

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

Case No:

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

And

DANIEL JONES

Respondent

**STATEMENT PURSUANT TO RULE 12 (2) OF THE SOLICITORS (DISCIPLINARY
PROCEEDINGS) RULES 2019**

I, Mark Rogers, am a Solicitor employed by Capsticks Solicitors LLP. I make this Statement on behalf of the Applicant, the Solicitors Regulation Authority Limited ("SRA").

The allegations

1. The allegation against the Respondent, Daniel Jones, made by the SRA is that while a solicitor, Partner and Head of the Family Law team at Berryman's Lace Mawer LLP ("the Firm"), he:

- 1.1 Between December 2019 and April 2021, misled his client, Person A, into believing that he had lodged an application for a Decree Nisi on her behalf in October or November 2019, when he knew or ought to have known, that was not true.

In doing so, he breached any or all of Principles 2, 4, 5 and 7 of the SRA Principles 2019 and/or Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs.

The facts and matters relied upon in support of this allegation are set out in paragraphs 15 to 87 below.

Recklessness

1.2 In the alternative to dishonesty, the Respondent's conduct at allegation 1.1 was reckless. Recklessness is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the allegation. Further particulars in respect of recklessness are set out at paragraphs 116 to 123.

Appendices and Documents

2. I attach to this Statement the following appendices:

Appendix 1: Relevant Rules and Regulations
Appendix 2: Anonymisation Schedule

3. I attach to this statement a bundle of documents, marked ["MLR1"] to which I refer in this statement. Unless otherwise stated, the page references ("MLR1 p []") in this statement relate to documents contained in that bundle.

4. The bundle is divided into the following sections:

- 4.1. Notice and bundle recommending referral to the SDT;
- 4.2. Representations from the Respondent dated 10 October 2023 and 31 January 2024;
- 4.3. Client file of Person A;
- 4.4. Report to SRA; and
- 4.5. Referral decision.

Professional Details

5. The Respondent, who was born on [REDACTED], is a solicitor, having been admitted to the Roll on 11 August 2011.

6. At the time of the alleged misconduct, he was a Partner and Head of the Family Law team at the Firm. Michael Compston was a trainee solicitor at the Firm and Benjamin Dale was a paralegal, both of whom assisted the Respondent.

7. The Respondent resigned on 12 March 2021, after the Firm initiated an investigation into his conduct. He left the Firm on 9 April 2021.

8. At the time of the alleged misconduct and to date, the Respondent holds a practising certificate free from conditions.

The facts and matters relied upon in support of the allegations

Background

9. On 12 August 2021, the Firm's COLP, Nicholas Pargeter, made a report to the SRA in respect of the Respondent's alleged misconduct [MLR1, p. 1151-1156].
10. The report related to the Respondent's conduct on client matter, Person A, whom the Respondent had represented in her divorce proceedings. The report sets out a chronology of the client matter, which revealed that it had been the subject of significant delay. The main reason for the delay was the failure to lodge the application for a Decree Nisi in a timely manner. The email exchanges between the Respondent and the client reveal that he had led her into believing that the application had been lodged in late October or November 2019, when in fact it was only lodged in November 2020.
11. Person A has provided a witness statement to the SRA dated 6 November 2023. She sets out a chronology of the Respondent's representation of her, and exhibits a paginated bundle of her correspondence with him [MLR1, p. 97-321].
12. In summary, she states that she instructed the Respondent in February 2019, on what was a straightforward divorce. On 25 October 2019, the Respondent told her that he would apply for the Decree Nisi. Between November 2019 and February 2021, she continually chased the Respondent for an update in relation to the Decree Nisi. The Respondent led her to believe that the application was issued in around November 2019, but that there were delays at the Court and that it was through no fault of his or the Firm's that the application remained outstanding.
13. Person A states that she told the Respondent on a number of occasions that the situation was adversely affecting her mental health and that she felt she was being lied to. She requested a full explanation and chronology on a number of occasions but it was not until the Respondent left the Firm on 9 April 2021 and the file was taken over by Partner Kendra McKinney that Person A was told that the application for the Decree Nisi had never been made in November 2019. In fact, it had only been filed in November 2020.
14. The Decree Nisi was finally granted on 6 April 2022.

