by (unknown) others and that she has unfairly been made the scapegoat for press coverage of the Rooneys.
43. Ms Vardy did not call her close friend and agent, Ms Watt, as a witness. Given the allegation that information from the Private Instagram Account was disclosed directly to journalists at *The Sun* by Ms Watt, with Ms Vardy's knowledge and approval, Ms Watt is a vital witness to the matters in issue, whose absence is striking.
44. Ms Watt was represented at a hearing before me on 8 February 2022 when I rejected the defendant's application to join a proposed claim against her to the proceedings. Ms

Watt made a statement dated 17 January 2022 for the purposes of that hearing (an aspect of which she corrected in her short second statement filed a week later).

45. In her first statement, Ms Watt denied that she was responsible for leaking any of the defendant's information. She also addressed allegations regarding the destruction of evidence (see below). Ms Watt said that she had found the litigation between Ms Vardy and Ms Rooney "*extremely stressful*". She had seen the impact on Ms Vardy and her children and she was "*terrified*" of the possibility that she and her children would "*face the same sort of abuse*". She said that the situation was making her ill. Nonetheless, at the time, the firm expectation was that Ms Watt would be giving evidence in this trial.
46. On 28 March 2020, Ms Watt signed a witness statement for trial (her third statement) which was served on the defendant. However, at the same time, the claimant's solicitors commissioned a medical report as they considered that Ms Watt was in a fragile state and she had been expressing serious concerns about giving evidence. On 11 April 2022, the claimant filed an application notice seeking to rely on Ms Watt's statement as hearsay evidence, relying on the medical report they had received on 8 April 2022. In response, the defendant filed an application the same day seeking permission to cross-examine Ms Watt. Both applications were due to be heard at the pre-trial review on 13 April 2022. However, on the day of the pre-trial review, the claimant's solicitor served a statement (Ms Harris's seventh) in which she informed the court and the defendant that Ms Watt's husband had told her that Ms Watt wished to withdraw her Waiver and to withdraw her witness statement. In view of the concerns for Ms Watt's health, the claimant decided to accede to Ms Watt's requests and withdrew her application to rely on Ms Watt's statement as hearsay evidence.
47. Although Ms Watt has not been cross-examined on the evidence she gave in her first statement, I accept that her health has been adversely affected by these proceedings. In part, no doubt, that is because she is not someone who has previously been, or ever sought to be, in the public eye, and being a key witness in a trial of this nature would have been uncomfortable even if she had nothing to hide. However, I am compelled to the conclusion that the primary reason Ms Watt was so very reluctant to give evidence, and has suffered adversely from the pressure to do so, was that she knew that to a large extent the evidence in her statements was untrue.
48. In my view, the claimant's decision not to seek to call Ms Watt, against her will, was motivated, to a substantial degree, by concern for her friend's welfare. But in the circumstances, I also draw the inference that Ms Vardy chose not to call Ms Watt because she knew that when tested in cross-examination her evidence would be shown to be untrue, and that it would have been highly likely to have undermined the claimant's case that she had no involvement in disclosing information from the Private Instagram Account.

Witnesses for the defendant

49. The witnesses for the defendant were Ms Rooney herself, Ms Rachel Monk, Ms Harpreet Robertson, Mr Joe McLoughlin, Ms Claire Rooney, Mr Paul Stretford, Mr Wayne Rooney, Ms Penny Adaarewa and Mr Mark Whittle. Ms Rooney gave evidence for about a day, split across two court days. The oral evidence of all other witnesses was relatively short. Mr Whittle's evidence was unchallenged and I accept it.

50. In my judgment, Ms Rooney was an honest and reliable witness. She sought to answer the questions she was asked without any evasion, and without conveying any sense that she was giving pre-prepared answers. Her evidence was consistent with the contemporaneous evidence and with the evidence given by her witnesses. When she was challenged, for example on whether there were followers of the Private Instagram Account who were not trusted friends, her evidence was clear and compelling.
51. I also accept that Ms Monk, Ms Robertson, Mr McLoughlin, Ms Claire Rooney, Mr Stretford and Mr Rooney gave honest and reliable evidence. I have addressed the evidence of Ms Monk, Ms Robertson, Ms Claire Rooney and Mr Rooney below, to the extent necessary. The evidence of Mr McLoughlin, Mr Stretford and Mr Whittle, and in part the evidence of Ms Monk, Ms Claire Rooney and Mr Rooney, was essentially directed at countering the possible contention that others knew about what Ms Rooney called the “Sting Operation” (i.e. her plan to catch the leaker), and so Ms Vardy’s account was not the only possible source of disclosure to the press of stories or posts that were only visible to her account. I accept Ms Rooney’s evidence, which was fully supported by the witnesses she called, that she told no one about her plan or the fabricated posts until she published the Reveal Post.
52. Ms Adaarewa was an independent witness who gave evidence regarding a telephone conversation that she heard (on speakerphone) between a client of hers (with whom she was present) and Mr Danny Hayward, the director of Splash News and Picture Agency Ltd (‘Splash News’), Flynet Pictures UK Ltd (‘Flynet’) and Front Row Partnership (‘FRP’). She gave evidence to the effect that Mr Hayward spoke openly about Ms Vardy being well aware that her Instagram account was being used to take content to pass to the press. While I do not doubt Ms Adaarewa’s honesty, I agree with Mr Tomlinson’s submission that her recollection was vague and confused, and it is implausible that Mr Hayward would have openly boasted, in the way Ms Adaarewa described. It is quite possible to mishear, misunderstand, or perhaps miss a joking tone, especially when hearing a stranger on speakerphone while in a public place. In the circumstances, while I consider that Ms Adaarewa was an honest witness, I do not regard the evidence she gave as reliable, and I have given it no weight.

Expert evidence

53. I heard evidence from two experts in the field of computer forensics on the use of Instagram and how it operates, and the digital analysis of data provided by the parties from their devices. The claimant’s expert was Mr Ian Henderson and the defendant’s expert was Mr Matthew Blackband. Both experts were well qualified and, in my judgment, sought to assist the court by giving their true, independent opinions on the matters they were asked to address. Mr Blackband’s report was not, initially, in the proper form for an expert report. However, that error was rectified and I accept his evidence that he fully complied with the relevant CPR provisions, but erroneously adopted a template used at an earlier stage of the case.
54. The expert evidence provides helpful background information regarding the operation of Instagram, and it is highly relevant in considering the allegations of destruction of evidence which I address below. However, despite the time and expertise devoted to seeing whether the experts could establish responsibility for leaking of Ms Rooney’s posts, it is clear, as Mr Tomlinson submitted, that technical evidence cannot provide an answer to that question.

Availability of - and gaps in - the documentary evidence

55. The parties adduced about 3,000 pages of documentary evidence (leaving aside witness statements, summaries etc). This consisted largely of contemporaneous Instagram stories or posts, messages on various platforms, and newspaper articles.
56. The WhatsApp exchanges between Ms Vardy and Ms Watt during the period when Ms Vardy's account had access to the Private Instagram Account are of particular importance. However, all the media files that they sent each other (including any screenshots or other images, videos and voicemail messages) are missing. In the copy of the WhatsApp exchanges disclosed by the claimant, the fact that a media file is missing is apparent (signified by the words "*image omitted*"). In addition, the only version of their WhatsApp exchanges that is available is a text file export: the original messages are unavailable. Consequently, it is not possible to tell whether any messages (other than the media files) are missing from the version that has been disclosed. The defendant contends that the loss was deliberate. Ms Vardy has denied that she destroyed any evidence relevant to this action.
57. Ms Vardy explained the loss of the media files from her devices in her evidence, saying:

"Complaint has been made about the absence of "media files" from my WhatsApp exchanges with Caroline. These were not deleted by me deliberately as has been alleged. Soon after I instructed Kingsley Napley I was asked to provide a copy of my communications with Coleen and with Caroline by uploading it to a file sharing site on Intralinks. I did this almost immediately after I got back from holiday. I got back from holiday on 12 October 2019 and the WhatsApps were uploaded to Intralinks on the evening of 15 October 2019. My WhatsApp chat with Caroline was huge in size because it went all the way back to 2016 and contained a very large number of messages, as well as media files (that is, images, video and sound files) of considerable size. I connected my mobile phone to the laptop I was using at that time with a cable to make the transfer. The file of data was so big that it would not upload to the Intralinks workspace. The only way I could transfer the WhatsApp chat was to select the option to upload it without the media as this reduced the size of the export. My computer crashed twice when I tried to upload the data.

I successfully uploaded the text to the Intralinks folder which meant that Kingsley Napley has a copy of my entire chat with Caroline on WhatsApp. I then tried again to upload the media contained within the WhatsApp chat. My computer totally crashed and my mobile phone turned off as well. I restarted my computer and turned my phone back on. I logged back into Intralinks but when I attempted to transfer the WhatsApp data again the entire chat (i.e. all the text and the media) between myself and Caroline was missing from my mobile. I did not only lose my chat with Caroline. I later discovered that I had lost other

chats and family photos. I tried to restore or back up the data on my phone but was not able to.

I have no idea what went wrong when I did the data transfer. I did not deliberately delete the chat (there is no reason that I would because I had just provided a copy of it to my lawyers). The only copy of the chat that still exists is the copy held by my lawyers for the purposes of this litigation; it is no longer on my phone or any other of my devices. Whilst it contains all of the WhatsApp messages between Caroline and me, it does not include the images or other media files because I could not upload these. This is extremely frustrating for me because I have absolutely nothing to hide in terms of the missing media. On the contrary, I believe that the missing images would support my case.” (Emphasis added.)

58. Notably, the claimant’s evidence is not that *all* her WhatsApp conversations were wiped, only that with Ms Watt and certain other unidentified chats. That this is so is evident from her subsequent disclosure of some WhatsApp messages during the relevant period.

59. In a note dated 16 January 2022, Mr Henderson stated:

“The Claimant has reported that when attempting to upload exported WhatsApp messages to Intralinks, the size of the exported file was such that the upload failed and that she had to select the “text only” option. This meant that the associated media comprising audio, image and video files were not uploaded. This does not surprise me given the relatively slow internet connection at the Claimant’s home address. Furthermore, when attempting to do this, the claimant has stated that the laptop being used “crashed” twice and when rebooted, the Claimant found that the relevant messages could no longer be accessed.

Whilst this is somewhat surprising, given the focus on security within WhatsApp it is possible that an unusual combination of actions or events resulted in the associated media being no longer accessible.”

60. In his oral evidence, Mr Henderson agreed that for the uploading process to cause the loss or absence of the data was “*surprising*” and “*not what he would have expected to happen*”, but he did not consider there was any basis on which he could say that manual deletion was the most likely explanation.

61. Mr Blackband explained that the export of WhatsApp data to Intralinks occurs in two stages. The first stage involves opening WhatsApp, choosing the chat to be exported, pressing “*Export Chat*” and then choosing from the options “*Attach Media*” or “*Without Media*”. This results in a single zip file being downloaded which will contain all the messages, either including or excluding the media files, depending on which option was chosen. This first stage involves interaction with the WhatsApp program. It is that

program which packages the messages (including media, if selected) into an archive which is locally stored as a zip file on the laptop (or other device) on which it was created. The WhatsApp program “*is easily capable of creating a large archive*”. The second stage involves uploading the zip file from the laptop (or other device) on which it is stored, via the internet, to the Intralinks workspace. Uploading the zip file does not involve any interaction with the WhatsApp application.

62. Mr Blackband’s opinion was that what Ms Vardy described was impossible. In his view, the loss was “*indicative of a manual deletion*” by an individual. That was because what Ms Vardy described was the computer crashing at the second stage of the process. Such a crash could have no impact on the data available on WhatsApp because there was no engagement with WhatsApp during the second stage of the process. If there had been a malfunction at the first stage (albeit he did not consider that was what Ms Vardy had described), no zip file would have been created. For there to be data loss he considered that there would “*have to be a corruption of the database which would mean WhatsApp wouldn’t work*”. In those circumstances, the WhatsApp account would not work at all because there is a single ChatStorage.sqlite database file which holds the messages. Corruption of the database could not lead to loss of specific chats from within a single file.
63. In considering when, according to Ms Vardy’s evidence, the crash occurred, I place little weight on her use of the word “*upload*” rather than “*download*”. I accept that she is unlikely to have been as cognisant of the distinction between the two phases of the operation as Mr Blackband. Nonetheless, Ms Vardy said that the file of data with the media was “*so big that it would not upload to the Intralinks workspace*”. There would only have been this big “*file of data*” if she had successfully downloaded a zip file containing the WhatsApp messages, including the media files, to the laptop. What Ms Vardy describes is first creating a zip file with the media, which she was then unable to upload, and then creating a second zip file without the media, which she successfully uploaded to the Intralinks workspace.
64. Mr Blackband’s evidence on this issue was clear and compelling. Although Mr Henderson did not feel able to conclude that the loss was most likely to be due to manual deletion, he too found Ms Vardy’s explanation of how the loss occurred surprising. I accept Mr Blackband’s evidence that there is no interaction with WhatsApp once the zip file has been downloaded, and so it would have been impossible for the process of uploading that file from the laptop to lead to the loss of Ms Vardy’s WhatsApp data. It is still more improbable that a computer malfunction at either stage of the export process would have resulted in the deletion of the WhatsApp chat between Ms Vardy and Ms Watt while Ms Vardy’s WhatsApp exchanges with others were (at least in part) retained.
65. In considering whether the loss of data was deliberate, it is also pertinent that Ms Vardy disposed of the laptop onto which the zip file or files are said to have been downloaded “*because it had been damaged beyond repair*”. In a statement dated 1 February 2022, the claimant’s solicitor said the laptop “*stopped working in between October and December 2019 and no longer functions*”. The claimant’s disclosure statement dated 28 February 2022 said the same. The claimant’s solicitors relied on the fact that the laptop no longer functions, in a letter dated 2 March 2022, to contend that it would be “*pointless*” to include the laptop as a device to be examined by the experts. The defendant was first informed of the disposal of the laptop on 10 March 2022. Ms Vardy

said she could not recall when she disposed of it, although she accepted that it was after she had been told to preserve everything. She did not explain why she had disposed of it.

66. Even if the laptop was not conventionally functional, both experts agreed that it could have been examined forensically. It could potentially have provided significant evidence as to what had occurred, and if the original zip file had been downloaded onto the laptop it might have been possible for the experts to access it.
67. It is also highly pertinent that the full WhatsApp chat between Ms Vardy and Ms Watt is only unavailable because of the conjunction of the loss of data on 15 October 2019 and the loss of the same WhatsApp chat by Ms Watt. In her first statement, Ms Watt stated:

“It is the case that I accidentally dropped my phone while I was on a boat trip in August this year. This was a genuine accident which happened during a family holiday to Scotland. I have a weakness in my hand and was on a boat trip with my family. I was standing up in choppy waters holding my phone and I dropped my phone when the boat hit a wave. This was an uninsured phone and its loss was extremely inconvenient and expensive for me.

However, I don’t believe its loss makes any difference to the information I am able to provide the Court. As I understand it, all the information on the phone was retained on iCloud and transferred to my new phone which I have provided for imaging. The only information which would not have been on iCloud is records of WhatsApp messages and calls, but my WhatsApp messages had already been routinely deleted back in 2019 way before the proceedings began.”

68. This evidence has not been tested in cross-examination. I accept that a person who is not engaged in litigation may well choose to delete their WhatsApp messages routinely (as Mr McLoughlin described doing), for example to maintain storage capacity on their device. But the evidence indicates that Ms Watt had not deleted her WhatsApp messages in 2019. On 25 November 2020, Ms Watt sent Ms Vardy two screenshots of WhatsApp messages between them from 16 August 2019 (including the images of Ms Rooney’s posts). There is no reason that Ms Watt would have taken a screenshot of these messages prior to the start of the litigation. Nor is there any reason why Ms Watt would have retained these messages while routinely deleting all others. Ms Watt sent these messages when she did because she evidently considered they would assist Ms Vardy’s case. It is likely that the WhatsApp chat between herself and Ms Vardy (as well as exchanges with journalists) was available on Ms Watt’s phone when she was advised very shortly after the Reveal Post that such evidence must be preserved.
69. The incident in which Ms Watt’s phone is said to have been lost at sea occurred in August 2021. On 4 August 2021, the CCMC had taken place at which an order requiring her device to be inspected had been made. The timing is striking. In my judgment, even taking this evidence on its own, the likelihood that the loss Ms Watt describes was accidental is slim.

70. The reasons that Ms Vardy and Ms Watt have given for the original WhatsApp chat being unavailable are each improbable. But the improbability of the losses occurring in the way they describe is heightened by the fact that it took the combination of these improbable events for the evidence to be unavailable: *cf. The Atlantik Confidence* [2016] EWHC 2412 (Admlty), Teare J, [296]-[297]. In my judgment, it is likely that Ms Vardy deliberately deleted her WhatsApp chat with Ms Watt, and that Ms Watt deliberately dropped her phone in the sea. I recognise that Ms Vardy has disclosed messages that are detrimental to her case. But I am not persuaded that the imperfection of the effort to remove incriminating evidence shows that there was no such attempt, particularly given that Ms Vardy is unlikely to have anticipated in October 2019 that evidence about, for example, Mr Drinkwater, would have to be disclosed.
71. If a ‘wrongdoer’ has ‘parted with relevant evidence’, the court may draw adverse inferences: *Armorie v Delamirie* (1721) 93 ER 664; *Gulati v MGN Ltd* [2017] QB 149, [107]; *Blackledge v Person(s) Unknown* [2021] EWHC 1994 (QB), [41] and *Dudley v Phillips* [2022] EWHC 930 (QB), [25]. I address below, in the context of my review of the evidence, the inferences I consider it proper to draw in the absence of this potentially significant evidence.
72. Following the service of Ms Vardy’s second statement, the defendant sought confirmation that the messages between Ms Vardy and Ms Watt *following* the publication of the Reveal Post had been searched for disclosable material. In response to a Part 18 request the claimant disclosed that there are no available messages between Ms Vardy and Ms Watt from 15 October 2019 to 24 July 2020. The first available message from their WhatsApp conversation was dated 25 July 2020 and the last (up to the date looked for) was dated 9 April 2022. In that period there were about 1,000 messages, showing that they exchanged on average about 50 messages a month.
73. The defendant contends this was a targeted deletion to conceal plans between Ms Vardy and Ms Watt to cover up wrongdoing. No explanation for this significant gap in the WhatsApp chat between them was given until Ms Vardy said in cross-examination, “*I can’t confirm or deny but I think I may have changed phones around that time*”. The impression I gained was that Ms Vardy gave this explanation as equivocally as she did, recognising that it might be possible for it to be disproved.
74. The experts agreed that in order to access her Instagram account with a new phone, Ms Vardy would have had to have logged in. The data shows that there was a new login on a Mac computer on 5 June 2020 and on an iPhone XR on 29 August 2020. There was no new login on or around 25 July 2020 which indicates, as Ms Vardy continued to publish posts and stories on her Instagram account during July and August 2020, that the explanation for the deletion is not that she acquired a new phone. In my judgment, it is probable that Ms Vardy deleted these messages. It is impossible to speculate what the messages and media files exchanged during this period may have shown, but the deletion of this material reinforces my conclusion that the loss by both Ms Vardy and Ms Watt of their original WhatsApp conversation during the key period was not accidental.

