

- Quantum awards were also raised in many of the cases, to include not only damages for long-term psychiatric harm but also for the assaults themselves, on the basis that they were inextricably linked.
72. After the Court of Appeal had delivered judgment, the parties considered their options. HD on behalf of RSA submitted a petition for leave to appeal the decisions of the Court of Appeal on date of knowledge and the section 33 discretion to the Appeal Committee of the House of Lords. On 31 July 2003 the Appeal Committee announced that RSA's application was refused.
73. I should also mention that, with the conclusion of the lead cases, the claim of the one unsuccessful claimant (core participant [AR-A23]) ended.

The insurance proceedings

74. Because the 13 successful lead claimants had judgments against Bryn Alyn Community (Holdings) Ltd which that company could not pay, they then brought claims directly against RSA under the Third Parties (Rights against Insurers) Act 1930 ('the 1930 Act'). That Act permitted the claimants to claim damages directly against RSA if and to the extent that it was obliged to indemnify relevant Bryn Alyn entities under insurance policies.
75. The 13 successful claimants contended that:
- RSA was the public liability insurer of the Bryn Alyn entities for the period during which abuse had occurred (which for the purposes of the lead trials was 1973 to 1991);
 - Bryn Alyn Community (Holdings) Ltd had incurred liability to the claimants by the judgment of Mr Justice Connell; and
 - as a consequence of that liability and the company's liquidation, the claimants were entitled to claim directly against RSA under the 1930 Act.
76. RSA resisted the claims by reference to the policy exclusion quoted above and a previous version of the clause which had appeared in policies covering Bryn Alyn entities up to 1981. It maintained that it was not obliged to indemnify the company, the principal

ground being that all the negligence on which the claims had been based was attributable to deliberate acts by John Allen. In the alternative, it maintained (a) that there was no obligation to indemnify the company in respect of any abuse by Mr Allen and/or (b) that, following a change in the wording of the relevant policy exclusion, from 1981 there was no obligation to indemnify the company in respect of any directors, partners or managerial employees of the company.

77. In order to dispute that stance and claim directly against RSA, the 13 successful claimants duly issued proceedings on 26 June 2003 relying upon the 1930 Act. Those proceedings were issued protectively within 2 years of the judgment of Mr Justice Connell that formalised his rulings and quantum awards in the lead claims, most of which were subsequently increased by the Court of Appeal in their judgment of 12 February 2003. Those insurance proceedings were initially stayed pending the consideration by the House of Lords of the petition to appeal the lead case judgments.
78. On 7 July 2004 the stay was lifted and, with the consent of both parties, the following case management directions were given:
- The title of the claim was to be [redacted] & Others v Royal & Sun Alliance plc.
 - The stay imposed on 24 July 2003 was lifted.
 - Particulars of claim were to be filed and served by no later than 1 August 2004.
 - The Defence was to be filed and served by no later than 30 September 2004.
79. The Particulars of Claim was filed and served on 21 July 2004. By consent, the time for filing and service of the Defence was extended to 12 November 2004. On 12 November HD filed and served RSA's Defence. The principal points raised in the Defence were as follows:
- Following extensive investigations over the previous months, it had been established that RSA's insurance of Bryn Alyn entities had not commenced until 22 August 1976.
 - John Allen was the alter ego of the insured and all the assaults (by him and others) were the result of his deliberate acts in constructing a regime to facilitate abuse, thus engaging the deliberate act exclusion.
 - The acts of abuse were by individuals whose conduct was attributable to the insured for the purposes of the exclusion (in each variant).