Allegation 1.1

15. On 19 February 2019, Person A instructed the Respondent to act for her in relation to her divorce **[MLR1, p. 98, paragraph 6]**. It was a straightforward matter as there were no children to the marriage and the parties were agreeable to a clean break in respect of finances **[MLR1, p. 1153]**.
16. On 22 February 2019, the Respondent confirmed the instructions and sent Person A his client care letter, which stated that he would be the solicitor with conduct of her case **[MLR1, p. 112-143]**.
17. On 18 August 2019, the Liverpool Family Court issued the divorce petition **[MLR1, p. 170-171 and p. 173]**.
18. On 1 October 2019, the Respondent emailed Person A and stated that,

“[Person A’s estranged husband] tells me that he has now returned the Acknowledgement of Service form to the Court yesterday. I would anticipate receiving confirmation from the Court that they have received the document within the next 7 – 10 working days. Once I have this confirmation, I will prepare your application for Decree Nisi. Once Decree Nisi has been made, you must allow 6 weeks to pass before you can apply for Decree Absolute. Decree Absolute is the final order of the Court that dissolves the marriage.” **[MLR1, p. 196]**.
19. On 15 October 2019, the Respondent emailed Person A and advised her that he had received the acknowledgement of service from the Court. He attached a statement in support of her application for a Decree Nisi, for her to review and sign. He stated that,

“Once this has been returned to me I shall apply to the court for decree nisi.” **[MLR1, p. 199]**.
20. On 25 October 2019, having received the signed statement from the client, the Respondent emailed her stating,

“I will now apply for Decree Nisi. I would anticipate that the Court will deal with your application for Decree Nisi within 7-10 working days.” **[MLR1, p. 212]**.
21. On the basis of that email, Person A believed that the Respondent would apply for the Decree Nisi **[MLR1, p. 100, paragraph 17]**.
22. There appears to be no evidence on the client file that the Respondent applied for the Decree Nisi in October or November 2019. There also appears to be no

evidence on the client file of the Respondent tasking anyone else to apply for the Decree Nisi for him during that period.¹

23. When Kendra McKinney took over the matter in April 2021, she reviewed the file. She emailed the client on 10 June 2021 and stated that,

“I have reviewed your file and I can see that you were told by Daniel Jones in October 2019 that he would now apply for the Decree Nisi. I confirm that the Decree Nisi was not applied for in October 2019. The application for Decree Nisi was made in November 2020.” [MLR1, p. 91]

24. Having been told by the Respondent on 25 October 2019 that he would apply for a Decree Nisi, Person A emailed him on 12 and 13 November 2019 asking for updates in respect of the application [MLR1, p. 219-220].

25. The Respondent did not reply to Person A requests for updates on the Decree Nisi. However, on 19 November 2019, Mr Compston emailed the Respondent and told him,

“Liverpool Divorce are currently working on post received from 12 October (5/6 weeks backlog)

I can’t see any letter to court sending the DN application/statement – from reading emails, I see your email of 25 October saying we would now apply for DN, but cant see any correspondence to the court.

“Her signed copy isn’t on the physical file; do you have it on email?” [MLR1, p. 43]

26. Therefore, as early as 19 November 2019, Mr Compston put the Respondent on notice that there appeared to be no evidence of the application for a Decree Nisi ever having been sent to the Court.

27. Despite being put on notice of this, the Respondent appears to have undertaken no checks to see whether the Decree Nisi had in fact been applied for, either by himself or upon his instruction. If he had, he would have learnt that no such application had been made, as is confirmed by Ms McKinney and the client file.

28. On 9 December 2019, Person A emailed the Respondent and stated that,

“Further to my email of 13th November, to which I cannot trace having received a response, has there been any progress at all? I had hoped the Decree Nisi would have come through by now!” [MLR1, p. 219]

¹ The full client file is appended to the Rule 12 [MLR1, p. 429-1150]

29. Although the Respondent had been told on 19 November 2019 that there was no trace on the file of the application having been made, the Respondent did not reply to the client until 18 December 2019. In that email at 08:00, he made no reference to the possibility of the application not having been made. He stated,

"We are still waiting for the Decree Nisi. I appreciate this is very frustrating, however the Regional Divorce Centre at Liverpool have a 3 month backlog of work.

I shall have this chased for you today and will update you by email."

30. On the same day at 08:13, the Respondent instructed paralegal Mr Dale to chase the Court for the Decree Nisi and draft an update to the client **[MLR1, p. 728]**.