F. Chronological review of the evidence

75. The key period is from 15 January 2017 when Ms Vardy first asked to follow Ms Rooney on the Private Instagram Account, and was accepted as a follower, until 9

October 2019 when Ms Rooney published the Reveal Post and removed Ms Vardy's access to her account. And, given the terms of the single meaning, the focus is primarily on the allegations of leaking of information from the Private Instagram Account, most notably the leaking of what Mr Sherborne referred to as the three core posts: the Car Crash, Gender Selection and Flooded Basement posts ('the core posts'). However, the evidence ranges somewhat more broadly.

News of the World article – March 2004

76. Mr Sherborne began his cross-examination of Ms Vardy by taking her to an article that was published in *The News of the World* on 14 March 2004. The article quotes Ms Vardy disclosing personal information about a man with whom she had been on a date. I place no weight on the fact that she did so. First, she did so publicly. Secondly, the interview which led to this article took place more than 18 years ago when she was only 22 years old. Thirdly, Ms Vardy's evidence that she deeply regrets giving that interview came across as genuine and I accept it. Although she did, as she acknowledged, disclose another's personal information, I accept her evidence that, to some degree at least, her words were twisted. It is unnecessary for the purposes of this judgment to address the circumstances in which Ms Vardy came to give that interview, in particular whether, as she said, it was something that she was forced to do. Open disclosure of information so long ago, and at such a young age, provides no foundation for drawing an inference that Ms Vardy had a propensity to disclose personal information covertly about Ms Rooney or others.
77. The only point of any potential relevance to be drawn from this article is that the journalist who wrote it, and to whom Ms Vardy gave the interview in 2004, was Jane Atkinson. Ms Vardy subsequently gave three further interviews for articles written by Ms Atkinson published in *The Sun Online* on 2 April 2017, in *The Sun Online* on 18 November 2017 and *The Sun on Sunday* on 19 November 2017 (both under the byline of both Ms Atkinson and Amy Brookbanks), and in *The Sun on Sunday's Fabulous* magazine on 3 February 2019. Ms Rooney relies on evidence of Ms Vardy's relationships with journalists from *The Sun* as supportive of her case.

Ms Vardy joined FRP – April 2016

78. On 24 April 2016 Ms Vardy became a client of FRP, a public relations agency which had been incorporated in January 2016. When FRP was incorporated, 100% of the shares were owned by Flynet. The director of FRP, Mr Hayward, was also a director of Splash News. Ms Watt worked for FRP and she approached Ms Vardy. Ms Vardy said in evidence that she had been getting bad press and Ms Watt suggested she could help turn this around. Ms Vardy and Ms Watt spoke to each other on a regular basis and their contact became more frequent over time. Ms Watt was Ms Vardy's agent and they formed a close friendship.
79. Ms Watt arranged for Mr Boyle, who was then a journalist with the *Mirror*, to interview Ms Vardy (then Ms Nicholson) in early May 2016, about a fortnight before she married Mr Vardy. Photographs were provided by Flynet, and Mr Boyle published several exclusive articles about Ms Vardy on 6, 7, 8, 14 and 21 May 2016. Mr Halls of *The Sun* also published an exclusive article on 25 May 2016 about Ms Vardy's wedding. The limited relevance of these articles is, first, as part of the evidence showing the existence of Ms Watt's and Ms Vardy's relationships with these two journalists who subsequently

wrote a number of the articles at the heart of this dispute and, secondly, they were material to Ms Rooney's later assessment that Ms Vardy was 'fame-hungry' which was a factor that led her to suspect Ms Vardy was the source of leaks from her Private Instagram Account.

UEFA Euro 2016 – June 2016

80. The UEFA European Championship 2016 ('Euro 2016') was held in France and began in June 2016. Mr Rooney was the England captain and Mr Vardy was a member of the England squad. Ms Vardy and Ms Rooney were acquainted, and on friendly terms, but not close. The Vardys had invited the Rooneys to their wedding; the Rooneys were unable to attend but they sent a gift and Ms Vardy and Ms Rooney exchanged friendly messages on WhatsApp on 26 and 27 May 2016, respectively expressing thanks for the gift and hoping the Vardys had had a wonderful day.
81. An article by Mr Boyle bearing the headline "*England's WAGs warned they 'could be targeted by terrorists' at Euro 2016*" was published in the *Mirror*, as an exclusive, on 4 June 2016. Ms Vardy is quoted in the article. Three articles by Ms Vardy, described as "*Becky Vardy's Euro Diary*", were published in *The Sun* on 12 June 2016, 19 June 2016 and 26 June 2016. Ms Vardy's evidence was that Ms Watt secured the deal with *The Sun* for her to write these articles. She described it as "*an opportunity for me to be able to earn my own money*". She did not want to rely on her husband for money, but wanted to earn when opportunities arose.
82. On 23 June 2016, an article appeared in *The Sun* stating that Mr Rooney had "*advised Jamie Vardy and new wife Rebekah to keep a lower profile*" ahead of England's next match. A similar article appeared in the *Independent* the same day suggesting that Mr Rooney had "*held talks*" with Mr Vardy to make sure Ms Vardy did not distract the squad. That morning Ms Vardy sent a link to the *Independent* article to Mr Vardy with the message "*Seriously????*", to which he responded, "*No not at all babes*".
83. I accept Mr Rooney's evidence that he was asked by the England Manager, Roy Hodgson, and the Assistant Manager, Gary Neville to speak to Mr Vardy about the fact that Ms Vardy's media activities were causing problems and distractions that the Football Association ('the FA') wished to avoid, and that he duly spoke to Mr Vardy about this. Although it was, of course, permissible for Ms Vardy to write a column, it is unsurprising that the manager did not wish players or their partners to engage in such media activities. Mr Rooney's evidence that he was asked to have this conversation with Mr Vardy, and he did so, although it was an awkward matter for him to raise, came across as truthful. I bear in mind Mr Vardy's contemporaneous denial in his message to Ms Vardy, but that is more likely to reflect an understandable choice by Mr Vardy not to upset his wife by passing on what he may have considered to be an uncalled for reproach than any dishonesty or inaccuracy in the evidence Mr Rooney gave in court. It is also probable that Mr Rooney broached the subject more softly than the article in the *Independent* suggested, which may have been a further reason for Mr Vardy's denial.
84. Ms Vardy's evidence is that that conversation between Mr Rooney and Mr Vardy never took place. However, she was not present and Mr Vardy has not given evidence. Ms Vardy gave evidence in re-examination that during Euro 2016 she asked Mr Rooney on Facetime, in the presence of Mr Vardy, about the press story and he had denied the

conversation. Mr Rooney did not recall any such conversation with Ms Vardy. But even if it occurred, it would only show that Mr Rooney chose to protect a player.

85. However, as Mr Rooney readily acknowledged, he has no means of knowing whether Mr Vardy told his wife about the conversation he had with Mr Vardy. It appears likely, given Ms Vardy's reaction to seeing the article in the *Independent*, that Mr Vardy did not do so. This episode does not, therefore, have any impact on my assessment of Ms Vardy's credibility. The limited relevance of the articles is in showing a continued link between Ms Vardy and Mr Boyle, and with *The Sun* to the extent that she was briefly described as columnist for that newspaper.
86. In my judgment of 7 July 2021 I struck out as not being probative of the plea of truth the defendant's allegation that the claimant engaged in publicity-seeking behaviour during a football match on 16 June 2016, in the form of insisting on sitting in a seat by the defendant (to guarantee her appearance in the media) rather than her allocated seat: *Vardy v Rooney* (2), [32]. Nonetheless, in her first statement, Ms Vardy chose to address this incident, stating:
- “We went to a game one day and Coleen and her family were sitting in our seats. Rather than make a fuss we sat in the nearest seats available. My lot were split up and I ended up being behind Coleen. ... Not long after that I got wind that there was a story that I had intentionally swapped seats to get nearer to Coleen because that is where the cameras would be and it would maximise my publicity. I had no idea where the cameras would be and I was not interested in that. I would have quite happily blurred into the background.”
87. Given its relevance to my assessment of credibility, I permitted the defendant to adduce the evidence of Ms Harpreet Robertson who worked for the FA during Euro 2016 and the World Cup 2018 as a Ticketing Manager/Family Liaison Officer. Ms Robertson explained that the FA had taken the view that the photographs of players' partners sat together during the 2006 World Cup had detracted from coverage of the tournament and so the FA's practice since then, and in particular during Euro 2016, was to “*spread out*” the partners of players, “*to prevent the press from taking group shots that garnered more public interest*”.
88. Ms Robertson's evidence was that the match Ms Vardy was referring to was between England and Wales on 16 June 2016. Ms Robertson kept a record of who had been allocated tickets and where they ought to have been seated. For the match on 16 June 2016, Ms Rooney had been allocated seats 1-6 on the 8th row. Ms Robertson's practice was to reserve some seats at the back of the section for herself and FA security “*to ensure we could oversee and look after those in our section, particularly the more high profile attendees such as Coleen and her children*”. For this match that meant reserving seats two rows behind Ms Rooney. Ms Vardy and her five guests had been allocated seats several rows in front of Ms Rooney and about 15-20 seats to her left (when looking at the pitch) (seats 20-25 on the 5th row, or thereabouts). Ms Rooney and her children sat in their allocated seats before Ms Vardy and her guests sat down. About 10 minutes before kick-off, when Ms Robertson went to her reserved seat, she found that two of Ms Vardy's guests were sat in the seats reserved for herself and FA security, and Ms Vardy was sat in the row in front of them, immediately behind Ms Rooney. Ms

Robertson did not ask Ms Vardy to move to her allocated seat, but she did ask Ms Vardy's guests to move from the seats reserved for Ms Robertson and FA security. They refused to do so, expressing themselves rudely and abusively, and Ms Robertson decided to let them remain where they were and find herself an alternative seat.

89. Ms Vardy disputed Ms Robertson's evidence, stating that it was "*nonsense*". Ms Robertson had, she said, taken an instant dislike to her for no apparent reason. She denied that she had sat behind Ms Rooney to enable Splash News to get photographs of herself and Ms Rooney in the same shot.
90. On 24 June 2016, Ms Vardy contacted Ms Rooney regarding press coverage to the effect that "*apparently I had moved seats intentionally at one of the games to sit behind you because that's where the camera focus would be!*" She stated that Ms Rooney's agency had been in touch with hers to say that the reports had not come from Ms Rooney. It is clear from the exchange that Ms Rooney had not seen the coverage and thought nothing of it at the time.
91. Ms Robertson is an independent witness who would have nothing to gain from coming to court to give false evidence, and whose evidence was clear, consistent and came across as reliable. Subject to the caveat that it seems to me that following the behaviour of Ms Vardy's guests at Euro 2016, Ms Vardy's impression that Ms Robertson had taken a dislike to her was probably accurate, I accept Ms Robertson's evidence and reject Ms Vardy's evidence on this matter. At the time, Ms Watt had made a concerted effort to secure extensive press coverage of Ms Vardy, including a column in *The Sun* during Euro 2016. In her piece reporting on the match against Wales, Ms Vardy referred to the fact that she had sat behind Ms Rooney and had spoken to her before the match, and several of the photographs of the two of them were published. Those photographs were attributed to Splash News. As the wife of the England captain, and having already been in the public eye for about 14 years by then, Ms Rooney had a higher public profile than Ms Vardy. It is highly likely that Ms Vardy ended up sitting directly behind Ms Rooney, in circumstances where that was not her allocated seat, due to a deliberate choice to put herself in the same shot. It is probable that this is what she was advised to do by her PR agency. This would be consistent with her subsequent behaviour during the World Cup 2018, and Ms Watt's involvement in seeking to ensure that they were able to obtain staged paparazzi photographs. In my judgment, Ms Vardy's evidence on this matter was not credible. I do not accept she would have happily blurred into the background.

Further articles – December 2016 to April 2017

92. Ms Vardy gave further interviews to Mr Boyle and Ms Atkinson, as well as posing for photographs, resulting in articles in the *Mirror* online on 3 December 2016 and in *The Sun Online* on 18 December 2016 and 2 April 2017. There is no criticism of her for doing so. For the purposes of the truth defence, these articles are relied on only as showing the continuing contact Ms Vardy and Ms Watt had with both these journalists. For the purposes of the public interest defence, they are also relied on as part of the information that led Ms Rooney to believe that Ms Vardy "*actively wanted to be famous*", which was a factor that led her to suspect Ms Vardy of leaking her posts.
93. Ms Rooney stated:

“I know from my experience in the media that a common tactic of those who want to be famous is that they will stage paparazzi shots with agencies. Those shots will then be sold to the tabloid press and the individual in question will split the monies earned from the tabloid press with the paparazzi agent or they will get other benefits such as being able to help control their image in the press.

Two of the most high-profile agencies of this kind are Fame Flynet and Splash News.”

94. Ms Vardy accepted in cross-examination that photographs of her leaving hospital following the birth of her fourth child, which were published by *The Sun Online* on 14 January 2017, in an article with the headline “*Rebekah Vardy is spotted leaving hospital in Leicester with her [sic] and husband Jamie’s new son a day after revealing all about her placenta pills*”, were staged paparazzi shots. Those photographs were attributed to Fame Flynet and Ms Vardy had arranged for the photographer to be at the hospital when she was leaving. This did not involve disclosing anyone else’s information. But it is relevant in considering the credibility of Ms Vardy’s evidence regarding photographs taken at Euro 2016 and the World Cup 2018, as well as in assessing her evidence that she had no reason to provide Ms Rooney’s information to the press.

Access to the Private Instagram account

95. On 15 January 2017, following a WhatsApp message from Ms Rooney congratulating Ms Vardy on the birth of her child, Ms Vardy asked Ms Rooney if she was on Instagram. Ms Rooney responded that she had a private account. Ms Vardy requested to become a follower and Ms Rooney accepted that request. Consequently, Ms Vardy had access to the Private Instagram Account from January 2017.
96. Ms Vardy gave evidence that she gave Ms Watt “*sole access to my Instagram account when I was appearing in I’m a Celebrity. She did not have access before this date*”. The season of “*I’m a Celebrity Get Me Out of Here!*” (“*I’m a Celebrity*”) in which Ms Vardy took part took place from November to December 2017. While appearing in the programme, Ms Vardy had no access to her account or any other means of communicating with the outside world and so Ms Watt was authorised to post material on her behalf to “*keep the public up to date with what was happening inside the jungle*”. On 14 November 2017, a tweet on Ms Vardy’s Twitter account said, “*Our girl is in the jungle for @imacelebrity @ITV Her social media is now being run by friends and family*”.
97. In cross-examination, Ms Vardy denied that Ms Watt had access to her Instagram account from about July 2017, stating that she only gave her access “*just before I went in the jungle in November*”. However, the accuracy of this statement has to be assessed against the login data in respect of Ms Vardy’s Instagram account provided in Annex C to Mr Blackband’s expert report (‘the login data’).
98. The login data shows access to Ms Vardy’s Instagram account on 29 July 2017 using an iPhone 5s. The data shows that the IP address and geolocation from which Ms Vardy’s Instagram account was accessed on 29 July 2017 was used on multiple further occasions from 31 October 2017 to 24 March 2020. As Ms Vardy changed her password

on 14 October 2019, logins before and after the change of password show this was an authorised user. Ms Vardy's evidence is that she gave access to her Instagram account to Ms Watt and Adam Jones, and that her husband knew her password but did not log on. The Claimant's solicitor stated in correspondence that Mr Jones' only access to Ms Vardy's Instagram account was on 27 September 2019 for a brief period to post some content before logging out. This is consistent with the one-off login from a new IP address and geolocation on that date, and the WhatsApp messages between Ms Vardy and Ms Watt the same day. The only regular users were Ms Vardy and Ms Watt. As Ms Vardy did not use an iPhone 5s, it is probable that the login on 29 July 2017 was by Ms Watt.

99. The claimant's expert, Mr Henderson, suggested that the first entry in the login data was inconsistent and potentially unreliable because although in the column "*iPhone Model or OS*" it states "*iPhone 5s*", in the column headed "*Device ID*" it states "*android...*", and a device cannot be both an iPhone and an Android. Mr Blackband agreed that it was an anomaly but he explained he had found a potential explanation. He had tried to install Instagram onto an old iPhone 5C. It was not possible to install the latest version of Instagram, but installing an earlier version had the consequence that the data download showed the prefix "*Android*" in front of the device ID for the iPhone 5C. Mr Blackband's evidence shows that although it is anomalous for the device ID for an iPhone to bear the prefix "*Android*", the anomaly is one that occurs with older iPhones on which older versions of Instagram are installed. It is likely that the login data is accurate in showing that the login on 29 July 2017 was on an iPhone 5s.

The Marriage Post – September 2017

100. Ms Rooney gave evidence that on 2 September 2017 she uploaded photographs of her children with the caption "*no matter where I am they always follow me, and I hope that lasts forever*" ("the Marriage Post"). The context was that in the early hours of 1 September 2017 her husband had been arrested for drink driving, apparently while in a car with a woman with whom he had left a club. Ms Rooney went to stay at her parents' home, taking her children with her.
101. Ms Rooney stated:

"I was inundated with messages from friends and family asking if I was okay and so I decided to upload something to the Private Instagram Account. I thought it would be a way of avoiding having to speak to everyone individually in response to their messages. I then deleted the Marriage Post shortly after uploading it because I wasn't in a good place at the time to be dealing with everything that was going on. The Marriage Post must have only been uploaded to the Private Instagram Account for a few hours at most before being taken down."

102. Although Ms Rooney no longer has a copy of the Marriage Post, I accept her evidence regarding the content of that post. It is consistent with the Marriage Article which includes the following:

"Coleen yesterday dropped a heavy hint that she would keep the kids with her if she and Wayne do split. She uploaded two

poignant photos of the boys on her Instagram account and wrote:
“No matter where I am they always follow me, and I hope that lasts forever.””

103. Ms Rooney saw the Marriage Article at the time. She thought it was obvious that a follower of her Private Instagram Account had leaked the Marriage Post to *The Sun*. She felt that someone had betrayed her trust at a difficult time, and was hurt by their conduct, but she did not immediately take any action.
104. It is highly probable that a follower of the Private Instagram Account provided either a screenshot, or a description, of the Marriage Post to Mr Boyle, the journalist at *The Sun* who received information from a source (or sources) for the Marriage Article (see §10(i) above).
105. There is no direct evidence that the source was Ms Vardy, whether directly or indirectly via Ms Watt. Nor is there any direct evidence that the source was Ms Watt. Ms Vardy did not recall seeing the Marriage Post and her evidence was that it was absolutely untrue that it was leaked by her (through Ms Watt or otherwise) to Mr Boyle. Prior to her second witness statement, Ms Vardy had also denied that Ms Watt was the source of any of the leaks of Ms Rooney’s posts. Her position in her second witness statement and at trial was that she did not know whether Ms Watt was a source, but she accepted that was a possibility.
106. The Marriage Post would have been visible to all of Ms Rooney’s more than 300 followers, not just Ms Vardy and Ms Watt. The defendant’s contention that it is probable the Marriage Post was leaked by Ms Vardy, using Ms Watt as the conduit, is not self-standing. The defendant relies, first, on the fact that they had access to the Private Instagram Account (albeit others did too).
107. Secondly, she relies on the fact that the source provided the information for the article to Mr Boyle, someone with whom Ms Vardy and Ms Watt had clearly established links. In an email dated 22 August 2017 to Hannah Hope, a journalist at *The Sun*, regarding an interview and photoshoot with Ms Vardy, Ms Watt copied in Mr Halls and Mr Boyle and wrote, “*I’m just copying in Andy and Simon as I do a lot of work with both of them for several of my clients so just want them to be across the fact that we’re doing this one*” (emphasis added). Ms Vardy knew Mr Boyle, having been interviewed by him for several articles published in May 2016, and having been the subject of further exclusive articles by him published in June and December 2016.
108. Thirdly, the defendant relies on Mr Boyle’s response to the summons. In circumstances where the journalists from *The Sun* who were summonsed have not taken a blanket NCND approach but rather have denied, where it is the case, that Ms Vardy is a source of the articles for which they are responsible (as demonstrated by Mr Hamilton’s statement), the defendant submits it should be inferred that Mr Boyle relied on s.10 of the 1981 Act because Ms Vardy was a source.
109. While an inference can be drawn from the differing responses to the witness summonses, I accept the claimant’s submission that, first, having indicated his response would be NCND when asked in relation to both Ms Vardy and Ms Watt, it would have undermined his NCND response in respect of Ms Watt if, when reference to Ms Watt had been removed from the witness summary, he had then felt able to deny Ms Vardy

was a source. Secondly, even if Ms Watt was a source of only one of the articles for which Mr Boyle was responsible, and about which he was asked to give evidence, he would have had to give an NCND response in respect of both because a denial in respect of only one would have undermined the NCND response in respect of the other. It follows that, in my judgment, it can be inferred from Mr Boyle's response that Ms Watt provided the Marriage Post or the Flooded Basement Post.

