

CASE NO.

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

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

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

- and -

MR YUSUF JAMAL SIDDIQUI

Respondent

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

I, **MICHAEL COLLEDGE**, am a Solicitor and Partner at Blake Morgan LLP of New Kings Court, Tollgate, Chandler's Ford, Eastleigh, SO53 3LG. I make this statement on behalf of the Applicant, the Solicitors Regulation Authority Limited ("**the SRA**").

The Allegations

1. The allegations against the Respondent, Yusuf Jamal Siddiqui, made by the SRA are that, whilst in practice as a Solicitor sole practitioner at YJS Legal, 18 Golders Green Road, London, NW11 8LL ("**the Firm**") he:

1.1. From, at least 18 December 2020 to 31 January 2023, failed to maintain accurate contemporaneous and chronological records in books of accounts and in doing so failed to show that the Firm held sufficient funds in its client bank account to match its liabilities to clients and he thereby breached Rule 8.1 and/or Rule 8.3 of the SRA Accounts Rules ("**SRA AR**").

The facts and matters relied upon in support of this allegation are set out in paragraphs 18 to 28 below.

- 1.2 On or around 20 November 2022, in relation to the transfer of a property (“the Property”) from his client, Client A, to another of his clients, Ms Z, failed to conduct a proper assessment of Client A’s capacity to provide instructions and he thereby breached any or all of Principles 2, 5 and 7 of the SRA Principles 2019 (“the Principles”) and Paragraph 3.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 (“the Code for Solicitors”).

The facts and matters relied upon in support of this allegation are set out in paragraphs 29 to 48 below.

- 1.3 From at least 18 November 2022 and throughout the period of the retainer (to at least 5 December 2022), acted for and was instructed by both Client A and Ms Z and, in doing so, acted where there was a conflict or a significant risk of a conflict of interest arising between the interests of the two clients and he thereby breached any or all of Principle 2 and/or 7 of the Principles and Paragraph 6.2 of the Code for Solicitors.

The facts and matters relied upon in support of this allegation are set out in paragraphs 49 to 61 below.

- 1.4 From at least 18 November 2022 and throughout the period of the retainer (to at least 5 December 2022), failed to consider Client A’s right to remain in the property following completion of the property transaction in his best interests and he thereby breached any or all of Principles 2 and/or 7 of the Principles and Paragraph 3.4 of the Code for Solicitors.

The facts and matters relied upon in support of this allegation are set out in paragraphs 62 to 72 below.

- 1.5 During the transaction, between 16 November 2021 and 5 December 2022, charged a disproportionate and unjustified fee with Client A and he thereby breached any or all of Principles 2, 5 and 7 of the SRA Principles 2019 and Paragraph 1.2 of the Code for Solicitors.

The facts and matters relied upon in support of this allegation are set out in paragraphs 73 to 87 below.

- 1.6 On 16 November 2021, allowed client money to be transferred into his personal bank account and subsequently failed to ensure that this was paid promptly into a client account and he thereby breached any or all of Rules 2.3 and 6.1 of the SRA AR.

The facts and matters relied upon in support of this allegation are set out in paragraphs 88 to 94 below.

Appendices and Documents

2. The following appendices are attached to and relied upon in this Statement:

- 2.1. Appendix 1: Relevant rules and regulations.

- 2.2. Appendix 2: Anonymisation Schedule.

3. I also attach to this statement a bundle of documents, marked **Exhibit MJC1**, to which I refer in this statement. Unless otherwise stated, page references in this statement relate to that exhibit, using the format [**MJC1, page X**].

4. The bundle is divided into the following sections:

- 4.1. Section A: Witness statement.

- 4.2. Section B: Documentary evidence.

- 4.3. Section C: Correspondence.

Professional Details

5. The Respondent was born on 2 January 1975 and admitted as a solicitor on 15 November 2010.
6. The Respondent is currently a sole practitioner and Partner at the Firm, from 2020.
7. The Respondent currently holds a practising certificate free from conditions and is the AMLO, COLP and COFA at the Firm.