31. On the same day, Mr Dale telephoned the Liverpool Regional Divorce Court ("RDC"). The Telephone Attendance Note ("TAN") of that call states that he,

"was informed that the court are currently processing Decree Nisi applications from 15 November and so there is a similar expected wait from the date the application was sent." **[MLR1, p. 729]**

32. Although it is not clear from the TAN, we now know that no such application had been made. Had the Respondent made his own enquiries in November 2019, after he was informed by Mr Compston of the absence of any application on the file, he would have already known by December that no such application had been made.

33. Despite asking Mr Dale to draft an update to the client, Person A was not provided with an update in December 2019. She emailed the Respondent on 13 January 2020 and asked him to update her with any progress. She specifically asked,

"Can you let me know what date the decree nisi application was filed with Court? Have you heard from [Person A's estranged husband] with the signed documents/further information needed, if any?" **[MLR1, p. 225-226]**

34. The Respondent did not reply to this email.

35. On 20 January 2020, Person A emailed the Respondent again and told him that she would *"like to make a formal complaint please."* She said that she was having to constantly chase for updates. She asked that he forward the email to the complaints partner **[MLR1, p. 225]**.

36. It appears from the client file that the Respondent did not forward the complaint to the complaints partner. On 22 January 2020, Person A emailed the complaints Partner at the Firm, Patricia Taylor. She stated that,

"I am extremely frustrated. I am a Solicitor myself and if I was providing the level of service that I've been given I wouldn't still have a job."

I was told on 25th October 2019 that Daniel was applying for my Decree Nisi and that it should be dealt with within 7-10 working days. I sent numerous chasing emails once this period expired and eventually received a response to say there was a backlog at Court and that this would be chased. I've again heard nothing and it's now been nearly 3 months since the application for DN was made." [MLR1, p. 224-225]

37. Ms Taylor replied to the email the same day to confirm that it had been logged and forwarded to the Respondent's *"Business Stream Leader, Siri Siriwardene."* [MLR1, p. 224]

38. Person A continued to chase the Respondent whilst the complaint remained outstanding but she did not receive a response [MLR1, p. 101, paragraph 23].

39. On 25 February 2020 at 15:00, Person A received an email from the Respondent's secretary, Louise Rylance, which stated that the Respondent was *"now away from the office until 5 March 2020"* and that a response to the complaint would be provided by *"4pm on 6th March 2020."* [MLR1, p. 227]

40. On the same day at 15:13, Ms Rylance emailed Mr Dale, cc'ing the Respondent and asked him if they had ever received the Decree Nisi [MLR1, p. 45].

41. Mr Dale replied at 15:32 to say that he had not seen it, so *"unless it is sitting on the physical file then we don't have it."* He said he would chase the Court. [MLR1, p. 45]

42. On the same day, Mr Dale telephoned the Liverpool Family Court. The TAN of that call records that Mr Dale was told, *"that there was no record of receiving an application for decree nisi on their system."* [MLR1, p. 46]

43. Ms Rylance emailed the Respondent later that day at 15:43 and advised him that *"we can't trace that we have ever applied for the Decree Nisi"* [MLR1, p. 47]. That email marked the second time that the Respondent was told that the application for a Decree Nisi had not been made.

44. The Firm did not respond to Person A by 6 March. On 27 March 2020, Person A emailed the Respondent, Ms Rylance and Ms Taylor. She stated,

"It is now 9 weeks since I made a formal complaint regarding the service from yourselves. I was promised a response by 4pm on 6th March 2020. This has failed to materialise. I have received nothing at all, not even a response to my email to Louise Rylance on 25th February, where I simply requested an update.

As far as I am aware, the Decree Nisi was sent to the Court in October, over 5 months ago. My friend applied for hers on 8th January and received it on 25th January. Can someone please have the decent (sic) to respond and tell me what on earth is going on?

.....

I am frankly disgusted in the service received. It is affecting my mental health and making me extremely anxious." [MLR1, p. 232-233]

45. On the same day, Mike Brown, Head of Risk and Compliance at the Firm responded to Person A and stated that he was "extremely sorry" to read her email. He said that he had asked the Respondent to address her complaint [MLR1, p. 228-229].

46. Mr Brown emailed the Respondent and said that he had been "asked countless times to address this complaint" and that it was unacceptable that the complaint remained outstanding. The Respondent was told to respond to the complaint by 2.30pm that day [MLR1, p. 747].