110. Fourthly, the defendant submits that if the court finds that Ms Vardy leaked the core posts, via Ms Watt, an inference should be drawn that she was probably also the source of this earlier leak. The claimant submits that this does not follow particularly given that Ms Rooney does not allege any leaks from her Private Instagram Account during 2018. Whoever leaked Ms Rooney's posts in late 2017 may have been deterred from doing so again by Ms Rooney's reaction.
111. The claimant relies on the absence of any evidence within the WhatsApp messages between herself and Ms Watt indicating that either of them had seen the Marriage Post, still less any discussion of disclosing it to a newspaper. Ms Vardy also relies on the following exchange between herself and Ms Watt on 4 September 2017:

“[04/09/2017, 13:09:24] [CW]: New mag called to see if you would do an interview about Wayne and Coleen [three crying laughing emojis]

[04/09/2017, 13:09:38] [RV]: Omg serious [shocked face emoji]
x

[04/09/2017, 13.09.45] [RV]: What they want me to say x

[04/09/2017, 13:10:26] [CW]: I knew the girl from when she was another mag so she said thought she'd just try [two crying laughing emojis] I laughed at her and said No way they are friends and she would never speak about a friend's relationship
x

[04.09.2017, 13:44:40] [RV]: That's mad x”

(In the exchange above, and those set out below, RV denotes Rebekah Vardy and CW denotes Caroline Watt. The nature of the medium is such that there are inevitably typographical errors which I have not corrected.)

112. The defendant submits that the above exchange only shows that Ms Vardy would not have wished to give such an *on the record* interview: it says nothing about whether she was willing to disclose information covertly.
113. It is probable that Ms Vardy and Ms Watt both saw the Marriage Post. Ms Vardy's awareness of the press coverage is evident from the WhatsApp message she sent Ms Rooney at 8.45am on 2 September 2017, stating “*Thinking of you, stay strong [heart] xx*”. It is likely, having regard to the evidence of the extent to which they checked Ms Rooney's posts at other times, that they would have been particularly interested to view any posts from her on 2 September.

114. In my judgment, it is probable that Ms Watt provided the Marriage Post to Mr Boyle, and that she did so with the knowledge and approval of Ms Vardy. I have drawn this conclusion having considered the evidence cumulatively, rather than piecemeal. In particular, I reach this conclusion having regard to my findings that Ms Watt had access to Ms Vardy's Instagram account at this time, contrary to her evidence: my findings that Ms Watt and Ms Vardy provided the core posts and the Halloween/Pyjamas Post to the press; the evidence that they both monitored the Private Instagram Account for information of potential interest to the press; the evidence of the way in which Ms Vardy and Ms Watt worked together, with direct disclosure generally being made by Ms Watt; the evidence that they worked closely with Mr Boyle; Ms Rooney's belief that there was no reason to suspect any of her other followers; and the inference I draw that both Ms Vardy and Ms Watt have engaged in destroying relevant information which would undermine Ms Vardy's case.

The Birthday, Halloween and Pyjamas Posts – 24 October to 1 November 2017

115. On 24 October 2017, Ms Rooney uploaded the 'Birthday Post' to her Private Instagram Account to celebrate Mr Rooney's birthday. The Birthday Post consisted of a collage of photographs of Mr Rooney and their children, with a message to him from his (then) three children: "*We love you so much Dad!! Happy birthday ... thank your for all you do for us!!! Lots of love Kai Klay and Kit xxxx*".

116. The same day, an article appeared in *The Sun* with the headline "*MISS ROO Coleen Rooney posts loving message to husband Wayne from her Barbados sunbed as he spends his birthday alone*" ('the Birthday Article'). The byline gives the writers as Ellie Genower and Dean Wilkins. The article included the following words:

"Coleen, 31, in Barbados with sons Kai, Klay and Kit, posted on Instagram: 'We love you so much Dad! Thank you for all that you do for us.' ... A source told *The Sun* Coleen is still angry at her husband and said: 'She doesn't really want to leave Wayne at home as she feels like she can't truth him. But she doesn't really want to go on holiday with him either.'"

117. Ms Rooney uploaded a post on her Private Instagram Account at 00:39 on 25 October 2017 ('the first warning post'), showing a screenshot from the Birthday article overlaid with the words:

"Who's my snitch of a follower??? [grimacing and shocked face emojis]

Been a few posts that's been fed back to the rag of a paper

This is a private account".

Ms Vardy responded to the first warning post "*Joke* [angry face emoji]".

118. On 31 October 2017, Ms Rooney posted on her Private Instagram Account a series of photographs ('the Halloween Posts') accompanied by the words:

“Getting desperate now [crying laughing and pumpkin emojis] watching the cameras!!! No trick or treaters about [spider emoji]”

And

“Straight off the plane to pumpkin [pumpkin emoji] carving, duck apple and decorating!! Decided to have a Night in waiting for trick or treaters and we’ve had none ...”

The photographs showed the children carving pumpkins, apple bobbing and waiting for trick or treaters, and some of the Halloween decorations they had put up. Ms Vardy responded, “*Welcome home* [two umbrella with raindrops emojis] xx”.

119. The same day, Ms Rooney posted on her Private Instagram Account a photograph of Mr Rooney and their three sons sitting up in bed wearing matching spotted pyjamas, with the caption “*The Boys in their Spots ... #alderheychildrenshospital*” (‘the Pyjamas Post’). Ms Rooney said in her statement:

“Wayne and I are ‘Charity Champions’ of Alder Hey Children’s Hospital and so a photograph with me and the kids wearing the same matching pyjamas (i.e., without Wayne in the photograph) was uploaded by me to my public Twitter Account on 31 October 2017 and by Joe to my Public Instagram Account on 1 November 2017. Whilst I was comfortable enough to upload the photograph of Wayne to my Private Instagram Account, I made a conscious decision not to upload the photograph with him in to my Twitter account or to my Public Instagram Account of the difficulties between us at the time.”

120. In cross-examination, Ms Rooney explained further that every year Alder Hey Hospital does a pyjama campaign with Matalan and so, as patrons of the hospital, she and her husband would support the campaign by putting a photograph on social media. She chose not to post the photograph of Mr Rooney and the children (showing that he was at home with them) on any of her public accounts because the fact that she and her husband had “*agreed to try and work things out*” was something Ms Rooney “*didn’t want the public to know*”. At a time when she felt vulnerable and “*didn’t know how [her] marriage was going to work out*”, Ms Rooney wanted to keep the fact that she and the children were home with Mr Rooney within her “*close circle*”.

121. The Pyjamas Article was published on 1 November 2017 (see §10(ii) above). The headline informed readers “*Wayne Rooney is back at home – and in bed with Coleen – as she shares snaps with pals celebrating Halloween together*”. The article included the following:

“The shamed footballer has been reunited with wife Coleen for the first time at home, according to a photo Coleen has showed friends of Wayne cuddling up to their three sons Kai, Klay and Kit and wearing matching pajamas as the family celebrated Halloween together.

The photo is similar to one posted earlier today on Coleen’s Instagram account – only it shows Wayne cuddled up for the family snap.

...

... in recent weeks, she’s given several hints that she was about to forgive the Everton footballer.

She posted a gushing birthday message to Wayne from their sons, send from her holiday in Barbados.

It said: ‘We love you so much Dad! Thank you for all that you do for us.’”

122. The Pyjamas Article includes a copy of the photograph that Ms Rooney posted on her Public Instagram and Twitter accounts with the caption “*the pic Coleen showed mates was like this – only with Wayne in Coleen’s place*”.

123. The same day, 1 November 2017, Ms Rooney responded to the Pyjamas Article on her Private Instagram Account (‘the second warning post’). She posted a screenshot of the Pyjamas article, writing underneath:

“The GRASS strikes again!!! I put that picture on wondering if it would appear in that HORRIBLE newspaper Your accepted as one of my friends if you really needed the money that bad you could have always asked instead of being SLY!!!”

124. Ms Rooney followed this up with several further messages on her Private Instagram Account, the first of which said:

“Sorry me again [waving emoji] it’s not that picture of me and the kids that’s been sold as that picture is on my twitter and public Instagram.....it’s the comment that there was a picture of wayne and the kids they can’t print the picture as it’s on my private account but they have been told it’s on there (not that’s it’s a bad thing them knowing) it’s just the fact someone is telling them what I am putting up It’s the 4th thing in recent weeks that I’ve noticed!!”

125. Ms Rooney expressed concern, as she has in evidence, that she did not want her family and friends who followed her Private Instagram Account to be concerned that she suspected them of leaking her information. She said in one of her posts on 1 November 2017 that she had been through her followers and could not identify anyone who might be responsible.

126. On 1 November 2017 Ms Vardy sent a direct Instagram message to Ms Rooney:

“Omg wtf is wrong with people! Why have they taken that one of you and the kids and not of wayne in bed! That would have been an even better story in their eyes [two rolling eyes emojis] dick heads! Hope you are ok x”

127. Ms Rooney responded on 3 November, explaining that what had been shared was the photograph of Mr Rooney with the children, although *The Sun* could not print it and so had just written about it. The exchange continued:

“[03/11/2017, 15:04:15] RV: That is so bad! And the sun of all people as well! Have you been through all your followers? No one with any celeb mag links? What about being hacked? I would be chomping if that was me! Not on at all x”

[03/11/2017, 15:09:14] CR: Yeh been through all but can't remember in point anyone. Got a few people onto it trying to source but if there getting the info there not going to tell. Had things like this in the past and never got to find out. Xx

[03/11/2017, 15:19:15] RV: Yeah that's true ! You don't think the paper has hacked your account do you? X

[03/11/2017, 15:32:56] CR: No very much doubt it x”

(In the above exchange, and below, CR denotes Coleen Rooney.)

128. It is clear that the Birthday Article publishes information derived from the Birthday Post and the Pyjamas Article publishes information derived from the Birthday, Halloween and Pyjamas Posts. It is highly probable someone with access to the Private Instagram Account provided either screenshots or descriptions of the Birthday, Halloween and Pyjamas Posts to a journalist (or journalists) at *The Sun*. As the Birthday Article was rediscovered only shortly before the trial began, the focus has been on the Pyjamas Article. There is no evidence about the two journalists credited with writing the Birthday Article.
129. The Birthday, Halloween and Pyjamas Posts were visible to all of Ms Rooney's more than 300 followers (and anyone who may have had access to a follower's Instagram account). It is evident from the comments and 'likes' that many of Ms Rooney's followers in fact viewed these messages. For example, there were 127, 146 and 168 'likes' recorded on the Birthday, Halloween and Pyjamas Posts, respectively. There is no direct evidence that Ms Vardy directly, or indirectly, leaked any of these three posts. Nor is there any direct evidence that Ms Watt did so.
130. The journalist to whom information was provided by a source for the Pyjamas Article was Ms Brookbanks (see §10(ii) above). WhatsApp messages from Ms Watt to Ms Vardy on 13 March 2018 indicate that Ms Vardy did not know Ms Brookbanks when the Pyjamas Article was written, but Ms Watt had a strong connection with her. Ms Watt wrote:

“I know it isn't your style but if you see this girl please make a point of saying hello and introducing yourself

It's Amy brookbanks from the sun online who always writes nice stories, does whatever I ask her and get stories changed that she hasn't even written. She loves you x”

Ms Vardy gave an interview for an article by Ms Atkinson and Ms Brookbanks, published on 18 November 2017, but the messages from Ms Watt in March 2018 tend to suggest that Ms Vardy was probably interviewed by Ms Atkinson (a journalist she already knew) rather than Ms Brookbanks.

131. The Pyjamas Article is the only one that Ms Brookbanks was asked to address in the witness summary prepared for her. Her position was that questioning on this article would or would be likely to lead to disclosure of the source or sources of information. The inference I draw is that, unlike Mr Hamilton, Ms Brookbanks was not able to deny that Ms Watt was a source for the Pyjamas Article because that would have been untrue. As Mr Tomlinson acknowledged, *“in relation to Ms Brookbanks, there is a strong inference that Ms Watt was the source of that story”*.
132. In my judgment, Ms Watt’s actions were known to, and condoned by, Ms Vardy (e.g. the Car Crash Post) who engaged with her in spotting information that might be of interest to the press (e.g. the School Run Post). That conclusion applies to Ms Watt’s leaking of the Birthday, Halloween and Pyjamas Posts to *The Sun*. The clear impression given by Ms Vardy’s messages to Ms Rooney, when considered in light of the evidence as a whole, is that they were disingenuous and probably written with the assistance of Ms Watt, with a view to allaying any suspicion that Ms Rooney might have. It is evident that Ms Vardy did not consider that it was *“so bad!”* to tell the press about posts such as the Pyjamas Post, which she probably considered to be harmless. Nor did she consider it worse to leak to *“the sun of all people”*, a newspaper for which she had written a column, given interviews, and to which (as I have found) she and her agent gave other people’s private information.

Photoshopped pictures – 9 November 2017

133. The WhatsApp messages between Ms Vardy and Ms Watt on 9 November 2017 contain the following exchange:

“[09/11/2017, 08:49:47] [RV]: image omitted

[09/11/2017, 08:50:27] [RV]: This makes me fume! Does she not realise she is part of the problem! Photoshop pictures that make you look 5 sizes smaller than you are x

[09/11/2017, 08:51:01] [CW]: Oh my god. She’s got a fucking cheek x

[09/11/2017, 08:55:13] [RV]: What a joke x

[09/11/2017, 08:55:20] [RV]: Can we not leak a story x

[09/11/2017, 09:46:21] [CW]: Could only do it with pictures but Flynet have legally agreed to have deleted those pics x

[09/11/2017, 09:48:46] [RV]: Ffs x”

134. As the media file has been omitted it is not possible to know who Ms Vardy and Ms Watt were talking about. The defendant’s questions in pre-action correspondence as to

the identity of the woman in the photograph(s) were not answered. In her oral evidence, Ms Vardy said she could not remember who she and Ms Watt were talking about.

135. Ms Vardy then gave evidence that what she meant when she said, “*Can we not leak a story*” was that she “*wanted to do a story that promoted positive body imaging*” and she was asking, “*can we not actually do a story on positive body campaigning?*” She was, she said, proposing doing a story about herself, with pictures of herself. She said she could not be sure what Ms Watt meant but she thought the photographs that Ms Watt said Flynet had “*legally agreed*” to delete were of herself.
136. Ms Vardy’s evidence regarding this exchange was not credible. I accept that she supported, and was subsequently involved in promoting, body positivity. But it is plain that the image which made Ms Vardy “*fume*” was of someone else, a woman or girl whom Ms Vardy regarded as “*part of the problem*”. It is evident that the image Ms Vardy sent Ms Watt was of photographs that had been edited (“*photoshop pictures*”) to make the subject appear slimmer (“*5 sizes smaller*”). It is also readily apparent that both Ms Vardy and Ms Watt were aware of other photographs (“*those pics*”) of the same person which were less flattering (perhaps unedited versions of the same photographs). Ms Watt’s reference to “*those pics*” strongly suggests some form of prior communication between them about those photographs.
137. It is plain that Ms Vardy was proposing a press article drawing attention to the contrast between the edited photographs and the subject’s real appearance. That is evident from her clear words, how they were understood by Ms Watt, and her own response to being told it would not be possible. Moreover, the WhatsApp exchanges between Ms Vardy and Ms Watt show that they used the words “*leak*” and “*story*” to mean passing information about another to a journalist with a view to it being published in the press: see, e.g., the ‘Car Crash Post’ exchanges on 23 and 25 January 2019 and the exchanges regarding Mr Drinkwater on 8 April 2019.
138. It is also clear that Ms Watt took Ms Vardy’s suggestion seriously, and Ms Vardy was not surprised that she did so. Having responded instantly to Ms Vardy’s earlier messages, Ms Watt took about 50 minutes to respond to the query, “*Can we not leak a story*”. That suggests Ms Watt probably made enquiries to explore the possibility. In any event, her response gave a reasoned explanation as to why it would not be possible to pursue Ms Vardy’s suggestion: the company which held the (less flattering) photographs was legally bound to delete them, and a newspaper would not print the story without photographic evidence. Ms Vardy’s reply (“*Ffs*”) indicates that she was annoyed they were not able to pursue her proposal.
139. Ms Vardy’s evidence regarding this exchange was wholly implausible. In my judgment, although there is no evidence that the information she proposed to leak had any connection to Ms Rooney or Ms Rooney’s friends and family, this exchange is significant in assessing the credibility of Ms Vardy’s evidence and the way in which she and Ms Watt worked together.

Riyad Mahrez – 1 February 2018

140. In a WhatsApp exchange on 1 February 2018, Ms Vardy told Ms Watt, “*Mahrez not turned up to training again*”, “*Lads are fuming*”. This was a reference to Mr Riyad Mahrez, a professional footballer who was playing at the time at Leicester City FC

where he was one of Mr Vardy's teammates. The fact that Mr Mahrez had not attended training the day before, amid reports that he was trying to force a move to a different club, had already been in the press.

141. The WhatsApp exchange between Ms Vardy and Ms Watt immediately continued:

“[01/02/2018, 11:27:15] [CW]: Really??

[01/02/2018, 11:27:39] [CW]: Why don't you tell rob dorsett x

[01/02/2018, 11:28:40] [RV]: Just don't want it coming back on me x

[01/02/2018, 11:29:39] [CW]: I can tell someone x

[01/02/2018, 11:30:05] [RV]: Yeah do it x

[01/02/2018, 11:30:10] [CW]: Ok x”

142. Mr Rob Dorsett was a Sky Sports reporter. In cross-examination, Ms Vardy gave the following answers:

“Q. Let me put this another way, Mrs Vardy: it's not that you didn't want to do the dirty, it is that you didn't want to be seen to be the one doing the dirty. That is right, isn't it?

A. The way it reads, that is correct, yes.

Q. Thank you. Let's look at what Ms Watt, your dutiful agent says in response. “I can tell someone”, she says, doesn't she?

A. Yes.

Q. So she was prepared to do your dirty work for you, wasn't she?

A. In a fleeting moment, yes.

Q. And again, you don't say no, do you? You don't even say, “Don't worry, I'll do it.” You say, “Yeah, do it.”

A. That is what it says, yes.

...