Background

8. In October 2022, the Respondent was introduced to Client A by Ms Z. The Respondent had previously acted for Ms Z's mother. Client A and Ms Z were neighbours. At the time of the introduction, Client A was 88 years old, vulnerable, a widower with no immediate family. Client A was very hard of hearing and had mobility issues. The Respondent believed that Client A had mental capacity to transfer the Property although he had never assessed someone for mental capacity before.
9. Client A told the Respondent that he wanted to transfer the Property in which he lived to Ms Z for nil consideration. The Respondent accepted Client A's explanation that Ms Z looked after him and was "*like a daughter*" to him. . The Respondent acted for both Client A and Ms Z jointly and both signed a client care letter addressed to both of them but sent only to Client A's home address [MJC1, page 297]. The Respondent did not think a conflict of interest may arise in a matter regarding the gift of a property.
10. Client A told the Respondent that Ms Z had agreed that he would continue to live in the Property after it was transferred to her although no thought was given or action taken by the Respondent to protect Client A's interests after the Property was transferred, such as how Client A could document the agreement and protect himself from the risk of being evicted, once Ms Z owned the Property.
11. The Respondent told Client A, as documented in the client care letter, that the cost of the conveyancing would be £15,000 which, which was considerably in excess of his usual charge for such a matter of £1,200 [MJC1, page 177 line 10]. The Respondent justified this cost due to the "*very special*" nature of the matter and the fee was 12.5 times the amount the Firm would charge a standard client. The Firm's records indicate that the Respondent spent only 18.5 hours on the matter and the Respondent could not further evidence the time he had spent on the matter. Further, outside of the fixed fee, the Respondent charged Client A additionally for travel expenses of £131 for taxi travel.
12. In November 2022, the Respondent received a transfer of £10.00 into his personal bank account from Client A's bank account, described as a "*test payment*" and that he had meant for the payment to be made into the Firm's client account but had given his personal bank account details in error [MJC1, page 105]. He did not correct the error by reimbursing Client A or transferring the money into the Firm's client account.
13. A Deed of Gift dated 20 November 2022 was entered into between Client A and Ms Z. [MJC1, page 302]. The Respondent prepared the TR1 form to transfer the Property as intended and applied to register it with HM Land Registry in November 2022 [MJC1, page 69].
14. The matter came to the SRA's attention when Howell Jones Solicitors ("HJS") reported the matter to the SRA on 6 January 2023. HJS held a Lasting Power of Attorney ("LPA") for property and financial affairs for Client A, having acted for him and his late wife since

around 1993 [MJC1, page 76]. The Respondent did not ask Client A whether he had an LPA in place and, further, the Respondent did not check the public register as to whether any LPAs were in place for Client A. HJS also held a will for Client A dated 05 August 2019 which appointed HJS as executors [MJC1, page 118].

15. HJS had been alerted by Client A's bank on 21 December 2022 to suspicious activity on his bank account. It was discovered that, in addition to the £10.00 that had been transferred to the Respondent's personal bank account, two further payments totalling £6,000 had been transferred from Client A's account to the Firm on 29 and 30 November 2023 [MJC1, page 103].
16. HJS attempted to obtain Office Copy Entries for the Property from HMLR but was unable to do so as there was an application pending by the Firm. HJS contacted HMLR who put on hold the application, which was the intended transfer of the property from Client A to Ms Z. As a result, the matter did not complete. Ms Buttaci of HJS was of the opinion that Client A had been groomed by Ms Z over several months. Ms Buttaci comments in her witness statement [MJC1, page 129] that, on 06 January 2023, she and a colleague from HJS visited Client A at his home. At paragraph 21 of her statement, Ms Buttaci commented, *"In my opinion, during the meeting, it was clear to me that [Client A] did not have the mental capacity to be making significant decisions regarding his financial affairs or to be making any decisions regarding his will, LPA or his assets including the transfer of his property. During the meeting, in my opinion, he was not focussed, he could not remember events that had happened....when we discussed the property transfer with him, he had no understanding of the nature and effect of transferring the property to [Client Z]"*
17. As a result of the matter stated in paragraphs 14 to 16, Ms Buttaci of HJS referred the matter to the SRA on 06 January 2023 and the SRA began a "no notice" investigation in January 2023.

The facts and matters relied upon in support of the allegations

Allegation 1 - From 31 January 2023 the Respondent failed to maintain accurate and compliant books of accounts and in doing so failed to show that the Firm held sufficient funds in its client bank account to match its liabilities to clients.