47. The Respondent emailed Person A later that day and requested a telephone call [MLR1, p. 231].

48. Person A states that she spoke with the Respondent later that day. She "vividly remembers" that conversation because she was crying on the phone and told the Respondent that she felt she was being lied to. She states that the Respondent "got really shirty with me when I said this and was clearly deeply offended that I had suggested he had lied." He further told her that he had received "special permission from the court to attend in person and re-file the Decree Nisi." This suggested to Person A that the Respondent was maintaining that it had been applied for in around October 2019 and that he would apply again [MLR1, p. 101-102, paragraph 25].

49. Despite the fact that he had been told on two occasions that there was no evidence the application had been sent to the Court, the Respondent made no mention of this to the client. Instead, he inferred to the client that the Court was in error and that he would re-apply. That was not true.

50. The Respondent then advised Mr Brown and Mr Siriwardene that Person A was withdrawing her complaint **[MLR1, p. 746]**.
51. Following his call with Person A on 27 March 2020, the Respondent emailed her to confirm their *“plan of action”*. This included making *“enquiries with the Divorce Centre at the Family Court in relation to Decree Nisi and update you by close of business on Monday 30th March 2020.”* **[MLR1, p. 49]**
52. On 30 March 2020, the Respondent emailed Person A and said he was waiting for a call back from the Court and that he would update her the following day **[MLR1, p. 241]**.
53. There is no evidence on the client file that the Respondent either chased the Court or applied for the Decree Nisi at this point.
54. Person A and the Respondent spoke on 9 April 2020, during which the Respondent told her that he was still waiting to hear from the Court about the Decree Nisi **[MLR1, p. 102-103, paragraph 30]**.
55. By 28 May 2020, Person A had not heard anything further from the Respondent, so she emailed him and asked for an update **[MLR1, p. 247]**.
56. The Respondent did not reply. So on 4 June 2020, Person A once again emailed him for an update. She said that she was *“concerned that the issues I complained about are now surfacing again.”* **[MLR1, p. 247]**
57. Person A continued to chase the Respondent and on 22 July 2020, he emailed her to say that *“we are having significant difficulties with Decree Nisi on numerous cases not only yours.”* **[MLR1, p. 253]**. In fact, the application for Decree Nisi had still not been made by the Respondent or upon his instruction, despite his assurances in March that he would re-apply for it in person at the Court.
58. Having once again chased the Respondent for an update in August and September 2020 **[MLR1, p. 53]**, Person A received an email from the Respondent on 9 September 2020. He stated that he had been away from the office as his new born daughter had been in special care. He further stated that,
- “I confirm (as I have previously) that the documents have been lodged at Court. I have not received any further communication from the Court, however, I will have this chased as (sic) I shall revert to you asap.”* **[MLR1, p. 255]**
59. The Respondent did not revert to Person A as promised. On 24 September 2020, she emailed him and asked whether she should chase the Court herself as she

“was struggling to believe that they have a backlog of Decree Nisi dating back almost a year, as we are now approaching the year mark since it was filed.” [MLR1, p. 256]

60. Person A continued to email the Respondent into October 2020 asking for updates. On 21 October 2020, the Respondent emailed her to say that *“the application for Decree Nisi and the financial order has been lodged with the Court as promised.” [MLR1, p. 57].*

61. Person A replied and said that she thought the Court was expecting it and that it *“would be put before a Judge in person”.* [MLR1, p. 258]

62. The Respondent replied on the same day and said,

“Yes, as promised, the documents were hand delivered to the Court to be taken up to a Judge. I will chase this and revert to you urgently” [MLR1, p. 258]

63. There is no evidence that the application was hand delivered to the Court or placed before a Judge.

64. Once again, despite his assurances to the client that he would chase the Court and revert urgently, Person A had to follow up with him on 2 November and 9 November 2020, when she stated that,

“I’ll be making a further formal complaint tomorrow and will then be approaching the Ombudsman. Quite frankly, I am sick of being lied to and I am sick of promises not being kept. The Decree Nisi was allegedly filed over a year ago. It was then allegedly refiled in April. And then put before a Judge in person last month. Am I seriously expected to believe that the Court has now got three copies of the DN and has dealt with none of them?” [MLR1, p. 61].