Q. ... After all, that's why you told her about Mahrez not turning up, so that she could leak it to the newspaper?

A. No, that's not correct at all. We were just having a gossip about something that was already in the public domain.

Q. Just having a gossip, which you tell her then to pass on to someone?

A. I didn't see what harm that comment would do when something was already out there being heavily speculated, heavily discussed. It was all over the media, there was press camped outside everywhere, and to me it was a bit of harmless gossip."

143. In cross-examining Ms Vardy, Mr Sherborne accepted that the fact that Mr Mahrez had failed to attend training for a second day was public knowledge, but he suggested that the reaction of Mr Mahrez's teammates was information Ms Vardy was privy to through her husband. Ms Vardy gave evidence that she was not privy to information from the Leicester City dressing room. Her comment that the "*lads are fuming*" was based on what she had read rather than anything her husband had told her. It is evident that there had been newspaper reports on 31 January 2018 to the effect that Mr Mahrez had upset his Leicester City teammates by not turning up to training. Nevertheless, it is likely that Ms Vardy was conveying information she had received from the dressing room about the atmosphere, rather than telling Ms Watt something she had read in a newspaper. Plainly, Ms Watt assumed this was information Ms Vardy had received directly. Her suggestion of telling the press would have made no sense otherwise. And Ms Vardy did not disabuse of her of the notion. On the contrary, she instructed her agent to pass on the information.
144. I accept that Ms Vardy considered that, given the existing press coverage of this episode, providing the information she gave to Ms Watt to the press would be fairly harmless. At the same time, she was aware that the club were trying to downplay the problem and would not want players, or anyone connected with them, adding to the press coverage. That is why her response to the suggestion that she pass her information to Mr Dorsett was that she did not "*want it coming back on [her]*". This is not an example of leaking information about Ms Rooney or her family or friends, and the nature of the information is rather different. Nevertheless, this episode is relevant in assessing the way in which Ms Vardy and Ms Watt worked together. It is an example of Ms Watt being astute to spot information that might be of interest to the press, and seeking Ms Vardy's instruction as to whether to disclose it to a journalist. It is also relevant in assessing Ms Vardy's credibility given her evasiveness about the obvious fact that she was directing her agent to pass information to the press.

Further interviews and photoshoots for *The Sun* – August 2017-June 2018

145. Ms Vardy gave further interviews and took part in photoshoots for articles in *The Sun* published in August 2017, November 2017, December 2017, January 2018 and June 2018.

World Cup 2018 - dinner in St Petersburg on 26 June 2018

146. The FIFA World Cup 2018 ('the World Cup 2018') was held in Russia in June and July 2018. Ms Vardy and eight other players' partners arranged to go out to a restaurant together on the evening of 26 June 2018, while they were in St Petersburg.
147. The defendant alleges that Ms Vardy arranged with Splash News for a paparazzo to photograph the nine of them together, without letting the other partners know what she had done, and the photograph was then sold to *The Sun* and published in an article bearing the headline "*World Cup 2018: England Wags including Rebekah Vardy look*

glamorous as they head out for dinner". The photographs in *The Sun* are credited to Splash News. The claimant originally pleaded that she "*had nothing to do with the photograph which was published in The Sun on 26 June 2018*". The reply was later amended to admit that the claimant "*arranged for a photographer to be present when she was leaving for the restaurant*", but she continued to deny orchestrating the photographs outside the restaurant which were published in *The Sun* or receiving any payment for them.

148. On 25 June 2018, Ms Watt sent Ms Vardy a WhatsApp message, "*Got a photographer sorted for tomorrow night too x*", to which Ms Vardy responded, "*Ok xx*". On 26 June 2018, Ms Vardy initiated the following exchange with Ms Watt:

"[26/06/2018, 14:37:13] [RV]: We may have to walk to restaurant from hotel now x

[26/06/2018, 14:37:30] [RV]: So might be a good pic of us walking down it's about 10/15 mins away x

[26/06/2018, 14:37:40] [CW]: ok will let them know thanks x"
(emphasis added).

149. Later the same day, Ms Vardy initiated a further exchange of messages with Ms Watt:

"[26/06/2018, 16:12:49] [RV]: On the way down in the restaurant car x"

[26/06/2018, 16:13:03] [RV]: He's doing two runs x

[26/06/2018, 16:17:55] [CW]: Ok. Hopefully he catches you all!
Don't forget to take a group shot at the table for fucking Chrissie.
Have a good night xx

[26/06/2018, 16:18:46] [RV]: Yeah will do but someone will put it online before they can use it x

[26/06/2018, 16:19:02] [RV]: If he's here he is hiding in bushes or behind trees lol x

[26/06/2018, 16:19:17] [CW]: He was all set to walk and follow you down x

[26/06/2018, 16:19:51] [RV]: Literally only just found out when we walked out x

..." (emphasis added).

150. It is probable that when Ms Vardy wrote "*On the way down in the restaurant car*" it was 18:12:49 in St Petersburg, where the time is two hours ahead of British Summer Time; and that all the other times recorded in these exchanges are two hours behind the local time for Ms Vardy while she was in Russia.

151. The WhatsApp conversation between Ms Vardy and Ms Watt continued about 25 minutes later:

“[26/06/2018, 16:45:10] [RV]: Fuck I made everyone go outside for a pic and the pap was there [emojis] x

[26/06/2018, 16:45:31] [RV]: Looks like I tipped him off now [crying with laughter and other emojis] x

[26/06/2018, 16:46:57] [RV]: Girls have asked me to put it on insta so quick get them out x

[26/06/2018, 16:48:47] [CW]: Ok will do. Thanks. Tell them it’s for your column? They might want to be in ok xx

[26/06/2018, 16:49:41] [RV]: They want me to put it up before the pap puts his in! I’ve bought about 10 mins x

[26/06/2018, 16:49:57] [CW]: 10 mins won’t be long enough x

[26/06/2018, 16:51:09] [CW]: I have called the office and told them but they won’t be out in 10 mins as he has to email them in and then they have to be put up onto the system c

[26/06/2018, 16:51:38] [CW]: Try telling them that if you put it on insta now the place will be swarming with paps and that you’ll post it as you leave. As it will draw photographers there x

[26/06/2018, 16:53:18] [CW]: They said the only good pic he got was that group one on the steps and he is sending it in to be uploaded x

[26/06/2018, 16:55:15] [RV]: Ok hun x

[26/06/2018, 16:55:23] [RV]: I’ll hold off x

[26/06/2018, 16:55:50] [CW]: Thank you. They want me to try and ID all of the girls [two rolling eyes emojis] I only know who a couple of them are x

[26/06/2018, 16:58:56] [RV]: Fern, Millie, Gemma, Annabel, Shannon, Megan, Annie

[26/06/2018, 16:59:26] [CW]: Amazing thank you xx

[26/06/2018, 19:16:30] [CW]: Can I put a copyright under your pic? Something like (copyright: I don’t own this pic!)

[26/06/2018, 19:16:38] [CW]: So papers don’t steal it

[26/06/2018, 19:23:46] [RV]: It looks like I’ve taken it from the pap then and we’ve posed for pics! England will do their nut x

[26/06/2018, 19:33:43] [CW]: Ok x” (emphasis added).

152. When the first part of the exchange was put to her in cross-examination, Ms Vardy said, “*I think this is in reference to me and my children walking down to the fountain*”. She sought to suggest, by reference to the timing, that when she wrote “*might be a good pic of us walking down*” she was saying to Ms Watt the photographer might be able to take a photograph of herself and her children. I reject this evidence as manifestly untrue. It is clear that Ms Vardy knew that Ms Watt had arranged with Splash News for a photographer to take a photograph not just of herself, but of all the players’ partners who attended the dinner together. Ms Vardy sought to assist in that endeavour by letting Ms Watt know that they might be walking together “*to [the] restaurant from [the] hotel*”. Ms Vardy was unable to advise Ms Watt that the plan for getting to the restaurant had changed until she was in the restaurant car because she only found out they were driving to the restaurant when she left the hotel. It is evident that she informed Ms Watt as soon as she could so that the photographer could catch up with them.
153. Ms Vardy gave evidence that she “*didn’t have anything to do with the photograph outside the restaurant*”. She denied that she had pre-arranged with Ms Watt for a photographer to be present to capture a photograph of herself and the other players’ partners at the dinner, saying that the only arrangement she had made was for a photographer to take pictures of her leaving the hotel. Ms Vardy denied that she orchestrated the photograph taken by the paparazzo by persuading the others to leave the restaurant to go outside so that they could have a group photograph taken for themselves. Ms Vardy said that Annie Kilner suggested that they go outside for a group photograph and she was only concerned that the others would think she had “*tipped off*” the paparazzo because she had agreed with Ms Kilner’s suggestion.
154. I consider that the contemporaneous messages provide a far more reliable account than that given by Ms Vardy. Ms Vardy’s messages show that on arrival at the restaurant she was looking for the (expected) photographer, until Ms Watt explained that he was delayed because he had been “*all set to walk and follow you down*”. In her candid messages to Ms Watt she stated, “*I made everyone go outside for a pic*”. It is highly likely that Ms Vardy did so. It is consistent with the evidence that she and Ms Watt had arranged for a Splash News photographer to take a group shot, and Ms Vardy’s knowledge that he had not been able to do so before they entered the restaurant.
155. Ms Vardy’s part in ensuring that Splash News were able to sell their photographs to *The Sun* did not end with ensuring the group posed for a photograph outside the restaurant at the right time. It is evident that once other members of the group noticed that they had been photographed they asked Ms Vardy to “*put it up*” (i.e. to publish on a public platform a photograph of the group taken on her phone) in order to undermine the paparazzo’s ability to sell his photographs. Ms Vardy stalled sufficiently to enable Splash News to sell the photographs, with assistance from Ms Watt both in thinking of plausible excuses for not posting the photograph immediately, and in ensuring that Splash News acted speedily.
156. There were other photographs taken of the group or some of them, in the (outdoor) restaurant, which were credited to Mark Large. I accept Ms Vardy’s evidence that she does not know him and did not arrange for him to be present at the restaurant. I also accept that a couple of other members of the group posted some photographs of the evening on their public Instagram accounts which were republished in newspapers.

However, none of those photographs were akin to the posed group shot credited to Splash News, described in *The Sun* as “*their own team photo*”. And it is apparent that Ms Vardy was aware that other members of the group were not keen to be photographed by a paparazzo and the England team management wished to avoid such press coverage.

157. Although orchestrating this photograph, and disclosing information about the group’s movements to Splash News for that purpose, is not the same as disclosing private Instagram posts – and, of course, did not involve disclosing any information about Ms Rooney – this episode is relevant in assessing the way in which Ms Vardy and Ms Watt worked together, and with the press, and it is relevant in assessing Ms Vardy’s credibility.

Mrs F – 5 September 2018

158. On 5 September 2018 Ms Vardy and Ms Watt had the following WhatsApp exchange:

“[05/09/2018, 20:07:12] [RV]: Omg have you seen how badly [Mrs F] is behaving x

[05/09/2018, 20:07:22] [RV]: I’m actually disgusted with her x

...

[05/09/2018, 20:07:46] [CW]: I haven’t seen it, I’ll look x

[05/09/2018, 20:07:47] [RV]: Leak the story about her shagging [Mr G] behind [Mr H’s] back x

[05/09/2018, 20:08:03] [CW]: I tried before but the sun already knew about it

[05/09/2018, 20:08:08] [CW]: And couldn’t prove it as usual

[05/09/2018, 20:08:12] [RV]: Ugh x

[05/09/2018, 20:08:16] [CW]: [Mr H] had told them too as he knew [crying laughing emojis]”

The identities of Mrs F, Mr G and Mr H were given in the original messages. Mrs F is a well-known media personality. Mr H was her husband. Mr G is a footballer.

159. This was not an exchange about Ms Rooney or her family or friends and it is apparent on its face that no information was published as a consequence of the exchange. Nevertheless it is relevant in considering whether Ms Vardy had a propensity to disclose private information about others to the press, and whether her means of doing so was through Ms Watt and *The Sun*. In cross-examination, Ms Vardy acknowledged that “*the way it reads*”, it appears that she instructed Ms Watt to leak information about Mrs F having an affair with a well known footballer behind her husband’s back, but Ms Vardy said her comment was “*just a joke*”. Ms Vardy explained:

“Mrs Watt and myself have been friends for a very long time. Our WhatsApps were sometimes outrageous, sometimes totally

inappropriate and these are a lot of conversations that are between friends, gossiping and poking fun about people. And yes, they don't read very well. But there's always explanation for them. This is not, you know, this isn't just someone that I knew. This was my friend."

160. It is evident that Ms Watt did not take Ms Vardy's comment, which on the face of it appeared to be a direction to leak private information about others to the press, as a joke. Ms Watt responded earnestly that she had already tried giving the information to *The Sun* but the newspaper already knew it. There is nothing in the exchange to support the suggestion that Ms Vardy was joking. On the contrary, she appeared to express frustration that it was not possible to leak the information or that *The Sun* was unable to publish it.

Further interviews with journalists from The Sun

161. Ms Vardy was interviewed by Mr Halls on 27 November 2018 for an article published in *The Sun* online on 30 November 2018, and in August 2018 for an article published in *The Sun* on 26 August 2019. Ms Atkinson interviewed her for an article published in *The Sun Online* on 3 February 2019.

The Car Crash Post – January 2019

162. The first of the 'core posts' is 'the Car Crash Post'. On 22 January 2019 at 3.44pm, Ms Rooney posted on her Private Instagram Account a close-up photograph of the side of a car, showing that it had been crashed into, with the words above "*RIP half a Honda ...*[crying with laughter and 'oh no' monkey emojis]", and a laughing image below ('the Car Crash Post'). The Car Crash Post was posted as an Instagram story which meant that it was available to view for only 24 hours.
163. It was visible to all followers of the Private Instagram account, that is, to more than 300 people. Ms Rooney's evidence was that she knew all of the people she had accepted as followers of her Private Instagram Account. Broadly speaking, she said they were "*people who are close to me, and people I trust*". In some cases the follower is a business account, but it was clear from Ms Rooney's evidence in cross-examination that she was close to each of the individual's whose business account she gave access to her Private Instagram Account.
164. At the time of the Car Crash Post, the Rooney family were living in Washington DC, as Mr Rooney was playing for DC United. Ms Rooney's evidence, which I accept, was that the purpose of the Private Instagram Account was to enable her to use social media in a normal way, sharing photographs, commenting and exchanging messages without fear of her posts being made public. This was particularly important to her during the period from September 2018 to July 2019, while she was living in the United States and so distanced from friends and family.
165. Ten days before the Car Crash Post, Ms Rooney had posted a photograph of the stationary Honda, with herself and three of her children variously poking their heads out of windows, the sunroof and standing on the car ('the Hillbilly Post'). Underneath the photograph she wrote:

“If you know ... you know ... [two crying laughing emojis] the hillbilly’s are out around Maryland in the half a Honda!!! Winds me up but nothing else I can do other than take the P*\$\$ [two zany face emojis]”

Although the damage to the car had already occurred when she posted the Hillbilly Post, Ms Rooney did not mention it in any post prior to the Car Crash Post and the damage was not evident in the Hillbilly Post.

166. It is clear that both Ms Vardy and Ms Watt saw the Hillbilly Post. They exchanged the following messages about it:

“[12/01/2019, 21:12:49] [RV]: U seen Coleen’s post taking the piss out of their car x

[12/01/2019, 21:13:17] [CW]: Yeh but I assumed she is driving that in the hope that paps don’t think it’s them? x

[12/01/2019, 21:20:44] [RV]: No I don’t think so! X”

This is an example of the frequency with which they each checked Ms Rooney’s posts. It also shows that they were aware that, in view of the size of her family, Ms Rooney did not like the Honda.

167. On 22 January 2019, Ms Vardy and Ms Watt attended the National Television Awards (NTA) ceremony as guests of *The Sun*, in the newspaper’s private box. The following day, Ms Vardy sent a message thanking three journalists, Dan Wootton, Andy Halls and Simon Boyle.

168. On 23 January 2019, Ms Vardy and Ms Watt exchanged the following messages on WhatsApp:

“[23/01/2019, 20:32:55] [CW]: Am I imagining this or did you say yesterday that Coleen had crashed her Honda? x

[23/01/2019, 20:33:11] [RV]: She defo has [two crying with laughter emojis] x

[23/01/2019, 20:33:15] [RV]: Go in the Instagram x

[23/01/2019, 20:33:59] [CW]: She must have taken whatever it is down as it’s not there now x”

Ms Vardy accepted in cross-examination that she directed Ms Watt to check the Private Instagram Account. It is clear that Ms Watt did so but the Car Crash Post was no longer there. The reason for that was that, as an Instagram ‘story’, it ceased to be visible after 24 hours. Ms Vardy and Ms Watt were not sufficiently aware of the way Instagram worked to realise why the story was no longer visible. Ms Vardy did not accept that she told Ms Watt about the Car Crash Post, stating in evidence that numerous people at the NTA event were having conversations about it. I do not accept this evidence. It is far more likely that Ms Watt’s contemporaneous recollection that Ms Vardy told her about the post is accurate.

169. I accept that the six messages that followed were about Ms Lloyd rather than Ms Rooney (see §241 below). The conversation about the Car Crash Post then continued:

“[23/01/2019, 20:36:36] [CW]: I would have tried to have done a story on Coleen but the evidence has been deleted x

[23/01/2019, 20:38:14] [RV]: Wonder why she deleted it! X

[23/01/2019, 20:39:27] [CW]: Insurance?

[23/01/2019, 20:39:37] [CW]: What was it?

[23/01/2019, 20:42:53] [RV]: A pic of the side of the car knackered x

[23/01/2019, 20:43:47] [CW]: Can you remember what the caption said or wasnt there one? x

[23/01/2019, 20:44:03] [RV]: Yeah it was something like goodbye half a Honda x

[23/01/2019, 20:44:36] [CW]: I bet she was buzzing [two crying with laughter emojis] I suppose it would be a guess to say she crashed it but I could try it x”

170. It is manifest that when Ms Watt told Ms Vardy that she “*would have tried to have done a story on Coleen*” she was referring to providing information, derived from the Car Crash Post, to the press, and Ms Vardy would have understood that was what she meant. Although Ms Watt’s initial reaction suggests that as “*the evidence has been deleted*” she thought it may not be possible, Ms Watt then asked several questions of Ms Vardy, plainly with a view to seeing if it might still be possible to give the press a story, despite the Car Crash Post no longer being visible. Ms Vardy would have understood that when Ms Watt said, “*I could try it*”, she was proposing to take a story to the press about Ms Rooney crashing her car.

171. Two days later, Ms Vardy and Ms Watt exchanged the following messages:

“[25/01/2019, 11:13:43] [CW]: Halls is trying to do a story on Coleen crashing her car but her PR won’t even reply. I’ve told him I’m 100% confident that it happened but don’t know how

[25/01/2019, 11:22:32] [RV]: Haha she defo did x”

It is evident that Ms Watt had given the information to Mr Halls, as she had suggested she would, and two days later she was trying to help him in his efforts to pull together enough material to draft an article. Ms Vardy acknowledged that in the above message Ms Watt was asking her whether the car crash definitely happened and she confirmed it did. It is highly likely that Ms Watt passed on to Mr Halls Ms Vardy’s confirmation that Ms Rooney crashed her car.

172. Several hours later the same day, Ms Vardy and Ms Watt exchanged the following messages:

“[25/01/2019, 16:05:11] [CW]: image omitted

[25/01/2019, 16:05:28] [CW]: Is that the same as the damage that Coleen posted?