18. The facts relied upon by the Applicant are set out at paragraph 8 to 17 above and in the following paragraphs.

19. On 1 March 2023, the Respondent provided the SRA Forensic Investigations Officer (“FIO”) with a client account cashbook from 18 December 2020 to 31 March 2022. The FIO informed the Respondent that this was not a compliant account reconciliation. Subsequently, on 2 March 2023 the Respondent provided the FIO with an excel spreadsheet titled “client accounts 01.11.23 to 02.03.23 (1)”, which included a client account cash book (to a total of £92.60 on 31 January 2023), a list of liabilities (to a total of -£1,287.15) and client ledger accounts.
20. By way of example, within the excel spreadsheet, in respect of one matter, the client ledger account set out a different balance (£0) to the balance shown on the liabilities listing (£500) **[MJC1, page 42]**.
21. At an interview on 21 March 2023 with the FIO, the Respondent admitted that he was responsible for maintaining the books of account and that some errors were made **[MJC1, page 148 line 34]**. The Respondent provided hard copy records of a client cashbook and client ledgers. On 3 April 2023, the Respondent provided amended client accounts including a client account cash book (to a total of £92.60 on 31 January 2023) and a list of liabilities (to a total of -£3,313.00).
22. Upon provision of the amended books of account, the FIO nevertheless concluded that he was unable to calculate whether the Firm held sufficient funds in its client bank account to match its liabilities to clients as of 31 January 2023.
23. The breaches are serious as they
- 23.1. involved several omissions which remained unrectified over a significant period of time
 - 23.2. had the potential to cause harm to the Firm’s clients if liabilities owed could not be met
 - 23.3. were committed by an experienced practitioner who, as COFA and manager of the Firm, had direct control and responsibility to maintain accurate and compliant books of account.

Breaches of the Principles and the Code of Conduct in relation to Allegation 1

SRA AR 8.1 and 8.3

24. SRA AR 8.1 requires that accurate, contemporaneous, and chronological records are kept and maintained and SRA AR 8.3 requires that, at least every five weeks, statements from banks, building societies and other financial institutions for all client accounts and business accounts held and operated must be obtained.
25. By failing to keep and maintain accurate, contemporaneous, and chronological records the Respondent breached paragraph 8.1 of the SRA AR. The Respondent had responsibility for the books of accounts which were insufficient to identify all liabilities owed to the Firm's clients, with inconsistent balances shown across different ledgers.
26. By failing to complete a client account reconciliation every five weeks, and as COFA or manager of the firm, failing to sign off a reconciliation, the Respondent breached paragraph 8.3 of the SRA AR. The Respondent failed to identify the short comings within the Firm's books of accounts by completing a reconciliation around 31 January 2023. Even after the SRA's investigation prompted the Respondent to consider any inconsistencies and provide information, the FIO was still unable to reconcile the books of accounts. Errors in the client account ledger for Client A are recorded in the FI Report [**MJC1 page 47**].
27. The breaches are serious as they
- 27.1. involved several omissions which remained unrectified over a significant period of time [**MJC1, page 47**]
 - 27.2. had the potential to cause harm to the Firm's clients if liabilities owed could not be met
 - 27.3. were committed by an experienced practitioner who, as COFA and manager of the Firm, had direct control and responsibility to maintain accurate and compliant books of account.

Representations made by the Respondent in relation to Allegation 1

28. In the Respondent's representations [**MJC1 page 26**] following receipt of the Notice, the Respondent has stated:

"I admit that the books of accounts were not reconciled as per the SRA Accounting rules. These were eventually updated and up to date accounts was made available. There have not been any misappropriation/ misuse of client money. I have terminated client account and only operate an office account.

I am personally responsible for any payments made or received. In the case of Mr Campbell, there was insufficient funds to meet the liabilities, however, I returned the entire fee that I had received, I met the liabilities that arose at the time.”

Allegation 2 – On or around 20 November 2022 in relation to the transfer of the Property from Client A to Ms Z, the Respondent failed to conduct a proper assessment of Client A’s capacity to provide instructions.