65. The Respondent replied on 10 November and said that he would chase the Court and that *“I can assure you, you are not being lied to” [MLR1, p. 62].*

66. However, the client file revealed that it was not until 10 November 2020, that the first application for Decree Nisi was prepared. Mr Compston sent Mr Dale an email, cc’ing the Respondent, in which he stated,

“Dan and I need a hand on this case when you’re in the office tomorrow.

We are sending Person A’ application for Decree Nisi to the Court (which I am preparing today).” [MLR1, p. 63]

67. According to the client file, and confirmed by Ms McKinney in her email to the client of 10 June 2021, this is the first time that the application for a Decree Nisi had been prepared.
68. On 13 November 2020, Mr Compston sent the application for a Decree Nisi to the Liverpool Family Court **[MLR1, p. 64-78]**. It is of note that the covering letter to the Court made no mention of any previous application being made or placed before a Judge **[MLR1, p. 65]**.
69. The Respondent did not inform Person A that contrary to all his previous communications with her, the application for the Decree Nisi was in fact only prepared on 10 November and sent on 13 November 2020 **[MLR1, p. 97-108]**.
70. Person A believed that the Decree Nisi had been applied for in around November 2019, then again in April 2020 and October 2020 **[MLR1, p. 104, paragraph 34]**. She had no idea that the application had been prepared on 10 November 2020 and filed three days after that.
71. Person A emailed the Respondent again on 16, 18, 20, 24 November and 7, 21 December 2020 asking for updates **[MLR1, p. 272-273]**.
72. On 22 December 2020, the Respondent replied to Person A and stated that the application had been considered and was "*now in the back log of work for typing by the Court*" **[MLR1, p. 275]**.
73. Person A was confused by this as she had understood that the Decree Nisi had been placed before a Judge in October 2020 **[MLR1, p. 279]**.
74. Person A continued to email the Respondent throughout January and February 2021 asking for updates **[MLR1, p. 280-282]**. By this stage, the correspondence shows that it was Mr Compston who was largely communicating with Person A **[MLR1, p. 282-285]**.
75. The client file shows that whilst the application was sent on 13 November 2020, the Court returned it on 16 November 2020 as it contained an error **[MLR1, p. 943-946]**. It was re sent on 19 November 2020 **[MLR1, p. 943]**. However, on 12 January 2021, the Court refused to grant the Decree Nisi as the petitioner had not confirmed that she had read the petition.
76. The application was finally re sent on 5 February 2021 **[MLR1, p. 941]**.
77. The Respondent did not tell Person A about these errors. Therefore, when she was told by Mr Dale on 26 February 2021 that the application was placed before a Judge on 20 February 2021, she replied to say that she felt she was "*being lied to*

by your firm constantly.” She requested “an honest explanation of what has happened, with a full chronology and timeline of events asap.” She cc’d the Respondent into that email [MLR1, p. 79]. Person A did not receive a reply to this email [MLR1, p. 105, paragraph 40].

78. It appears that a chronology was prepared on 26 February 2021, either by or on behalf of the Respondent, as it bears his initials. It shows that the application for the Decree Nisi was first sent in November 2020. That chronology was never sent to the client [MLR1, p. 80].

79. The Respondent still had conduct of the matter by this stage. He emailed Person A on 17 March 2021 and stated,

“I have been able to liaise with the Court and now understand the chronology somewhat better.

The application was lodged as you are aware some time ago. We have chased the Court consistently since November 2020.” [MLR1, p. 81]

80. This email was misleading. The Respondent made no reference to the fact that the Decree Nisi was never applied for in November 2019 or April 2020 as he had led her to believe. He also did not advise her of the errors which resulted in the Court returning the application twice, in November 2020 and January 2021.

81. The Respondent tasked Mr Compston to keep the client informed daily from 17 March 2021 [MLR1, p. 81]. On 31 March 2021, Mr Compston emailed the Respondent and forwarded an email from Person A in which she asked whether any other clients were in a similar position. She asked for an “*honest answer*” and said that if the application was never placed before the Court in November 2019 she would rather know [MLR1, p. 83].

82. Mr Compston drafted a response to Person A which he asked the Respondent to review. In his email to the Respondent, he said that,

“I’ve tried to skirt around when the DN was sent as, looking at the file, it appears this was intended to be sent sometime around Nov 2019 but in actuality didn’t go until much later” [MLR1, p. 84].