[25/01/2019, 16:17:55] [RV]: Yeah that’s it! Different pic though x

[25/01/2019, 16:18:00] [RV]: 2 mins I’ll call you x

[25/01/2019, 16:18:22] [CW]: Yeh I told him it was a close up pic not that one so it’s fine x”

173. Although the media file is unavailable, it is evident from the messages that it was a photograph of Ms Rooney’s Honda, showing the damaged side of the car. It was a different photograph to that which Ms Rooney had posted, taken from further away, apparently while the car was in a car park. Ms Vardy confirmed that the damage was the same as in the photograph posted by Ms Rooney, and it is clear that Ms Watt passed that information on to Mr Halls.

174. An email the same day from Rachel Monk (who worked for Monk PR, mostly for Mr Rooney but also to some extent for Ms Rooney) to Paul Stretford of Triple S Sports & Entertainment Group (Mr Rooney’s advisor, who also carried out work from time to time for Ms Rooney) shows that *The Sun* had sought a comment on the proposed article. The email from Ms Monk stated:

“The Sun is asking us for a comment on a story they’re about to run about Coleen’s involvement in a minor car crash this week.

They are saying Wayne and boys all in the car, that no one was hurt and that she was lovely to everyone who came to help.”

175. Mr Stretford responded:

“Coleen was not involved in any form of car crash this week, she was involved in a very minor bump about 6 weeks ago not sure who was in the car at the time and no intention of asking her to supply the Scum credibility. Please discuss my advice with your dad if necessary”

Ms Monk replied that she would “*talk to them off the record and heavily guide them that their information on which they’re planning to base the story on is wrong*”.

176. The Car Crash Article was written by Mr Halls and it was published on 25 January 2019. The article stated:

“COLEEN Rooney was involved in a horror car crash in Washington DC that saw her Honda 4x4 smashed up.

The WAG, 32, narrowly escaped injury in the nasty accident which happened close to where she lives with husband Wayne, 33, and their four sons ... - and left the car “ruined”.

A source told The Sun: “Coleen ended up having a bad smash when she was driving the family car.

“Luckily Coleen escaped without a scrape on her but the motor was a mess. One side of the car was completely caved in. She couldn’t drive it away and it looked like a total write off.

“Obviously she was shaken up at the time but Coleen was just thankful no one was hurt.”

Coleen later made light of the crash with pals and told them she was secretly pleased she could get a new motor, after admitting she hated the “cheap” Honda CRV she’d been driving.”

The source added: “Coleen prefers pricey Range Rovers to the mumsy Honda so getting a new motor was the silver lining on what was a horrible day.

“She told her friends she was secretly happy about getting rid of it.” ...”

177. On 25 January 2019, Ms Rooney posted a screenshot of the Car Crash Article on her Private Instagram Account with the following written across it: “*Someone on here is selling stories again to this scum of a paper*” (‘the third warning post’). On 27 January 2019, Ms Rooney put the following messages on Twitter:

“Thank you for the messages asking if I am ok... the car crash story was completely wrong.... I wasn’t involved in a crash ...the car was damaged by another car. Someone on my private Instagram seen the picture and is telling or selling stories to a certain newspaper.”

“It’s happened several times now over the past couple of years. It’s sad to think Someone, who I have accepted to follow me is betraying me for either money or to keep a relationship with the press.”

Ms Rooney had previously posted warnings to her Private Instagram Account followers on 25 October 2017 and 1 November 2017 (see §§98 and 104 above). This was the first time she had also put a warning shot on her public Twitter account. Her tweets were reported in the press.

178. Ms Vardy and Ms Watt exchanged WhatsApp messages regarding Ms Rooney’s tweets:

“[27/01/2019, 18:28:05] [RV]: U seen Coleen’s twitter x

[27/01/2019, 18:28:11] [CW]: No?

[27/01/2019, 18:28:38] [RV]: image omitted

[27/01/2019, 18:28:47] [CW]: Just looked

[27/01/2019, 18:28:54] [CW]: Such a victim. Poor Coleen

[27/01/2019, 18:28:57] [CW]: [two crying with laughter emojis]

[27/01/2019, 18:29:10] [RV]: She doesn't even do her Twitter x

[27/01/2019, 18:29:27] [CW]: Funny that her PR admitted she had been in a crash

[27/01/2019, 18:29:41] [CW]: The paper didn't blame her for it either [emojis]

[27/01/2019, 18:38:06] [RV]: I know

[27/01/2019, 18:47:11] [CW]: And it wasn't someone she trusted. It was me [crying with laughter emoji]"

179. Ms Vardy's pleaded position is that "*The Sun already had the story and details about the Car Crash prior to Andy Halls contacting Ms Watt*"; "*neither the Claimant nor Ms Watt was the source of this story*". Ms Vardy's evidence was that she did not leak the contents of the Car Crash Post to *The Sun*. She avoided answering the question whether Ms Watt passed on the information, responding only that she had not passed on any *new* information as, Ms Vardy said, Mr Halls already had the information which he then used in the article, as well as a different photograph. The claimant relies on the fact that the Car Crash Article includes information that could not be derived from the Car Crash Post to show that Mr Halls had another source. Ms Vardy acknowledged that in saying "*it wasn't someone she trusted. It was me*", Ms Watt seemed to be admitting she had passed the story on to *The Sun*. Ms Vardy said that she had not noticed, or questioned what Ms Watt was talking about, as she was busy bathing the children and they had the programme *Dancing on Ice* on in the background.
180. The fact that *The Sun* told Ms Monks that they had information that Mr Rooney and their children were also in the car, no one was hurt and Ms Rooney was "*lovely to everyone who came to help*" does not necessarily indicate that there was any additional source. None of that information was published in the article. It is probable it was speculation provided when the enquiry was made with a view to obtaining information.
181. The Car Crash Article contains information that could be, and in my judgment was, gleaned from the Car Crash Post, together with the Hillbilly Post. In particular, that one side of the car was caved in, Ms Rooney made light of it with friends, she had disliked the Honda and was happy to be able to get rid of it. Although the Car Crash Post had not said that no one had been hurt, that too was reasonably evident from the light-hearted nature of the post. Some information in the Car Crash Article, such as that the crash occurred close to where Ms Rooney was living and that she was shaken up at the time, could not be derived from the Car Crash Post or information that Ms Vardy provided. It is possible that Mr Halls was able to find another source, but it is more probable that the additional information was guesswork (see §279 below).
182. In any event, it is obvious from these messages, both when read in isolation and confirmed by reading them in the context of other exchanges between Ms Vardy and Ms Watt, that Ms Vardy provided information that she had derived from the Private

Instagram Account to Ms Watt, in the knowledge that Ms Watt would provide it to a journalist from *The Sun*. It is clear that (i) Ms Watt recognised that the Car Crash Post potentially provided the basis for a story they could give to *The Sun*; (ii) Ms Watt drew that to Ms Vardy's attention; (iii) the Post having been deleted, Ms Watt sought and received details of it from Ms Vardy; (iv) it is probable that Ms Watt gave that information to Mr Halls on 23 January 2019, along with her speculation that Ms Rooney had crashed the car; (v) when Ms Monks guided him that the story was untrue, *The Sun* took further steps to confirm the story, seeking (and receiving) Ms Vardy's confirmation (via Ms Watt) that Ms Rooney crashed the car and that the damage shown in the photograph posted by Ms Rooney was the same as that shown in a photograph *The Sun* had (by then) obtained of the Honda in a car park.

Ms Rooney's decision to remove Ms Vardy as a follower – February 2019

183. Following the Car Crash Article, Ms Rooney reviewed the accounts that followed her Private Instagram Account to try to work out who of her followers might have provided information from her account to *The Sun*. Based on the fact that the articles derived from her account had been published only in *The Sun*, she thought whoever was responsible had a relationship with *The Sun* and its journalists.
184. Ms Rooney suspected Ms Vardy because she had gained the impression over time from the messages that Ms Vardy would send her out of the blue that “*she was trying to be close to me because she thought that doing so might help her own interests*”, and because she considered that Ms Vardy actively wanted to be famous, judging by the staged paparazzi photographs of her taken by Flynnet and Splash News, as well as more formal photoshoots. Ms Rooney searched for exclusive articles in *The Sun* about Ms Vardy. This reinforced her suspicion as she considered that Ms Vardy appeared to have a close relationship with *The Sun*, judging by the articles she had written for that newspaper during Euro 2016 and the many exclusive interviews she had given them. Ms Rooney did not suspect any of her other followers.
185. Having formed the view that the likely source of the leaks was Ms Vardy, in around the first week of February 2019 Ms Rooney removed Ms Vardy as one of her followers. This prompted the following exchange between Ms Vardy and Ms Watt:

“[06/02/2019, 17:50:27] [CW]: Babe has Coleen unfollowed you???

[06/02/2019, 17:50:54] [RV]: Omg [4 flushed/shocked face emojis] I just saw wow x

[06/02/2019, 17:51:04] [RV]: What a cunt x

[06/02/2019, 17:51:10] [RV]: I'm going to message her x

[06/02/2019, 17:51:17] [CW]: I would leave it a while and then in a few weeks message her and ask if you have offended her x

[06/02/2019, 17:51:56] [CW]: I bet because you had that cervical cancer chat in the sun she has unfollowed you x

[06/02/2019, 17:52:05] [RV]: She thinks it's me that's been doing stories on her! Of all the people on her Instagram ffs! Leanne brown etc x

[06/02/2019, 17:52:13] [CW]: I know x

[06/02/2019, 17:52:27] [RV]: That cunt needs to get over herself! X

[06/02/2019, 17:52:33] [RV]: That's falling out material x

[06/02/2019, 17:52:59] [CW]: I wouldn't say that though. If she thinks you are looking at her page she'll think it's you

[06/02/2019, 17:53:31] [CW]: If you leave it a week or so and then say you realised you hadn't seen a post for ages then it won't look obvious x

[06/02/2019, 17:53:39] [RV]: Unless someone told her it came from you? X

[06/02/2019, 17:55:03] [CW]: I don't think anyone would. Andy never would and I wouldn't tell anyone but the sun and you would think she'd message you if someone said your agent had done that surely? x

[06/02/2019, 17:55:20] [CW]: Also the sun had that pic of her car in America anyway, not that she knows that

[06/02/2019, 17:55:39] [RV]: I know I'm offended she thinks I did it x

[06/02/2019, 17:55:56] [RV]: I mean ffs Dawn fucking ward is still on there x"

The exchange continued with Ms Vardy and Ms Watt speculating that Ms Rooney had merely guessed that she leaked a story to *The Sun* because of work she had done with them.

186. Mr Tomlinson relies on the fact that Ms Vardy was evidently indignant at being suspected of having leaked stories about Ms Rooney as supportive of her case. I accept that her expression of indignation was genuine. But it was misplaced indignation. Ms Vardy was well aware that she and Ms Watt had given information to Mr Halls for the Car Crash Article, but she thought (rightly) that Ms Rooney could not *know* that and was offended that Ms Rooney had guessed she was responsible. The exchange above also shows the nature of the relationship and the degree of trust between Ms Watt and *The Sun*, particularly Mr Halls, and that Ms Vardy was aware that Ms Watt would only provide information to *The Sun*.
187. The WhatsApp exchange on 6 February 2019 between Ms Vardy and Ms Watt continued with Ms Vardy saying she did not know when Ms Rooney had unfollowed or blocked her. Ms Watt replied, "*Must have been this week*", "*I looked on there at the*

weekend to see if she was with Wayne in florida". It is probable that Ms Watt, who had never met Ms Rooney, was using her access to Ms Vardy's Instagram account to monitor the Private Instagram Account for information that might be of interest to *The Sun*, and that Ms Vardy was aware that she was doing so. It is likely that information such as that which Ms Watt said she had been looking for at the weekend was provided to *The Sun* and that, in the absence of any conspicuous reference to a story or post, Ms Rooney has not identified the publication of such information as a leak.

188. Ms Vardy then wrote, "*Someone on her Instagram regularly sells stories on her though x*". Again, Mr Tomlinson relies on this as a genuine statement at a time when she had no inkling that anyone would ever be examining these private messages. It plainly was Ms Vardy's genuine belief that someone was selling stories about Ms Rooney. Although Ms Vardy referred to "*someone on her Instagram*" it is probable that she had in mind recent articles quoting a "*source*" which do not appear to have been derived from the Private Instagram Account. The parties have not identified any information that was disclosed from the Private Instagram Account between 1 November 2017 and the Car Crash Post in January 2019 and it is unlikely that Ms Vardy was referring to posts that had been leaked more than 14 months earlier. Ms Rooney made clear in her evidence that she does not believe and has never thought that Ms Vardy was responsible for every comment or story about her in the press; it is only the leaks from the Private Instagram Account that she lays at Ms Vardy's door.
189. The exchange continued with Ms Vardy angrily expressing the view that Ms Rooney "*deserves everything she gets*" and hoping "*she gets sold out massively now*". Ms Watt wrote, "*I just messaged Andy halls and he said maybe she noticed that we were together with them and dan wootton at the NTA's*". Ms Vardy wrote,

"[06/02/2019, 18:06:23] [RV]: I never usually message her and say hi.... maybe I should say something about Rosie x

[06/02/2019, 18:08:12] [RV]: Not having her bad mouth me to anyone if she's doing that my god she will be sorry x".

That was a reference to Ms Rooney's sister who, having suffered with Rett Syndrome, had died in 2013 at the age of only 14.

190. Ms Watt advised Ms Vardy (at 18:09:53) to take a different approach:

"Just say you did loose women today and the Booker was asking about her and said please let her know we would love her on if she would consider it next time she's in the UK. Say I told them I didn't think you'd want to but thought I had bette[r] pass it on just incase you had a charity stuff you wanted to push x

Ms Vardy agreed that was "*a great idea*" and sent the following message on WhatsApp to Ms Rooney (at 18:18:06):

"Hey hun! Hope you and the family are well and doing ok over there? Snow looks unbelievable...I did Loose Women today and the booker mentioned you saying they would love to have you on when you are in the UK! Said had no idea but would pass it

on just in case you had any charity stuff going on or anything like that xxx”

191. The exchange between Ms Vardy and Ms Watt continued:

“[06/02/2019, 18:15:38] [CW]: If she does try to say it or that it was me and it’s undeniably obvious what we’ll do is say I left the company I was working for in jan and one of the girls in the office has my old laptop that had your passwords saved on it so it will have been them and now you will have to change everything x

[06/02/2019, 18:16:29] [RV]: Ok! Just don’t know how she ever would know that unless halls has leaked it in which case please don’t give him the [Mr X] stuff x

[06/02/2019, 18:18:12] [RV]: I’ve messaged her x

[06/02/2019, 18:18:34] [RV]: It’s delivered! I swear she better not cunt me off x” (emphasis added)

192. In referring to the possibility of it being “*undeniably obvious*”, Ms Watt was planning for the possibility that Ms Rooney’s response might show that she had proof that Ms Vardy had leaked the Car Crash Post. Ms Watt advised Ms Vardy as to the line she should take in that eventuality. Ms Vardy’s reference to “*unless halls has leaked it*” is clearly an expression of anxiety that Mr Halls might have disclosed that she was the source of the Car Crash Article.
193. Ms Vardy’s instruction, “*in which case please don’t give him the [Mr X] stuff*”, is illuminating. Ms Vardy referred to ‘Mr X’ by two initials. Ms Vardy accepted in evidence that she was probably referring to a married England footballer who had an extra-marital affair, and fathered a child, with a woman whom Ms Vardy knew. An article about this appeared in *The Sun* on 3 March 2019, quoting a “*pal of the star’s mistress*”. As with the “*Maldives stuff*”, it is obvious that there had been previous communications between Ms Vardy and Ms Watt about giving the “[Mr X] stuff” to the press, such that Ms Watt would immediately understand what Ms Vardy was referring to. It also shows that Ms Vardy made decisions about whether and when to provide information to the press, and Ms Watt acted on her instructions.
194. In cross-examination, Ms Vardy repeatedly said that she was telling Ms Watt not to give a journalist this information. That is clearly right. But it is evident (see the words “*unless halls has leaked it in which case...*”) that the only reason for the instruction to hold back giving the information was if there was cause to fear that Mr Halls could not be trusted to keep his source secret. Ms Vardy also said that numerous others in footballing circles knew the information. I accept that there probably were others who were aware of Mr X’s extra-marital affair, at least, but it is clear that Ms Vardy had given Ms Watt some information to give to *The Sun*.
195. Ms Watt was able to reassure Ms Vardy that Mr Halls could be trusted:

“[06/02/2019, 18:18:52] [CW]: No I messaged him and he said absolutely not and he never would say what his source was for anything at all. I know he wouldn’t either x

[06/02/2019, 18:21:09] [RV]: She’s just put 2 and 2 together x”

196. Ms Rooney responded to Ms Vardy’s messages on 6 February 2019 in friendly terms, saying she was happy to have her parents with her, had been “*struggling having no one at all here*” while her husband was “*away on pre-season*”, and that she “[*m*]ight come home for good at Easter if nothing changes”.

197. The following morning Ms Vardy and Ms Watt exchanged these messages:

“[07/02/2019, 07:53:57] [RV]: Colleen messaged me back x

[07/02/2019, 07:54:52] [RV]: Get the impression she’s testing me as she told me she might be coming back for good! Don’t tell anyone that [crying with laughter emoji] x

[07/02/2019, 07:56:35] [RV]: I think she’s unfollowed a few people that are verified x

[07/02/2019, 08:03:56] [CW]: Ok cool. I definitely won’t say anything and that is definitely a test! xx

[07/02/2019, 08:04:46] [RV]: I’ll give it a week or so then ask her if I’ve offended her as someone said she had unfollowed me x

[07/02/2019, 08:05:03] [RV]: She was really nice so not sure what the game is x

[07/02/2019, 08:21:38] [CW]: I would actually not ever mention it as it will make it look like you never actually go directly to look at her page [crying with laughter emoji] x

[07/02/2019, 08:22:07] [RV]: Yeah ok x” (emphasis added).

198. Again, it is clear that Ms Watt would take instruction from Ms Vardy as to whether to disclose information to the press. Ms Watt’s suggestion that Ms Vardy try to make it look as if she never went directly to Ms Rooney’s page, and the use of the crying with laughter emoji, is indicative of the inaccuracy of the impression Ms Watt advised Ms Vardy to seek to portray.

199. On 10 February 2019, an article appeared in which it was said that Ms Rooney had threatened to return to the UK because Mr Rooney had been out drinking in the US. On 11 February 2019 Ms Vardy and Ms Watt exchanged the following WhatsApp messages:

“[11/02/2019, 13:01:39] [CW]: Someone is obviously selling stories on Coleen as I haven’t said a word to anyone and there’s stories out there saying she has threatened to come home because

of this latest thing he has done. I know that's not what she said to you but she must have said it to someone x

[11/02/2019, 13:02:34] [RV]: Oh god [emojis] maybe she has threatened to come home because of it x

[11/02/2019, 13:02:49] [RV]: Wonder who she would have said that to x

[11/02/2019, 13:03:31] [CW]: It's probably someone like Wayne's chavvy sister x

[11/02/2019, 13:03:58] [RV]: Shall I message her and say hope your ok I've seen another source story x

[11/02/2019, 13:04:16] [CW]: No x

[11/02/2019, 13:05:06] [RV]: I would normally message her if shit hits the fan with him though x

[11/02/2019, 13:05:14] [CW]: Ok do then x" (emphasis added).

200. A few minutes later, Ms Vardy initiated an exchange with Ms Rooney, expressing sympathy and annoyance that "*someone close to your is clearly selling you out*". Ms Vardy's messages were clearly sent to deflect suspicion from herself. Nonetheless, as I have said, it is apparent that neither Ms Watt nor Ms Vardy were the source of some of the articles being written about Ms Rooney.