29. The facts relied upon by the Applicant are set out at paragraph 8 to 17 above and in the following paragraphs.
30. In an email to the FIO dated 16 February 2023, the Respondent stated that he visited Client A on two different occasions to ascertain his mental capacity. During these visits he found Client A to be *‘perfectly fine’*. The Firm’s file for Client A and Ms Z included undated notes of the two meetings between the Respondent and Client A [MJC1, page 311]. These notes do not record a lack of capacity and some of the observations detailed in the notes had been made after his attendance with Client A [MJC1, page 197 line 26].
31. The Respondent reiterated during his interview with the FIO that, despite Client A’s age, the Respondent regarded him as mentally fit [MJC1, page X 167, line 32] and had no reason to suspect that Client A lacked capacity to give instructions [MJC1 page 159, line 25]. The Respondent had not assessed a client’s capacity before.
32. In her witness statement dated 14 March 2023, Ms Buttaci stated that she (along with a colleague) visited Client A on 6 January 2023. During the visit, Client A appeared confused and was saying *‘odd, irrelevant things’* [MJC1, page 132]. Ms Buttaci found it clear that Client A did not have sufficient capacity to be making significant decisions regarding his financial affairs. It was Ms Buttaci’s opinion that Client A had been groomed by Ms Z over several months and as such would not have understood the significance of what he was asking.
33. HJS held a lasting power of attorney, dated 31 May 2022, for Client A’s property and financial affairs (**“the LPA”**) [MJC1, page 76]. HJS also held a will for Client A dated 5 August 2019 [MJC1, page 118] which appointed HJS as executors. His estate was to be divided equally between the daughters of Client A’s cousin, referred to by Client A as his *‘nieces’*.

34. The Respondent did not ask Client A whether he had a Will or an LPA in place [MJC1, page 161, line 28]. Further, the Respondent did not check the public register as to whether any LPAs were in place for Client A [MJC1, page 161, line 26].

Breaches of the Principles and the Code of Conduct in relation to Allegation 2

Principle 2 – upholding public trust and confidence

35. The Respondent was in a position of trust and responsibility as a solicitor who had the responsibility to ensure that his client had sufficient capacity to provide instructions. The public trust and confidence in the profession would be damaged if vulnerable clients were not protected by solicitors by undertaking appropriate assessments of their capacity to provide instructions.
36. In this case, the following factors indicated that Client A was vulnerable and created a reasonable doubt about Client A's capacity:
- 36.1. The Respondent has admitted that Client A was an elderly an vulnerable client [MJC1, page 47 line 34].
 - 36.2. Client A's advanced age;
 - 36.3. Client A's apparent willingness to transfer a valuable asset without consideration to a person not related to him.
 - 36.4. Client A's agreement to a very substantial and unjustified fee of £15,000 plus disbursements.
 - 36.5. The Respondents' assessment that he had to do a lot more work (70-80 hours rather than 3-4 hours) given Client A's circumstances. In this regard, the Respondent has admitted to having doubts about Client A's capacity [MJC1, page 27] in which the Respondent states: "*A great deal of judgement and assessment was required to ensure that Mr Campbell was aware of what he was doing and the consequences of his decision.*"
 - 36.6. The evidence from Ms Buttaci [MJC1, page 129 to 142] is that Client A's LPA was registered on or after 12 May 2022 as he lacked capacity to manage his financial affairs. The evidence from Ms Battaci is that as at 6 January 2023 (a period of just 6 weeks from the Respondent's last interview with Client A):

"[Client A]'s home was not very well kept and was very cluttered ... it was clear to me that Malcolm did not have the mental capacity to be

making significant decisions regarding his financial affairs or to be making any decision regarding his will, LPA or his assets including the transfer of his property. During the meeting, in my opinion, he was not focussed, he could not remember events that had happened, could not follow the thread of the conversation and was saying odd, irrelevant things about his inventions and floppy mattresses that had no bearing on the matters being discussed. It is my opinion, that when we discussed the property transfer with him, he had no understand of the nature and effect of transferring the property...”