83. This was at least the third time that the Respondent was directly told that the application was never sent in November 2019. Yet, he did not take the opportunity to provide an honest answer to his client [MLR1, p. 97-321].

84. Person A emailed Mr Compston and the Respondent on 8 April 2021 and asked for full chronology [MLR1, p. 86]. The Respondent replied on the same day. He

did not provide a full chronology of the matter and did not tell Person A that the application was made for the first time in November 2020. He also told Person A that he would be leaving the Firm shortly [MLR1, p. 87].

85. Ms McKinney took over the file from the Respondent. On 10 June 2021, Ms McKinney emailed Person A and told her that,

“I am now your point of contact within the firm...I have reviewed your file and I can see that you were told by Daniel Jones in October 2019 that he would now apply for the Decree Nisi. I confirm that the Decree Nisi was not applied for in October 2019. The application for Decree Nisi was made in November 2020.” [MLR1, p. 315-316].

86. Person A Decree Nisi was granted on 6 April 2022 [MLR1, p. 107].

87. Person A states she was “*lied to constantly*” by the Respondent and that her mental health suffered as a result. She felt “*gaslit*” and “*utterly ignored*” by the Respondent, despite constantly asking him for updates on her case [MLR1, p. 107-108, paragraphs 55-56].

Breach of Principles

Dishonesty (Principle 4)

88. The Applicant relies upon the test for dishonesty stated by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 67, which applies to all forms of legal proceedings, namely that the person has acted dishonestly by the ordinary standards of reasonable and honest people:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

89. As early as 19 November 2019, the Respondent was told that there was no evidence that an application for Decree Nisi had been made to the Court [MLR1, p. 43].

90. On 25 February 2020, the Respondent was told for the second time when Ms Rylance emailed him and informed him that they could find no evidence that the application for Decree Nisi had been made **[MLR1, p. 47]**.
91. Therefore, by the time the Respondent spoke with and emailed Person A on 27 March 2020, he knew or should have known that an application for Decree Nisi had not been made, or at least that there was no evidence of the same. Yet he did not inform Person A of this. Instead, he told her he would “*re-apply*” in person and ensure that the application was placed before a Judge **[MLR1, p. 49]**.
92. The Respondent did not “*re-apply*” or place an application before a Judge in March or April 2020. There is no evidence on the client file that he instructed anyone else to do so. However, on 9 September 2020, he emailed the client and confirmed that the documents had been lodged with the Court. The Respondent must have known that was not the case because he had been told on two occasions that the original application had not been made and there is no evidence of any application being made in March/April 2020.
93. The Respondent had numerous opportunities to check the position with the Court or colleagues, particularly as his client was continually chasing him for updates.
94. On 10 November 2020, the Respondent assured Person A she was not being lied to and that he would chase the Court. However, under two hours later Mr Compston was preparing the first application for Decree Nisi. The Respondent was aware of this because he was cc’d into Mr Compston’s email to paralegal Mr Dale, which stated that “*Dan and I need a hand.... We are sending Person A’ application for Decree Nisi to the Court*” **[MLR1, p. 62-63]**.
95. The Respondent must have known that his email to Person A on 22 December 2020, telling her that the application had been considered by the Court and was “*now in the back log of work for typing by the Court*”, was not true because in fact the Court had returned the application in November 2020. Therefore, the Respondent cannot have been in receipt of information that the application was in a backlog of work for typing **[MLR1, p. 275]**.
96. The chronology on the client file dated February 2021, clearly showed that the Decree Nisi was first applied for in November 2020 **[MLR1, p. 80]**. The chronology bares the initials of the Respondent. Even if the Respondent did not see the chronology, he was told by Mr Compston on 1 April 2021 that the application for the decree Nisi did not go in November 2019. Mr Compston explicitly asked the Respondent whether he should tell the client that **[MLR1, p. 84]**.

97. The Respondent was therefore told on three occasions that the application had not been filed in November 2019. He also had a significant period of time between November 2019 and April 2021 to check the position. He misled the client throughout the entirety of this time by failing to tell her the true position.
98. Ordinary decent people would consider the Respondent's conduct to be dishonest.
99. Accordingly, the Respondent's conduct was dishonest and breached Principle 4 of the SRA Principles 2019.