201. On 3 March 2019, at 16:45 Ms Vardy informed Ms Watt that "*she's following me again*", to which Ms Watt responded, "*She must have realised it wasn't you*". It is clear that they were both referring to Ms Rooney, who began following Ms Vardy's public Instagram account again in early March 2019, but who had not reinstated Ms Vardy as one of her followers. Ms Vardy informed Ms Watt, "*I'm going to message her in a min actually x*". A few minutes later, Ms Vardy sent the following message to Ms Rooney:

"Hi my love... hope you are all ok? I saw you had unfollowed me and I wasn't following you anymore on Instagram ... just wanted to ask if I had done something or offended you in anyway? Literally only noticed the other day xx"

202. Ms Rooney responded that she didn't know, suggesting that her kids had probably done it. As Ms Rooney acknowledged when giving evidence, this was not true as she had deliberately removed Ms Vardy as a follower. Ms Rooney considered Ms Vardy's message "*really suspicious*". She explained,

"Instagram does not notify you when someone unfollows/blocks you and Becky's Instagram Account would have had around 400,000 followers at the time and following around 1,000 other accounts so I thought she must have been searching for me or going out of her way to look at my Private Instagram Account to realise that I had stopped following her and that I had removed her as a follower of the Private Instagram Account. I suspected

that the reason why Becky would have been actively looking for my Private Instagram Account was for the purposes of seeing whether there was material on there to pass to *The Sun*.”

203. Despite her suspicion, Ms Rooney reinstated Ms Vardy as one of her Private Instagram Account followers as she “*wanted to be one hundred percent certain who was responsible for the leaks*”.

The Babysitter Enquiry – March 2019

204. On 17 March 2019 (St Patrick’s Day), Ms Rooney posted on the Private Instagram Account a photograph of an Irish bar overlaid with the words, “*We’re back* [crying with laughter emoji] *...took kids home.....we finally have a babysitter* [raised hands and clinking champagne glasses emojis]” (‘the Babysitter Post’).

205. On 27 March 2019, Ms Monk (who did not have access to the Private Instagram Account) sent Ms Rooney a message on WhatsApp in which she said,

“Just a quick one – had journalists from The Sun (eurgh) on saying they had been told that you and Wayne are going out on lots of dates in Washington now as you’ve found a babysitter you trust. Obviously no comment from us but just wanted to run it past you xxx”

Ms Monk’s recollection was that the journalist at *The Sun* who made the enquiry was Ellie Henman, and it was communicated in a phone call.

206. Ms Rooney responded the following day:

“This story has come from my Instagram again.... I put it on last week on my story that we finally Had a babysitter and was out on st Patrick’s day.

It’s the same person that has been telling the sun. Is there any way you can find out who there source is? It could be anyone but please don’t say anything, however I have had this suspicion from the start that it’s Rebecca Vardy. I don’t know if she has any attachments with the sun? It could be anyone and I could never find out just from guessing. ...”

207. It is highly probable that either a screenshot of the Babysitter Post, or a description of its contents, was given to a journalist at *The Sun* by someone who had access to the Private Instagram Account. The Babysitter Post was visible to Ms Rooney’s more than 300 followers. However, the disclosure does not appear to have been used in any published article. It is evident from the contemporaneous messages, as well as Ms Rooney’s evidence, that the leak of the Babysitter Post to *The Sun* heightened Ms Rooney’s suspicion that Ms Vardy was responsible for the disclosure of information from her Private Instagram Account.

208. On 29 March 2019, Ms Monk responded to Ms Rooney’s request for information,

“Hey C, so I’ve done a bit of digging and..for information only...turns out RV Is very close to Rebecca Newton who is editor of Sun on Sunday. Apparently she also is knows Dan Wooton who had done lots of the gossip pieces. She played out her career very much in the Sun (lots of exclusives to them) and, on the whole, has only had good press. Now, that doesn’t mean that it’s certainly her (and I wouldn’t want to accuse anyone) BUT it plays into the theory as she does have relationships there..maybe delete her off your insta? Xx”

209. Ms Monk explained that her reference to “*Rebecca Newton*” was a typographical error. She had meant Victoria Newton, the editor of *The Sun on Sunday*, but had accidentally typed the name of a good friend. Ms Monk’s information was derived from “*a few conversations with one or two journalists*” who worked on “*different publications and outlets*”, other than *The Sun*, and who Ms Monk knew professionally. These were general conversations about press coverage of the partners of footballers.
210. There is no direct evidence that Ms Vardy and Ms Watt disclosed the Babysitter Post to *The Sun*. Nevertheless, for the reasons I have given in relation to the Marriage, Halloween and Pyjamas Post, I infer on the balance of probabilities that they disclosed this post, too.

The Sting Operation Part I and the Gender Selection Post – April 2019

211. The leak of the Babysitter Post after Ms Rooney had reinstated Ms Vardy as a follower made her more suspicious “*that it was Becky’s Instagram Account that was the source of the leaks*”. Ms Rooney was aware that Instagram stories were only accessible for 24 hours, that it was possible to limit the followers who were able to view a story, and that the “*Seen By*” function would indicate which followers had viewed a story. Ms Rooney decided to invent a story, limit accessibility to Ms Vardy’s account, upload it as an Instagram story, and then wait and see whether the fabricated story appeared in *The Sun*. I accept Ms Rooney’s evidence, which was supported by her witnesses, that she did not discuss any aspect of this plan with anyone at any time prior to the Reveal Post.
212. In pursuit of her plan, on 8 April 2019, at 10.59am (in the UK, and just before 6am in Washington DC), Ms Rooney posted a photograph of suitcases with the caption “*Woohoo!!! Easter Holidays ... new place to visit to get abit of info*” (‘the Easter Holiday Post’). She described this as a “*dummy run*”. She and her family were in fact going on holiday, but she added the reference to a “*bit of info*” to allude to gender selection, which she intended to refer to expressly once she was sure the posts were only visible to Ms Vardy’s account. Ms Rooney realised that she had not successfully hidden the Easter Holiday Post from all of her followers other than Ms Vardy, as one other follower saw it.
213. Less than an hour later, at 11.42am, Ms Rooney made a further attempt to post a story that was visible only to Ms Vardy’s account. She posted a photograph of a passport with the caption, “*Escaping the measles outbreak in Washington*” (‘the Passport Post’). The Passport Post was also “*Seen by 2*”, so Ms Rooney “*went back and made for certain that all followers were blocked except for Becky’s Instagram Account and then I knew that I was good to go with the Gender Selection Post*”.

214. Once she was sure she had prevented all other followers viewing her posts, Ms Rooney posted on her Private Instagram Account:
- i) at 1.41pm on 8 April 2019, a photograph of the back of an aeroplane seat with the caption, “*Let’s go and see what this gender selection is all about [anxious/grimacing emoji and pink hearts]*” (‘the Gender Selection Post’);
 - ii) at 5.28pm, a photograph of children and babies in a lift with the caption “*Crowd [two crying with laughter emojis]*” (‘the Crowd Post’);
 - iii) at 2.37am on 9 April 2019, a photograph of a cocktail glass with the caption “*Needed [two pink hearts]*” (‘the Cocktail Post’); and
 - iv) in the afternoon on 9 April, a photograph of Ms Rooney holding a friend’s child with the caption “*Broody [hearts]*” (‘the Broody Post’).
215. The Gender Selection, Crowd and Cocktail Posts were each “*Seen by 1*” and the image above the words “*Seen by 1*” on the screenshot of the Gender Selection Post shows that the one account that had viewed that story was Ms Vardy’s account. However, the Broody Post shows that it was “*Seen by 2*”. Ms Rooney explained that the reason for that was that she unthinkingly accepted a friend as a new follower after she had uploaded the Broody Post, without preventing her new follower from seeing her stories. It is probable that Ms Rooney accepted her new follower more than 24 hours after she posted the Gender Selection Post, when it was no longer visible; the screenshot showing that the Broody Post was “*Seen by 2*” gives the (UK) time as 6.16pm.
216. Ms Rooney created the Gender Selection Post because she thought a story about her looking into gender selection would be likely to be leaked to the press, as she had four sons and there had been media speculation about whether she would ever have a girl. The story was false. The Gender Selection Post did not immediately find its way to the press (and there is no evidence the other posts uploaded on 8 and 9 April were leaked). As she wished to be able to use her Private Instagram Account normally at that point, on 10 April 2019 Ms Rooney made her posts and stories visible to her other followers again.
217. Four months later, on 15 and 16 August 2019, the Gender Selection Articles written by Mr Halls were published in *The Sun Online* and *The Sun* (see §10(iv) above). The articles contained the information that Ms Rooney travelled to Mexico to look into gender selection (a phrase that appeared in quotation marks). The articles stated that she “*told pals she wanted to hear more about the process*”. The articles quoted a source saying, “*Coleen loves her boys more than anything, but she’s never been shy about admitting she would also love a daughter. ...*” The print edition also bore the subheading “*‘Gender selection’ chat*”.
218. A day or two prior to publication of the Gender Selection Articles, Ms Monk spoke on the telephone to, and received an email from, Ms Henman. In the email, Ms Henman stated,
- “We understand Coleen visited Mexico in April to enquire about gender selection in a clinic in the country.

She has spoken openly about this with her family and friends.

I wondered if there was any guidance or comment on this.”

219. When they spoke, Ms Henman told Ms Monk *The Sun* was going to be running a story the following day about Ms Rooney going for gender selection in Mexico. Ms Monk got the impression that Ms Henman was raising it on behalf of another journalist. Knowing Ms Rooney, Ms Monk thought the story was “*bonkers*” and said so to Ms Henman. Nevertheless, she raised it with Ms Rooney whose immediate reaction was “*Omg omg omg* [shocked face emoji]”. Ms Monk recalls that Ms Rooney’s response when she spoke to her was surprisingly tepid, “*given how outlandish the proposed story seemed to [her] to be*”. Ms Rooney did not explain that the proposed story came from a fabricated post. Ms Monk spoke again to Ms Henman. As agreed with Ms Rooney, she said that she had not been able to get hold of her and so the response was ‘*no comment*’. But Ms Monk also told Ms Henman off-the-record that she thought there was absolutely no chance of there being any truth in the gender selection story. Ms Monk did so, at least in part, because she had a professional relationship with Ms Henman and she did not wish her to put her name on a story that Ms Monk believed was obviously untrue. Ms Henman responded that *The Sun* would be running the story because they had a screenshot. It is likely that Ms Monk told Ms Rooney that *The Sun* said they had a screenshot.
220. Ms Vardy denied leaking the Gender Selection Post to *The Sun*. She accepted it was possible that Ms Watt may have done so, but if she did so, Ms Vardy denied that it was done with her knowledge or approval. Ms Vardy’s evidence was that she knew (as did all other followers of Ms Rooney’s Private Instagram Account) that Ms Rooney went on holiday to Mexico, but she did not recall seeing the Gender Selection Post.
221. On 8 April 2019, Ms Vardy and Ms Watt exchanged the following WhatsApp messages:
- “[08/04/2019, 17:40:19] [RV]: Coleen’s Instagram [smirking face emoji] wonder if they are going for baby 5 x
- [08/04/2019, 17:49:50] [CW]: I already saw it. I can’t believe she posted it xx
- [08/04/2019, 17:50:18] [RV]: I know! Although maybe it isn’t that because she’s with her brother and his Mrs and all the kids x
- [08/04/2019, 17:50:52] [CW]: Possibly x
- [08/04/2019, 17:59:33] [RV]: Maybe she’s just put it to see if anyone gives it to the media x
- [08/04/2019, 18:00:47] [CW]: I think that may be the case, so attention seeking either way x”
222. Ms Vardy’s evidence was that in the first message in this exchange she was not referring to the Gender Selection Post. Her consistent position has been that she was referring to

a different post in which Ms Rooney was holding a baby girl and the words were to the effect, “*maybe we will have one of our own one of these days*”. Ms Vardy said that it was similar to the Broody Post, but it was not that one – and plainly Ms Vardy could not have been referring to the Broody Post at 5.40pm on 8 April as it was not uploaded until the following afternoon. I note that Ms Watt had also claimed in her first statement that she had no memory of seeing a post about gender selection, but remembered seeing a picture of a baby girl.

223. Although extensive searches have been made for the post that Ms Vardy says she recalls seeing, the only post similar to her description that has been found is the Broody Post. The claimant contends that it may have been deleted – just as the Marriage Post was deleted. And Ms Rooney could have forgotten about it, just as she forgot that she had sent the second warning post. The claimant also sought to draw support from the fact that the screenshots show the Gender Selection Post was the fourth of five stories and then became the third of five stories. However, the reason for that is highly likely to be that by the time of the second screenshot of the Gender Selection Post (a) the first of the five stories that had been counted in the first screenshot had passed the 24 hour period and (b) Ms Rooney had added the Crowd Post.
224. While it is possible that a post could have been deleted and Ms Rooney could have forgotten about it, in my judgment, it is far more probable that Ms Vardy was referring in her message to the Gender Selection Post. First, the surprised tone and content of the exchanges are more consistent with discussing the Gender Selection Post than a post similar to the Broody Post. Secondly, Ms Vardy was drawing Ms Watt’s attention to the Private Instagram Account at 5.40pm on 8 April (although Ms Watt’s response again shows that she was already keeping a close eye on Ms Rooney’s posts). It is obvious that Ms Vardy had herself looked at the Private Instagram Account shortly before sending her message. The Gender Selection Post had been visible via her account for about four hours and it is unlikely that Ms Vardy overlooked it. Thirdly, less than a week later, Ms Vardy and Ms Watt discussed the Gender Selection Post in the following WhatsApp exchange:

“[14/04/2019, 09:24:26] [CW]: How much of an attention seeker is Coleen. No press off of her post about genetic selection so now she starts posting that she’s in Mexico in the hope that someone notices x

[14/04/2019, 09:53:30] [RV]: Haha I did think that when I saw!
x

[14/04/2019, 09:54:04] [CW]: Literally showed how desperate she is. Pretends she hates it and then can’t stand it once she doesn’t get it. I am jealous she’s in Mexico though x

[14/04/2019, 10:09:11] [RV]: Unless she’s trying to find out if anyone will leak it? Fuck knows x

[14/04/2019, 10:10:46] [CW]: Definitely x” (emphasis added).

I do not accept Ms Vardy would have responded as she did if she had no idea what Ms Watt was talking about when she referred to a “*post about genetic selection*”.

225. It is highly likely that the Gender Selection Post was disclosed to Mr Halls (or possibly Ms Henman) by Ms Watt. In light of Ms Monk's evidence that Ms Henman said they had a screenshot, and the fact that *The Sun* published the articles even when given a strong steer that the story could not be true, it is probable that the journalist was given a screenshot of the Gender Selection Post. There is convincing evidence that no one other than Ms Vardy and Ms Watt could have taken a screenshot of the Gender Selection Post as it was not visible to any other followers. The inference that Ms Watt and/or Ms Vardy leaked the Gender Selection Post is further supported by Mr Halls' NCND stance (relying on s.10 of the 1981 Act), having "*acquired relevant information*" (according to his Counsel, Mr Price QC) which meant that he could not maintain his initial statement denying that Ms Vardy was the source of the Gender Selection Articles. It is unclear why there was a gap of four months between Ms Rooney uploading the Gender Selection Post and the articles about it, but it may be because Ms Vardy and Ms Watt suspected, as their contemporaneous exchanges show, that Ms Rooney might be posting material to see if it would be leaked and they were conscious that Ms Rooney appeared to have suspected Ms Vardy and had only recently reinstated her as a follower.
226. Ms Vardy accepts that Ms Watt may have used her Instagram account to access and disclose the Gender Selection Post but she denies, if that is so, that she knew anything about it or condoned such disclosure. I reject that contention. First, I have found that Ms Vardy's evidence regarding the Gender Selection Post is not credible. Secondly, I have found that Ms Vardy and Ms Watt have deliberately deleted or destroyed evidence. Given that the Reveal Post expressly referred to this post, I draw the inference that evidence of the disclosure to *The Sun* of the Gender Selection Post is likely to have been deleted. Thirdly, the pattern of working together to give the press information is evident. The evidence is wholly inconsistent with the thesis that Ms Watt was acting alone, without Ms Vardy's knowledge, consent or approval.

Danny Drinkwater – 8 April 2019

227. Separately, on the same day that Ms Rooney uploaded the Gender Selection Post, Ms Vardy exchanged the following messages with Ms Watt:

"[08/04/2019, 20:59:16] [RV]: Story.... Danny Drinkwater arrested x

[08/04/2019, 20:59:32] [CW]: For what?

[08/04/2019, 20:59:44] [RV]: Crashed his car drunk with 2 girls in it.... both in hospital one with broken ribs x

[08/04/2019, 20:59:52] [CW]: Fuck. When?

[08/04/2019, 20:59:53] [RV]: He's only just been let out of the cells x

[08/04/2019, 20:59:57] [RV]: Last night! X

[08/04/2019, 21:00:04] [RV]: I want paying for this x

[08/04/2019, 21:00:05] [CW]: Which police station?

[08/04/2019, 21:00:23] [CW]: They would have to get the police station to confirm before they can write it x

[08/04/2019, 21:00:25] [RV]: Hale area... was at a house party last night x

[08/04/2019, 21:00:30] [CW]: Also do you know what car he has? x

[08/04/2019, 21:00:40] [RV]: Let me find out x

[08/04/2019, 21:00:45] [RV]: He's only just been let out x

[08/04/2019, 21:00:49] [RV]: It's bad x

[08/04/2019, 21:01:48] [CW]: What a dick x

[08/04/2019, 21:01:58] [RV]: Range Rover I think... at least £100k worth of damage x

[08/04/2019, 21:02:01] [CW]: Just sent it to Andy halls

[08/04/2019, 21:02:06] [RV]: He's in big trouble x

[08/04/2019, 21:02:09] [CW]: He relied instantly and said news are already on it

[08/04/2019, 21:02:15] [RV]: They have a game tonight x

[08/04/2019, 21:02:20] [CW]: Someone leaked it from police station.

[08/04/2019, 21:02:22] [RV]: Fuck someone already tipped it x

[08/04/2019, 21:02:28] [RV]: Omg [crying with laughter and shocked face emojis] x

[08/04/2019, 21:03:31] [RV]: They don't waste any time x

[08/04/2019, 21:03:39] [RV]: He was due to pick his little boy up today as well x

[08/04/2019, 21:04:05] [CW]: Shit.

[08/04/2019, 21:04:30] [RV]: Apparently he refused to stop the car and let the girls out x

[08/04/2019, 21:08:34] [CW]: It's already the sun's front page tomorrow x

[08/04/2019, 21:08:45] [RV]: Holy FUCK ,

[08/04/2019, 21:08:51] [CW]: Is he john's client?

