

IN THE COURT OF APPEAL (CIVIL DIVISION)  
ON APPEAL FROM  
THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
BETWEEN:

Appeal Court Ref: A2/2015/3720

Claim No: HQ14D05024; HQ15D00344

BRUNO LACHAUX

Claimant/Respondent

and

INDEPENDENT PRINT LIMITED

Defendant/Appellant

IN THE COURT OF APPEAL (CIVIL DIVISION)  
ON APPEAL FROM  
THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
BETWEEN:

Appeal Court Ref: A2/2015/3721

Claim No: HQ14D05025

BRUNO LACHAUX

Claimant/Respondent

and

EVENING STANDARD LIMITED

Defendant/Appellant

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APPELLANTS' SUBMISSIONS IN RELATION TO  
PERMISSION TO APPEAL

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1. "The meaning and effect of s.1(1)", to use the wording in the judgment, is plainly a point of law of general public importance.
2. It is, at least, arguable that Court's decision on its meaning and effect is incorrect and that the construction of Bean J (as he then was) in *Cooke* and *Warby* J below (which has been adopted by a number of first instance judges without question) is correct.
3. Assuming that *Warby* J was correct on his construction of s.1(1), his rejection of the other elements of the Appellants' case raises the following points of law of general public importance. The points of law are, at least, arguable as are the Appellants' submissions on their application to the facts, for the reasons set out in their Skeleton Argument for the appeal ("ASA"):-

3.1. The circumstances in which a court should draw the inference of serious harm to reputation in the absence of any evidence of harm to reputation consequential on the publication complained of. This encompasses:

3.1.1. The extent to which reliance can be placed on the seriousness of the meaning arrived at by the common law principles for determining meaning, a process famously described by Diplock LJ in *Slim v Daily Telegraph Ltd* [1968] 2 Q.B. 157 at 171F as “artificial and archaic”. One principle of relevance to the present case, is that a reported allegation must be treated as true.

3.1.2. The reliability of assumptions about the lack of available evidence of harm to reputation, which have never been subjected to proper scrutiny.

3.1.3. The extent to which there is a meaningful and practical distinction between harm to reputation and the consequences of the harm to reputation, in the context of a requirement to prove serious harm to reputation.

3.2. Whether *Dingle v Associated Newspapers Ltd* [1964] AC 371 (HL) prevents a defendant from relying on previous publications to the same effect and analogous material as negating an inference of serious harm contended for by a claimant in relation to the article complained of. This is of particular relevance to the ES Article for the reasons set out in ASA [33.3].

3.3. Whether harm arising from people reading the article complained of after the date of the s.1 determination should be taken into account in relation to “has caused” (as found by the Judge) or “is likely to cause” (as contended for by the Appellants).

**David Price QC**  
**For the Defendants/Appellants**  
11 September 2017