Lack of integrity (Principle 5)

100. In Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366, it was said that integrity connotes adherence to the ethical standards of one's own profession. In Hoodless and Blackwell v Financial Services Authority [2003] UKFTT FSM007 it was said that integrity connotes moral soundness rectitude and steady adherence to an ethical code.
101. The Respondent was explicitly informed on at least three occasions during the relevant period that the application for Decree Nisi had not been made in November 2019. Despite being provided with that information, there appears to be no evidence that he sought to clarify the position with the Court or his colleagues. The client consistently chased him for updates about her case, during which she informed him how stressful she was finding the delays. The client had to resort to making a formal complaint in February 2020.
102. A solicitor acting with integrity would have ensured that they understood the true position of their client's case. A solicitor acting with integrity would have made the relevant enquiries. A solicitor acting with integrity would tell the client if they had failed to lodge an application.
103. The Respondent was given numerous opportunities throughout the relevant period to tell Person A what the true position was. Yet, not only did he fail to tell her that the application was never sent in November 2019, he also explicitly told her that the application was placed before a Judge in April 2020 and October 2020, which was not true.
104. Accordingly, the Respondent failed to act with integrity and breached Principle 5 of the SRA Principles 2019.

Act in the best interests of each client (Principle 7)

105. Person A divorce was straightforward. She instructed the Respondent, a Partner and Head of the Family Law team, in February 2019 and yet she only received the Decree Nisi on 6 April 2022. Between November 2019 and April 2021, she consistently chased the Respondent asking for updates on her case. The Respondent failed to provide Person A with accurate information about her case. Furthermore, he failed to undertake the work required on her case, with the Decree Nisi only applied for in November 2020.
106. Person A sets out the impact of the Respondent's conduct on her in her witness statement. She states that she was "*lied to constantly*" and made to feel guilty for suggesting that she was being lied to. She described being "*gaslit*" and "*utterly ignored*" [MLR1, p. 107-108].
107. Accordingly, the Respondent failed to act in the best interests of his client and breached Principle 7 of the SRA Principles 2019.

Undermining public confidence (Principle 2)

108. The conduct alleged also amounted to a breach by the Respondent of the requirement to behave in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
109. Public confidence would be undermined as a result of the Respondent's conduct. The public expects solicitors', particularly Partners and in this case the Head of the department, to provide their client with honest and accurate information about their case. Public confidence would be undermined by the Respondent's consistent failure over a significant period, to progress his client's case and advise her of the true status of her divorce proceedings.
110. Furthermore, public confidence would be undermined by knowledge of the impact on the client of the Respondent's conduct, to the extent that it caused her mental health to suffer.
111. Accordingly, the Respondent has breached Principle 2 of the SRA Principles 2019.

Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs

112. Paragraph 1.4 of the Code states that you "*do not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).*"

113. The Respondent led Person A to believe that the application for Decree Nisi was made in November 2019. This was not true and yet the Respondent did not clarify the position with Person A, despite being made aware on at least three occasions that the application had not been made. Person A gave the Respondent every opportunity to provide her with accurate information about her case but the Respondent repeatedly failed to do so.
114. The Respondent both omitted to advise Person A of the true position and explicitly gave her false, inaccurate information.
115. The Respondent's conduct therefore breached Paragraph 1,4 of the Code.

Recklessness

116. In the alternative to dishonesty, the Respondent's actions were reckless.
117. The Applicant relies upon the test for recklessness set out in the case of Brett v SRA [2014] EWHC 1974. At paragraph 78 in that case, Wilkie J said that for the purposes of the Brett appeal, he adopted the working definition of recklessness from the case of R v G [2004] 1 AC 1034. He said that the word recklessly is satisfied: with respect to (i) a circumstance when {the solicitor} is aware of a risk that it exists or will exist and (ii) a result when {the solicitor} is aware that a risk will occur and it is, in circumstances known to them, unreasonable for them to take the risk.
118. Between November 2019 and April 2021, Person A consistently asked the Respondent for updates on her case. She explained to him the stress and exasperation she was experiencing as a result of the delays. She made a complaint in February 2020 that she was not being provided with appropriate service.
119. In response to the requests for updates and the complaint, the Respondent repeatedly led Person A to believe that the application for Decree Nisi had been made in November 2019. In fact, no such application had been made and the Respondent was advised of the same on three occasions.
120. If the Respondent failed to appreciate what his colleagues had told him and/or did not know his assurances to the client were misleading, then he repeatedly failed to make the requisite checks on the client file, with colleagues and/or the Court, that would have clarified the position for him.