[08/04/2019, 21:08:53] [RV]: I'm fuming I didn't give it to you earlier x

[08/04/2019, 21:09:01] [RV]: No he's not x

[08/04/2019, 21:09:05] [CW]: Me too that would have been a fortune [two crying with laughter emojis]

[08/04/2019, 21:09:18] [CW]: Do you know his address? Could get Spalsh on him for pics x

[08/04/2019, 21:09:19] [RV]: I didn't have all the facts [weary face emoji] x

[08/04/2019, 21:09:37] [RV]: He lives in london but I don't know where his house is in hale x

[08/04/2019, 21:10:31] [CW]: Danny is trying to get an address x

[08/04/2019, 21:10:56] [RV]: I think he backs onto a lake x

[08/04/2019, 21:11:08] [RV]: But then again I'm not sure if his ex and their little boy just live there x"

228. Ms Vardy sent a message to Mr Drinkwater which said: "*What have you done* [shocked face emoji] *Danny ffs* [weary face emoji]". In her message she did not ask him for his address. Ms Vardy's exchange with Ms Watt continued:

"[08/04/2019, 21:12:15] [RV]: I've messaged him on insta! See if he replied x

[08/04/2019, 21:12:31] [CW]: Ok x"

229. Ms Vardy acknowledged that she intended to leak to *The Sun* information that Mr Drinkwater had been arrested. She said that this was not private information because Mr Drinkwater had been at a public party, had left the party with two girls, and she believed that "*one of those girls had actually put something on social media on Instagram*". Ms Vardy denied that the information that Mr Drinkwater "*was due to pick his little boy up*" was private information, saying a number of people could have known it. She regretted getting involved (albeit *The Sun* already had the story) and explained that she did so because she had been affected badly in the past by her ex-husband's drink driving and so she reacted by seeking to make sure the information about Mr Drinkwater's conduct was made public.

230. Ms Vardy's evidence was that her comment, "*I want paying for this*" reflected no more than a fleeting thought. She accepted that when Ms Watt suggested getting Splash "*on him for pics*", Ms Watt was referring to the paparazzi agency. She also accepted that Ms Watt was trying to find out Mr Drinkwater's address. Ms Vardy denied that she tried to help Ms Watt get the paparazzi agency to Mr Drinkwater's home to take

photographs. She said, “*I would never have messaged Mr Drinkwater on Instagram to find out what his address was*”. In cross-examination (before she was alerted in re-examination to the message she sent to Mr Drinkwater) Ms Vardy could not recall whether she had messaged him at all or whether she just told Ms Watt that she had messaged him “*just to end the conversation*”. She said that if she had sent him any message “*I probably would have told him he’s a fucking idiot*”. The claimant relies on the consistency between her answer and the (subsequently found) message.

231. It is evident that Ms Vardy’s announcement that she had a “*story*” instantly made clear to Ms Watt that she was bringing her information to give to *The Sun*. Within less than a minute of Ms Vardy’s first message Ms Watt spoke of what “*they*” would need “*before they can write it*”, which Ms Vardy would have understood as being a reference to journalists at *The Sun*, confirmed by Ms Watt’s statement that she had sent the information to Mr Halls. If, as Ms Vardy suggested, this was the sole occasion on which she had provided information for disclosure to the press, it is unlikely the initial exchange would have been so swift and concise. The impression the exchange conveys is that they both knew the kind of information the journalists would need; Ms Vardy had held off giving the information earlier because she “*didn’t have all the facts*”. When she provided information, Ms Vardy first gave the core details and then added points the press would be likely to pick up on, such as that the damage was worth “*at least £100k*” and that Mr Drinkwater had been “*due to pick up his little boy*”. It is also evident that they both knew the information needed to be conveyed rapidly, albeit Ms Vardy was shocked that *The Sun* had already got the story.
232. I do not accept that in saying she wished to be paid for this information Ms Vardy was expressing no more than a fleeting thought. As soon as she had conveyed the core information she said, “*I want paying for this*”, in circumstances where she had been gathering the details for a little while before her first message. It is evident that Ms Vardy had an idea of the value of the information she held and, whereas on other occasions it is likely that the benefit was non-monetary, she was clear from the outset that she expected to be paid. This was consistent with her evidence that, although her husband was well paid, she wished to earn independently; as well as with her exasperated message to Ms Watt on 11 September 2019 that “*We still need to make money*”.
233. The expressions of frustration that *The Sun* already had the story were clearly genuine, albeit I accept they were fairly light-hearted. It is also apparent that Ms Watt sought to find another way for them to make money from the story, by getting a paparazzi agency involved. Ms Vardy sought to assist by giving such details as she knew about where Mr Drinkwater lived and by getting in touch with him directly. It is correct, of course, that in her message Ms Vardy did not ask him for his address. But she deliberately made an approach at that time with a view to seeing if he would reply. She would have known that a message out of the blue asking for his address would have failed to elicit a response. It was only if he had replied that she would potentially have been able to seek that information more subtly. I agree with the defendant that Ms Vardy’s message to Mr Drinkwater at a time when he had just been released from the police station is consistent with her practice of initiating WhatsApp conversations with Ms Rooney in response to articles about her in the press, and giving the impression that she was fishing for information.

234. This exchange does not concern information about Ms Rooney or from her Private Instagram Account. Nonetheless, it is evidence of Ms Vardy's willingness to provide information to the press about others within her circle which they would undoubtedly have preferred not to be disclosed. And it illuminates the way in which Ms Vardy and Ms Watt worked collaboratively.

Maldives stuff – 6 August 2019

235. On 6 August 2019 Ms Vardy and Ms Watt exchanged the following messages on WhatsApp:

“[06/08/2019, 12:13:11] [RV]: image omitted

[06/08/2019, 12:13:28] [RV]: She's gone and done it now leak the Maldives stuff x

[06/08/2019, 12:47:29] [CW]: Has she said how pregnant she was?

[06/08/2019, 12:47:55] [RV]: 8wks x”

236. As the media file has been omitted it is not possible to tell from the exchange who Ms Vardy and Ms Watt were talking about. In evidence Ms Vardy said that she thought the image was a picture of an article in Closer magazine about Danielle Lloyd. Ms Vardy gave evidence that the line “*She's gone and done it now leak the Maldives stuff*”,

“should actually read, “She's gone and done it now leaked the Maldives stuff”. It was in reference to Danielle Lloyd talking about her Maldives honeymoon and her unfortunate miscarriage.” (Emphasis added.)

Ms Vardy meant, she said, that Ms Lloyd had given information about herself to the press; Ms Vardy had no “*Maldives stuff*” and was not telling Ms Watt to leak any such information.

237. I accept Ms Vardy's evidence that the omitted media file was probably a screenshot of an interview with Ms Lloyd that was published in Closer magazine on 6 August 2019 in which Ms Lloyd spoke about her miscarriage. The timing of the article, and the fact that their WhatsApp exchange concerned a woman who had been eight weeks' pregnant (as Ms Lloyd had been, when she miscarried, according to the article), support Ms Vardy's evidence that this exchange was about Ms Lloyd.

238. However, the rest of Ms Vardy's evidence regarding this exchange was implausible. The natural reading of her message is that she was instructing Ms Watt to give the press “*the Maldives stuff*”. The phrase “*she's gone and done it now*” indicates that Ms Vardy was annoyed with Ms Lloyd. It was for that reason that she gave the instruction to “*leak the Maldives stuff*” which, it may be surmised, was information about Ms Lloyd which she would not have wanted to be provided to the press. The way in which Ms Watt responded, by asking a follow up question, shows that she was aware (from previous communications) what Ms Vardy meant by the “*Maldives stuff*” and understood the instruction she had been given.

239. Ms Vardy’s assertion that in saying “*leak the Maldives stuff*” she was referring to Ms Lloyd disclosing information about herself in interview makes no sense. First, it would be an odd use of language to suggest that a woman who gave a public interview concerning her miscarriage had “*leaked*” information to the press about herself. Secondly, the article in Closer magazine makes no reference to the Maldives (or to Ms Lloyd’s honeymoon). There is no sense in which Ms Lloyd could be said to have disclosed “*Maldives stuff*” in that article.
240. In addition, it appears from a WhatsApp exchange between Ms Vardy and Ms Watt earlier in the year that Ms Vardy held sensitive information regarding Ms Lloyd. On 23 January 2019, they exchanged the following messages:

“[23/01/2019, 20:34:14] [CW]: image omitted

[23/01/2019, 20:34:42] [RV]: [12 shocked/flushed face emojis]
she’s a nasty bitch x

[23/01/2019, 20:34:57] [CW]: She’s trash x

[23/01/2019, 20:34:58] [RV]: I’ve taken a big dislike to her! She thinks she’s amazing x

[23/01/2019, 20:35:06] [RV]: Would love to leak those stories x

[23/01/2019, 20:35:18] [CW]: She is so up her own arse”

241. Ms Vardy’s evidence was that this exchange, which appears in the midst of a conversation about Ms Rooney, was about Ms Lloyd. I accept that the omitted media file and this part of the conversation probably related to Ms Lloyd rather than Ms Rooney. In the message immediately following this part of the exchange, Ms Watt stated, “*I would have tried to have done a story on Coleen*”. Ms Watt’s use of her name, rather than referring to “*her*”, suggests a switch back to discussing Ms Rooney. It is evident from this exchange that both Ms Vardy and Ms Watt had some information about Ms Lloyd (“*those stories*”) which they had previously discussed and which, in January 2019, Ms Vardy was holding back from leaking. Given the timing of Ms Lloyd’s marriage (in autumn 2018), and likely timing of her honeymoon in the Maldives, it is probable that “*those stories*” were the same information that Ms Vardy later referred to as “*the Maldives stuff*” when telling Ms Watt to leak it.
242. Although there is no evidence before me that whatever information Ms Vardy may have held about Ms Lloyd was ever published, this evidence is pertinent in assessing Ms Vardy’s credibility, her willingness to provide information about others to the press, and the way in which she and Ms Watt worked together.

The Difficult Year Post – August 2019

243. On 6 August 2019, it was announced that Mr Rooney was going to sign for Derby County, and so the Rooney family would be moving back to the UK. The same day Ms Rooney uploaded a photograph of Mr Rooney with one of their sons, with the message “*Thank you so much for all the lovely messages....buzzing [hands raised emoji] it was a difficult year but an experience and it’s made me look at life in different ways*”.

The photograph was also put on her public Instagram account, but the message was only on the Private Instagram Account.

244. On 8 August 2019, the Difficult Year Article by Mr Boyle was published (see §10(v) above). The article included the words, “*In a message to close friends on social media this week she admitted it has been a ‘difficult year’*”. It is clear that these words are drawn from the Difficult Year Post and it is highly probable that a screenshot of the post, or a description of its contents, was disclosed to Mr Boyle by someone who had access to the Private Instagram Account. Ms Rooney was not aware that this disclosure had occurred prior to the Reveal Post.
245. For the reasons I have given, and bearing in mind the professional relationship that both Ms Watt and Ms Vardy had with Mr Boyle, I infer that the Difficult Year Post was disclosed by Ms Vardy, using Ms Watt as the conduit.

The Soho House Posts – August 2019

246. In August 2019, Ms Rooney went away for a weekend break to Soho Farmhouse in the Cotswolds with three friends, including Ms Claire Rooney. Ms Rooney uploaded a number of posts to her Private Instagram that weekend, including a video of herself on a bicycle holding and drinking from a bottle of wine and another of Ms Claire Rooney drinking a beer with a baby in the background (‘the Soho House Posts’).
247. On 13 August 2019, the Soho House Article was published (see §10(vi) above), initially with Ms Henman’s name in the byline, but this was subsequently changed to give Mr Halls’ name, and he has acknowledged responsibility for it. The article refers to Ms Rooney having been “*seen swigging a bottle of plonk while cycling*” and states that she “*was joined by Wayne’s cousin Claire who was drinking in front of families, some with babies*”. It is probable that these words in the Soho House Article were derived from the Soho House Posts.
248. However, the Soho House Posts were not only visible to all of Ms Rooney’s followers. Ms Claire Rooney also posted them so that they were visible to the 800 or so followers of her private Instagram account. The other two friends who were with them did not give evidence or disclosure of their social media. But there is some evidence that one of the friends, Ms Hayley Fletcher, was also posting on Instagram that weekend as one of the posts disclosed by Ms Claire Rooney was reposted from Ms Fletcher’s account. One or both of them may well have reposted the same two Soho House Posts, or posts with essentially the same content, and I have no information as to how many followers they may have had or how trustworthy they believed them to be.
249. The Soho House Posts were probably given to Mr Halls, a journalist whose connection to Ms Vardy and Ms Watt is strongly evidenced. Nevertheless, although there is a significant possibility that Ms Watt (condoned by Ms Vardy) provided the posts to Mr Halls, I do not consider it safe to infer that it is probable she did so, given the high number of people who had access to those posts and the lack of information about them. Accordingly, in considering Ms Rooney’s defence of truth, I leave out of account the Soho House Posts.
250. Ms Rooney noticed the Soho House Article and on 15 August 2019 she posted a message on her Private Instagram Account:

“That rag of a paper trying to get me done for drink driving and speeding [crying with laughter and weary face emojis] ... try anything won't they!! A load of shit but made me laugh [sniggering (hand over mouth) emoji].....[questioning (face with monocle) emoji] and @claireroon how dare you drink your shandy in front of families with babies!!! [two crying with laughter emojis]”.

251. I accept Ms Rooney's evidence that although the tone of this post was light-hearted, she was upset by this further leak. The day before she had heard from Ms Monk that *The Sun* were planning to publish an article based on the Gender Selection Post, and the online article came out on 15 August 2019. Ms Rooney noticed that the Soho House Article bore (initially) the name Ellie Henman in the byline, who was the journalist who had approached Ms Monk for comment before the Gender Selection Articles were published. Ms Rooney had also noticed, while she was at Soho House, that Ms Vardy was on the cover of *The Sun on Sunday's* magazine, *Fabulous*, on 11 August 2019, and that there was a double page spread bearing the headline, “*Rebekah Vardy on her postpartum depression, overcoming abuse...and meeting Jamie*”. Ms Rooney decided to “*pick up the Sting Operation again*” with a view to “*getting a few more blatant examples to add to those that I had already had*”.

The Sting Operation Part II – 15 August 2019 to 9 October 2019

252. On 15 August 2019, Ms Rooney used the hide a story function to prevent all of the followers of her Private Instagram Account except Ms Vardy from viewing the stories she posted. Ms Rooney decided to upload a mix of stories ranging from “*mundane posts*” to invented content which she thought “*was more likely to be of interest to The Sun*”, and to do so over a more prolonged period. During this second stage of the Sting Operation, Ms Rooney uploaded more than 50 stories. The content of only one of these stories (the Flooded Basement Post) was published in *The Sun*.
253. Of the 29 stories the parties chose to put in evidence, only one does not indicate that it was seen by Ms Vardy's (or any) account. Two others, dated 28 and 31 August 2019, show they were “*Seen by 2*” and “*Seen by 3*”, respectively. In relation to the 28 August 2019 post, this was because Ms Rooney accepted a new follower and then uploaded a story without first hiding stories from the new follower. She noticed the omission at the time and hid stories from the new follower. In relation to the story on 31 August 2019, Ms Rooney explained that when she overheard her brother's partner mention the names of two people (who were followers of the Private Instagram Account) who were going to a barbeque at Ms Vardy's house, she was concerned that if Ms Vardy said anything about the content of her posts and stories these friends would realise that they were blocked and it might cause Ms Vardy to be suspicious that “*something was going on with the account*”. So Ms Rooney enabled those two followers to view stories for the day. Those two followers and Ms Vardy saw the single story she uploaded on 31 August 2019.
254. Save for the three followers who each saw one post during the second stage of the Sting Operation, all Ms Rooney's followers remained unable to view her stories until she uploaded the Reveal Post on 9 October 2019. The fact that only one story appears not to have been viewed by Ms Vardy and/or Ms Watt is evidence of the regularity with which they were checking the Private Instagram Account.

255. On 15 August 2019, Ms Rooney posted various stories, including about starting her own events company ('the Events Post'), about having a housewarming party ('the Housewarming Post') and about SoulCycle ('the SoulCycle Post'). These were, again, invented stories.
256. On 16 August 2019, Ms Vardy and Ms Watt exchanged the following WhatsApp messages:

"[16/08/2019, 08:23:30] [RV]: image omitted

[16/08/2019, 08:23:38] [RV]: She's soooooo desperate for attention x

[16/08/2019, 08:24:01] [RV]: Will hate it when she finds out I've beaten her to it [crying with laughter emoji] x

[16/08/2019, 08:25:28] [CW]: [6 crying with laughter emojis]

[16/08/2019, 08:26:09] [RV]: And did you see she's planning a new event business [emojis] x

[16/08/2019, 08:26:13] [CW]: I saw a set of photos of her a couple of days ago by the guys she sets them up with. I reckon stretford is on it hard trying to get her back out there in a positive light. He will have hated Brady's column [crying with laughter emoji]

[16/08/2019, 08:26:16] [CW]: Wtf?

[16/08/2019, 08:26:49] [RV]: Yeah in her gym clothes [sleeping face emoji] x

[16/08/2019, 08:26:59] [CW]: So I asked Andy halls a couple of days ago where they are getting so much coleen stuff from and he wouldn't say who but the same girl in the sun who gets all the tips of Adam Johnson's sister is the one getting them x

[16/08/2019, 08:27:03] [RV]: image omitted [Event Post]

[16/08/2019, 08:27:10] [CW]: Yeh the gym clothes x

[16/08/2019, 08:27:24] [CW]: Wtf

[16/08/2019, 08:27:33] [CW]: I think she has posted that to see if anyone sells it x

[16/08/2019, 08:27:34] [RV]: I wonder who it's coming from then x

[16/08/2019, 08:27:39] [CW]: No way will she work ever x

[16/08/2019, 08:27:51] [RV]: Yeah 100% these posts are to see who gives them to the paper x

[16/08/2019, 08:28:06] [CW]: That is so fake! yay!!!

[16/08/2019, 08:28:30] [RV]: She's starting to annoy me x

[16/08/2019, 08:28:41] [CW]: She is an attention seeker x

[16/08/2019, 08:29:06] [RV]: 100% and I think that's another reason she came back to the uk as no one knew or cared who she was in America x

[16/08/2019, 08:30:39] [CW]: Definitely. No wag lifestyle and no attention x

[16/08/2019, 08:30:56] [CW]: The post she did yesterday about missing SoulCycle and putting on weight was also for attention
x

[16/08/2019, 08:31:10] [RV]: Oh I missed that one x" (emphasis added).

257. It is likely that the first media file sent in this exchange is a screenshot of a story from the Private Instagram Account. It is unclear which story, although given the exclusive article in *The Sun* by Mr Halls, published ten days later, announcing "*Rebekah is expecting her fifth child early next year*", and Ms Vardy's comment at 8.24, it may have been a story related to having another child. The image sent at 8.27 by Ms Vardy is a screenshot of the Event Post. Although the media file is omitted from Ms Vardy's copy of her WhatsApp messages, on 25 November 2020 Ms Watt sent Ms Vardy a screenshot of the messages from 8.27 to 8.29 which included the image of Ms Rooney's post.
258. On 16 August, at 9.59am, Ms Rooney uploaded a screenshot of the Gender Selection Article with the caption, "*Was worth the trip to see what it's all about but it's gonna have to happen the natural way!! Our Tony Mc is totally against it [weary/sad face emoji] (catholic values). Guttled. Fingers crossed it's gonna be [pink heart]*" ('Second Gender Selection Post'). The same day she posted, "*Thanks for lovely messages everyone ... think it's Wayne more than me that wants pink!! Would be nice but let's see what happens [pink and blue hearts]*" ('the Pink Post'). These were fabricated stories. Ms Vardy sent a screenshot of the Pink Post to Ms Watt at 15:37, with the message "*Seriously fuck off no one really cares x*". Ms Watt responded within seconds, "*Oh ffs. I think she is defo posting to see if someone is saying this stuff to press x*".
259. Just over an hour later, they continued:

"[16/08/2019, 16:48:48] [RV]: Do you think she still thinks it's me x

[16/08/2019, 16:48:54] [CW]: That's why I asked him who he got stuff from

[16/08/2019, 16:49:19] [CW]: And that's when he said Ellie henman gets it all but sometimes they put it under his byline to make it less obvious

[16/08/2019, 16:53:34] [RV]: Bet it's their PR again has to be x

[16/08/2019, 16:53:52] [RV]: I really can't see anyone being that arsed with selling stories on her

[16/08/2019, 16:54:21] [CW]: Unless it is someone who his skint like Danielle Lloyd [emojis]

[16/08/2019, 17:42:53] [RV]: Ahhhh is she on her private Instagram x

[16/08/2019, 17:43:41] [CW]: Yes! I saw her comment on something the other day. In fact it was under a story she had posted a screenshot of x" (emphasis added).