121. The Respondent was a Partner and Head of the Family department. He should have ensured that he understood the true position of Person A' case. By failing to take appropriate steps to do so he risked misleading his client, which materialised. He further risked delaying Person A divorce proceedings, which also materialised.
122. The Respondent must have been aware of the risks because he was engaged on the client matter from November 2019 to April 2021. Therefore, he knew the client was consistently asking for updates and that the matter was not progressing.
123. In the circumstances, it was wholly unreasonable for the Respondent to ignore the obvious risks and to repeatedly assure Person A that the application had been filed in November 2019.

Respondent's representations

124. On 10 October 2022, Mr Goodwin provided representations to the SRA on behalf of the Respondent [MLR1, p. 387-413].
125. The Representations summarised the Respondent's background, including a precis of the difficulties experienced during his childhood and leading up to his admission to the Roll.
126. A chronology of the Respondent's professional background, leading up to his employment at the Firm was included in the representations.
127. In respect of the Firm, the representations stated that the Respondent built up the department, working long days of 12-14 hours. He was responsible for at least 50% of the work that was secured for the team. He recognised on reflection that he retained too much of the work himself and that this contributed to a drop in service levels to his clients.
128. The Respondent states that he spoke to the Head of the office about the pressures and difficulties he was facing but nothing changed.
129. In July 2019, he and his wife experienced personal loss. The remainder of that year was particularly stressful for the couple as his wife suffered health difficulties. The Respondent accepts that his client service levels were not as he would have usually expected or demanded of himself during that period.
130. The Covid19 pandemic further exacerbated his difficulties.
131. In July 2020, the Respondent's daughter was born in difficult circumstances, which required the Respondent to take time off work.

132. In respect of Person A matter, the Respondent stated that Mr Dale and Mr Compston assisted him on the case. The Respondent would task them daily and relied on them to carry out the tasks. He would not have undertaken routine applications for Decree Nisi.
133. The Respondent genuinely believed at the time that the application had been filed in November 2019. He believed that the Court were slow to deal with the matter.
134. The Respondent believed that the application had to be refiled. He accepted that he should have been aware of the true position of the file and that he failed to supervise the matter.
135. He was unaware that the application sent in November 2020 was returned. By December 2020, he states that the matter was being handled by Mr Compston.
136. The Respondent denied misleading the client.
137. On 31 January 2024, the Respondent provided his representations to the Notice. They largely repeated the representations provided by Mr Goodwin. In addition, the Respondent denied that he had acted dishonestly. He invited the SRA not to refer the conduct to the Tribunal on the basis that he is not a risk to the public and has a good compliance record with the regulator **[MLR1, p. 414-428]**.

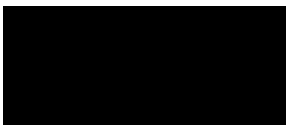
The SRA's investigation

138. The SRA has taken the following steps to investigate the allegation which it makes against the Respondent:

- i. On 15 June 2022, the Investigating Officer ("IO") emailed the Respondent.
- ii. On 10 October 2022, Mr Goodwin responded on behalf of the Respondent.
- iii. On 6 November 2023, the IO served the Notice Recommending Referral to the Tribunal on the Respondent.
- iv. 30 January 2024, the Respondent provided his representations to the same.

139. On 15 February 2024, an Authorised Decision Maker of the SRA decided to refer the conduct of the Respondent to the Tribunal **[MLR1, p. 1157-1161]**.

I believe that the facts and matters stated in this statement are true.



.....

Dated this 16th day of May 2024

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

Case No:

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

And

DANIEL JONES

Respondent

**APPENDIX 1 TO STATEMENT PURSUANT TO RULE 12 (2) SOLICITORS
(DISCIPLINARY PROCEEDINGS) RULES 2019**

Relevant Rules and Regulations

SRA Principles	
2;	You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons .
4;	You act with honesty.
5;	You act with integrity.
7;	You act in the best interests of each client.
Code of Conduct for solicitors, RELs and RFLs	
1.4	You do not mislead or attempt to mislead your clients , the court or others, either by your own acts or omissions or

	allowing or being complicit in the acts or omissions of others (including your <i>client</i>)
--	--