260. It is highly likely that the messages in which Ms Vardy and Ms Watt query who was providing information to *The Sun* about Ms Rooney, sent at a time when they had no idea they would later be disclosed in litigation, reflect their genuine belief that someone was providing information to *The Sun* about Ms Rooney. This is significant in assessing the defence of truth but, as I have said, it is not Ms Rooney's case, or her belief, that Ms Vardy was responsible for every source story about her in the press (see §169 above). The fact that Ms Vardy and Ms Watt believed someone else was providing information about Ms Rooney does not negate the evidence that they were doing so.

261. On 18 September 2019, Ms Vardy and Ms Watt had the following exchange on WhatsApp:

"[18/09/2019, 14:36:06] [RV]: image omitted

[18/09/2019, 14:36:12] [RV]: Ummmmm..... [emoji] x

[18/09/2019, 14:36:23] [CW]: Attention seeking

[18/09/2019, 14:36:27] [CW]: She isn't pregnant

[18/09/2019, 14:36:32] [CW]: As she just had her tonsils out

[18/09/2019, 14:36:35] [RV]: 100% I like that crib x

[18/09/2019, 14:36:36] [CW]: So has anaesthetic"

262. It is probable that the omitted media file is a screenshot of a story that Ms Rooney uploaded at 2.28pm that day showing a photograph of a crib with an image underneath of a person pushing a shopping trolley. Ms Watt's response that Ms Rooney had "*just had her tonsils out*" was evidently based on a story Ms Rooney posted on 13 September showing a photograph of legs in a hospital room and the caption, "*My classy stockings!! Tonsils gone* [tired face emoji]". This exchange is one of many examples of Ms Vardy's practice of sending a screenshot of Ms Rooney's posts to Ms Watt.

263. On 25 September 2019, Ms Rooney posted a photograph of herself with the caption “*work decisions today* [grimacing/anxious face emoji]...*maybe it’s time for Australia @Claireroon* [woman shrugging and face blowing a kiss emojis]” and “*Good Day* [heart]” written in manuscript (‘the TV Decisions Post’). The references to Australia were intended to allude to the reality TV programme *I’m a Celebrity*, which was filmed there, and would have been understood as referring to that programme. Ms Rooney tagged Ms Claire Rooney to make the story appear authentic, although the story would not have been visible to her at the time.

264. On 28 September 2019, the TV Decisions Article was published online (see §13 above). The article stated:

“COLEEN Rooney will revive her TV career when husband Wayne returns to the UK.

Coleen, 33, has been locked in talks with producers – and plans to front a fashion programme in which she designs ranges for women and kids.

She was approached by *Strictly Come Dancing* bosses, but could not appear in the BBC show this year as she was still in the States.

...

And last night a source said: “Coleen could well do *Strictly* next year, but in the meantime has other TV stuff lined up. ... Coleen is also really passionate about doing fashion stuff, so that is where she will focus her efforts. A show is being lined up for ITV or Channel 4 and she is likely to design items on it. ... Coleen put things on hold to go to America with Wayne last year – but wants to kick-start her career back on home soil. ...”

...

A spokesman for Coleen declined to comment. ...”

265. The TV Decisions Articles made no reference to *I’m a Celebrity*. Although Ms Rooney accepts, in light of Mr Hamilton’s evidence, that Ms Vardy was not a source for the TV Decisions Articles, at the time she thought the TV Decisions Post had been leaked. Although she recognised that no reference was made to *I’m a Celebrity*, she thought her hint had not been picked up. Ms Rooney thought the timing of this (untrue) article in *The Sun* about her reviving her TV career, only a few days after the TV Decisions Post, was striking and unlikely to be a mere coincidence. Nevertheless, she continued with the Sting Operation with a view to gathering further examples of leaks of posts visible only to Ms Vardy’s account.

266. On 1 October 2019, Ms Rooney uploaded a video of driving the children to school with the caption “*Bus stop tunes* [woozy face emoji]...*7.15am, Cass thinks it’s so funny!!*” and another with the message “*Rainy school runs* [weary face emoji]” (‘the School Run Posts’). Ms Vardy and Ms Watt exchanged the following messages:

“[01/10/2019, 08:18:03] [RV]: One of coleens kids looks like he’s got no seatbelt on whilst driving c

[01/10/2019, 08:32:44] [CW]: Yeh he is but it’s on her private insta so can’t do anything with it x

[01/10/2019, 09:21:05] [CW]: She has taken it down now too

[01/10/2019, 09:21:22] [RV]: She’s such a dick x

[01/10/2019, 09:21:42] [RV]: What about the event planning for a wedding [crying with laughter emoji] x

[01/10/2019, 09:22:13] [RV]: Video is still on her instagram x

[01/10/2019, 09:22:42] [CW]: Sorry I’m a dick. I checked stories when I went back to look again and it’s on her wall x” (emphasis added).

267. Ms Vardy said in evidence that she did not know that Ms Watt was “*intentionally going*” to anyone’s Instagram account through her access to Ms Vardy’s account “*to check the information or to see what they’d posted*”. This is one of many examples showing that Ms Vardy was aware that Ms Watt was doing that, at Ms Vardy’s instigation. Ms Watt’s first response shows that she had watched the video, understood Ms Vardy was suggesting it might be of interest to the press, and explained that as the video was on a private account they “*can’t do anything with it*”. Nevertheless, Ms Watt appears to have wished to consider the possibility further, as she went back to view it and commented that it had been taken down. Ms Vardy’s response was to let Ms Watt know that the school run video was still available and to draw her attention to another story that might be of interest, a picture of a couple getting married with the captions, “*Loved my clients today [heart] it’s going to be amazing!!!*” and “*#eventsorganiser*” which Ms Rooney uploaded at 9.14pm on 30 September 2019.
268. The Flooded Basement Post was also part of the second stage of the Sting Operation. Given its importance I address it separately below.

“The Secret Wag” column – September to December 2019

269. The defendant contends that the claimant was a significant contributor to a *Sun on Sunday* column called “*The Secret Wag*” that was first announced in *The Sun* on 4 September 2019. The defendant had initially contended that the claimant was “*the Secret Wag*” but subsequently diluted the allegation to contend she was a contributor. After the initial announcement, between 7 September 2019 and 18 December 2019, there were 11 articles published in “*the Secret Wag*” column. The defendant relies on the contention that the claimant was a contributor in support of her case that the claimant habitually disclosed information to *The Sun* about others, and her propensity to do so is relied on as making it more likely that she disclosed Ms Rooney’s posts.
270. I can address this allegation shortly. First, it is highly likely that “*the Secret Wag*” was a journalistic construct rather than a person. That being so, it is unsurprising, and

provides no support for the allegation, that there are similarities between the attributes ascribed to the “*the Secret Wag*” in the column and Ms Vardy.

271. Secondly, the evidence connecting Ms Vardy to this column is thin. There is an email from the News Editor of the MailOnline in which he is asked for “*absolute confirmation that the Secret Wag is Rebekah*” and responds “*Yeh, she is*”. The author of the email has not given evidence. He did not work for the newspaper in which “*the Secret Wag*” column was published, and his email discloses no basis for his assertion.
272. Aside from this email, the defendant relies on the following exchange between Ms Vardy and Ms Watt:

“[11/09/2019, 15:23:07] [RV]: Did ash get those pics back to you x

[11/09/2019, 15:23:48] [CW]: Yeh we sorted them all and he has shown them today but the sun said no and so did the mirror which is weird so daily mail are just looking at them at the moment x

[11/09/2019, 15:24:32] [RV]: Fuck sake what’s with the sun still saying no x

[11/09/2019, 15:24:56] [CW]: I know why Victoria is saying no but I don’t get the daily. Ash is going to call them back again x

[11/09/2019, 15:26:39] [RV]: Yeah but I’m getting annoyed with them still saying no! Are they never going to have anything while that other thing is running x

[11/09/2019, 15:27:20] [RV]: We still need to make money x

[11/09/2019, 15:30:01] [CW]: I’ll speak to Jane as I think Victoria is overthinking it x

[11/09/2019, 16:16:09] [RV]: Yeah massively x” (emphasis added)

273. It is probable that Ms Vardy was seeking to sell staged paparazzi photographs of herself, and that “*Victoria*” was Victoria Newton, the editor of *The Sun on Sunday* and “*Jane*” was Jane Atkinson, a journalist on the same newspaper to whom Ms Vardy had previously given interviews. The defendant contends that “*that other thing*” was “*the Secret Wag*” column, on the basis that Ms Newton would have wished to avoid the perception that Ms Vardy was receiving good publicity in the same edition of *The Sun on Sunday* in which “*the Secret Wag*” column appeared, in order to avoid raising suspicions that she was “*the Secret Wag*”. That is speculative. If the allegation were true, it is likely that Ms Vardy would have been at least as keen as the editor to avoid raising suspicions, and she would have been earning from the column and so would have felt less need to “*make money*” at that time. I am not prepared to draw the inference for which the defendant contends.
274. Thirdly, much of the information in these articles is information that was already in the public domain and has merely been recycled. And, in any event, there is no clear

allegation – still less any evidence – that Ms Vardy was the source of *any* piece of information that was disclosed in any of these articles.

275. Fourthly, when it was put to Ms Vardy that she was providing information to “*the Secret Wag*” column she responded, “*No, that’s absolutely nothing but fantasy*”. The impression I gained was that the evidence Ms Vardy gave on this matter was probably truthful. In my judgment, this allegation provides no support for the defendant’s truth defence.

The Flooded Basement Post – October 2019

276. On 2 October 2019, Ms Rooney uploaded to the Private Instagram Account, as a story, a photograph of a bottle of wine with the caption, “*Needed after today [grimacing face emoji]...flood in the basement of our new house...when it seemed to be going so well*” (‘the Flooded Basement Post’). The Flooded Basement Post shows that it was “*Seen by I*” and the image of the single account that viewed it is Ms Vardy’s Instagram account icon. There is compelling evidence that it was visible only to Ms Vardy’s account. Ms Rooney fabricated the Flooded Basement Post: there had been no flood in her new house.
277. The online Flooded Basement Article, for which Mr Halls and Mr Boyle were responsible, was published on 8 October 2019 (see §10(vii) above). The article included the following:

“I can reveal last week’s horrendous weather has wreaked havoc at the Rooneys’ £20million family home, flooding their basement.

They had been putting the finishing touches to their Cheshire mansion, but Storm Lorenzo has now set back the completion date.

A source close to the couple said: ‘The house is Wayne and Coleen’s dream, so to see it being damaged has been horrible for them. Coleen has been hard at work with architects and builders since she came back to the UK from America with the boys. She wants to get the place perfect for when Wayne moves back permanently from his US footie club to join them in January. She was called in to find the cellar had been flooded. It was really upsetting. Coleen knows it’s a problem that can be fixed but it’s still been massively stressful.’ ...” (emphasis added).

278. Given that the story that the basement had flooded was untrue, and it was a story that no one other than those with access to Ms Vardy’s Instagram account would have been aware of, it is plain that the articles were based on the Flooded Basement Post. Although the articles quote a source giving more information than is contained in the Flooded Basement Post, there is no realistic possibility that there could have been any source of this fabricated story other than Ms Watt and/or Ms Vardy. It is unclear whether this quotation was provided by Ms Watt/Ms Vardy or concocted by the journalists. Either way, the quotation attributed to a source in the Flooded Basement Articles reinforces

my view that it is probable that Ms Vardy and Ms Watt were the only source of the Car Crash Article.

279. Ms Vardy said in evidence that she did not recall seeing the Flooded Basement Post. On 26 February 2020, in correspondence sent by her solicitor, it was said that “*Mrs Vardy recalls seeing the ‘Flooded Basement Post’*”. Ms Vardy resiled from that acknowledgment in her oral evidence. She suggested that she was not in a good place and had recently had a baby, when she agreed to that letter being sent. In my judgment, the letter of 26 February 2020, written less than five months after the Flooded Basement Post was uploaded, is more likely to be accurate than Ms Vardy’s evidence on this point.
280. The evidence shows that, although Ms Vardy had Mr Halls’ phone number and did sometimes contact Mr Halls directly (although her WhatsApp messages with him have been deleted), when information was passed to the press that was generally done via Ms Vardy’s agent, Ms Watt: see, e.g., the Car Crash, Mr X and Danny Drinkwater episodes. It is probable that on this occasion, too, the Flooded Basement Post was provided to Mr Halls and/or Mr Boyle by Ms Watt, with the knowledge and approval of Ms Vardy.
281. The Flooded Basement Post was expressly referred to in the Reveal Post. Having regard to my findings in respect of the missing evidence, I draw the inference that exchanges between Ms Vardy and Ms Watt regarding the Flooded Basement Post, and with Mr Halls and/or Mr Boyle, which would have supported the defence of truth, are likely to have been deleted or destroyed by Ms Vardy and Ms Watt.

Exchanges following the Post

282. Ms Rooney published the Reveal Post on 9 October 2019 (see §§2-3 above). This prompted the following exchange between Ms Watt and Ms Vardy:

“[09/10/2019, 10:31:04] [CW]: image omitted

[09/10/2019, 10:31:13] [CW]: Message her now and ask what the fuck this is x

[09/10/2019, 10:32:05] [RV]: Who is that x

[09/10/2019, 10:32:15] [CW]: Coleen has posted it on twitter”

It is evident from the content of Ms Watt’s messages that the omitted media file is a screenshot of the Reveal Post, taken from Twitter.

283. As suggested by Ms Watt, at 10:32:26 Ms Vardy sent Ms Rooney a media file, which it can be inferred is a screenshot of the Reveal Post, followed at 10:32:33 by a message which said, “*Wtf is this*”. The exchange between Ms Vardy and Ms Watt continued:

“[09/10/2019, 10:32:46] [RV]: Wow [flushed face emoji] that’s war x

[09/10/2019, 10:33:36] [CW]: She has just posted it now

[09/10/2019, 10:34:22] [CW]: You will have to say that you don't speak to anyone about her but that recently your insta has even been following people you don't follow

[09/10/2019, 10:34:42] [CW]: And she should have come to you first and asked you about it

[09/10/2019, 10:34:48] [CW]: So you could have changed your password

[09/10/2019, 10:35:35] [CW]: Just say you have allowed a company to access it for sponsored posts and a former social media agency that you worked with too

[09/10/2019, 10:35:48] [CW]: I want to call her PR

[09/10/2019, 10:46:45] [RV]: image omitted

[09/10/2019, 10:57:30] [CW]: As I have just said to you on the phone, I wish you had called me if you thought this. I never speak to anyone about you as various journalists who have asked me to over the years can vouch for. If you thought this was happening you could have told me & I could have changed my passwords to see if it stopped. Over the years various people have had access to my insta & just this week I found I was following people I didn't know and have never followed myself. I'm not being funny but I don't need the money, what would I gain from selling stories on you? I liked you a lot Coleen & I'm so upset that you have chosen to do this, especially when I'm heavily pregnant. I'm disgusted that I'm even having to deny this. You should have called me the first time this happened [broken heart emoji]"

284. At 10:58:53 on 9 October 2019, Ms Vardy sent a message to Ms Rooney in precisely the terms of the message advised by Ms Watt at 10:57:30. Ms Vardy's response that if Ms Rooney had told her she could have changed her password to see if the leaks stopped, and that "*various people have had access to my insta*", was similar to the response that she and Ms Watt had planned in February if it became "*undeniably obvious*" that they were the source of the Car Crash Article. There is robust evidence that Ms Vardy's Instagram account was not compromised. Aside from one occasion when Mr Jones was given access for a day, only Ms Vardy and Ms Watt accessed her account and Ms Vardy knew that was the case.

G. Truth defence: decision

285. I have found that Ms Vardy was party to the disclosure to *The Sun* of the Marriage, Birthday, Halloween, Pyjamas, Car Crash, Gender Selection, Babysitting and Flooded Basement Posts. It is likely that Ms Watt undertook the direct act, in relation to each post, of passing the information to a journalist at *The Sun*. Nonetheless, the evidence analysed above clearly shows, in my view, that Ms Vardy knew of and condoned this behaviour, actively engaging in it by directing Ms Watt to the Private Instagram

Account, sending her screenshots of Ms Rooney's posts, drawing attention to items of potential interest to the press, and answering additional queries raised by the press via Ms Watt.

286. It is also likely that additional information from the Private Instagram Account was passed to the press by them. It is evident that information that was passed to the press would not necessarily be published (e.g. the Babysitter Post). On some occasions, information is likely to have been disclosed to assist the press with articles they were already writing without warranting an enquiry by the press or being obvious that information had been derived from the Private Instagram Account (e.g. information as to whether Ms Rooney had gone to Florida). Press enquiries would not necessarily be run past Ms Rooney (e.g. Mr Stretford's evidence regarding the Car Crash enquiry) and, given the deletion of Ms Monk's email account when she left the company, there may have been more press enquiries than are apparent in the evidence. Having regard to the evidence that is available, and my conclusions regarding the evidence which is missing, it is appropriate to draw an inference that Ms Vardy and Ms Watt together leaked more information from the Private Instagram Account over the course of 2017-2019 than that which is contained in the eight posts to which I have referred.
287. In my judgment, the conclusions that I have reached as to the extent to which the claimant engaged in disclosing to *The Sun* information to which she only had access as a permitted follower of an Instagram account which she knew, and Ms Rooney repeatedly asserted, was private, suffice to show that the single meaning (see §4 above) is substantially true. The information disclosed was not deeply confidential, and it can fairly be described as trivial, but it does not need to be confidential or important to meet the sting of the libel. It was information derived from private posts that Ms Rooney did not want made public. The Pyjamas Post, for example, was a photograph that Ms Rooney may well have been content to share publicly at a different point in time, but the timing of its disclosure revealed very personal information that she had chosen not to make public. I recognise, of course, that it can be said that the Gender Selection and Flooded Basement Posts were fabricated stories that Ms Rooney was keen to see published precisely because she wanted to catch the person responsible for leaking her information. This does not detract from the conclusion that the essential sting of the libel has been shown to be true.

H. Public interest defence: decision

288. In circumstances where the major focus of the trial was on the truth defence, and given my finding in relation to that defence is dispositive of the case, I will express my decision in respect of the public interest defence very briefly. Although Ms Rooney's interest was essentially personal, on balance, I accept that the Reveal Post was on a matter of public interest, namely the undesirable practice of information (in the nature of mere gossip) about celebrities' private lives being disclosed to the press by trusted individuals. I also accept that Ms Rooney believed, having given several warnings on her Private Instagram Account, as well as a public warning, that it was in the public interest to publish the Reveal Post.
289. However, I do not accept that the belief was reasonable in all the circumstances. In particular, it was not reasonable to believe that it was in the public interest to publish the Reveal Post without taking any steps to put the allegation to Ms Vardy and give her

an opportunity to respond. It is no answer to that point that Ms Rooney anticipated that Ms Vardy would deny the allegation.

I. Conclusion

290. For the reasons that I have given, the claim is dismissed.