- 36.7. Notwithstanding the Respondent’s concerns, a capacity assessment was not carried out effectively. The undated notes [**MJC1, page 311**] asserted by the Respondent to be contemporaneous show that the Respondent interviewed Client A in the company of Ms Z and “in confidence” (the Respondent has confirmed he interviewed Client A separately [**MJC1, page 200 line 9**], although questions are asked of Client A, only short responses are recorded. The date of that interview is not given by the Respondent. At a second meeting on 20 November 2022 (confirmed by taxi records and the date of signature on the TR1)_the notes prepared by the Respondent show no assessment of capacity at the time of signing the TR1.
- 36.8. Section 1 of the Mental Capacity Act 2005 (MCA 2005) contains three principles that are the starting point for assessing capacity. Included in these principles is the assumption that a person must be assumed to have capacity unless it is established they lack capacity. The Respondent established that he had concerns about Client A’s capacity and as a result charged a fixed fee of £15,000. The assumption within the MCA 2005 was therefore displaced requiring the Respondent to assess Client A’s capacity in the context of the transaction being proposed. The Respondent’s own capacity assessment was limited with evidence given by Ms Battuci such that Client A had lost capacity to make financial decisions six months prior to the Respondent’s meeting with Client A. Ms Battuci has confirmed that six weeks after the Respondent’s meeting with Client A that he showed no signs of having capacity in respect of the transaction proposed [**MJC1, page 132**].
37. However, if a solicitor has reasonable doubt about his client’s capacity to give instructions, they have a professional duty to satisfy themselves whether the client has capacity to give

instructions (**RP V Nottingham City Council and Official Solicitor [2008] EWCA Civ 462**). This involves the solicitor undertaking a capacity assessment before acting on any instructions. If the solicitor is unable to form a view about the client's capacity, they should take expert advice on whether the client had the capacity to give instructions.

38. The significant nature of the transaction proposed and the vulnerabilities of the client were such that any solicitor would and should question their client's capacity. Law Society Guidance¹ [**MJC1 page 325**] to the profession states:

“The common law test is set out in Re Beaney [1978] 2 All ER 595 which says that the degree of understanding needed to make a valid lifetime gift depends on the size and nature of the gift.

If the subject matter and value of the gift is trivial in relation to the donor's other assets, a low degree of understanding is sufficient. However, if the effect of the gift is to dispose of the donor's only asset of value and so pre-empt the devolution of their estate under their will or on their intestacy, the donor must have the same degree of understanding as they would need for making a will.”

39. Members of the public should also be able to place their trust in members of the profession, who are expected to be scrupulous in their dealings with client affairs. Any behaviour which undermines this trust damages not only the regulated person, but also the ability of the legal profession as a whole to serve society. Members of the public would not expect a solicitor to potentially cause significant financial harm to a vulnerable and elderly client which was only averted following the referral of the matter to the SRA by HJS.
40. The above, and the failure to verify the answers Client A provided during their meetings (for example, by verifying if Client A had a will); failing to check the public register as to whether any LPAs were in place for Client A; and failing to carry out an assessment of Client A's capacity were in breach of principle 2.

Principle 5 – acting with integrity

41. In **Wingate v SRA [2018] EWCA Civ 366**, the Court of Appeal held that integrity connotes adherence to the ethical standards of one's profession. Lord Justice Jackson stated that:

¹ <https://www.lawsociety.org.uk/topics/client-care/working-with-clients-who-may-lack-mental-capacity>

“Integrity is a broader concept than honesty. In professional codes of conduct the term “integrity” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members”.

And

“97. In professional codes of conduct, the term “integrity” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. See the judgment of Sir Brian Leveson P in Williams at [130]. The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.”

42. Paragraphs 36 to 40 above are repeated.

43. Whilst s.2(3)(a) of the Mental Capacity Act 2005 states that a lack of capacity cannot be established merely by reference to a person’s age or appearance, in the face of a transaction to Client A’s obvious disadvantage and in the face of Client A’s insistence that the transaction be carried out promptly, and without consideration of other options (such as leaving his property by will), the Respondent failed to conduct an adequate capacity test. The Respondent was aware of the issue of capacity and proposed a fee of £15,000 (see the Respondent’s conduct set out in Allegation 5 and at paragraphs 73 to 87 below). This lacked integrity as per Lord Justice Jackson’s statements in Wingate.

44. Alternatively, even if the Respondent genuinely believed that Client A had capacity during their initial meeting, despite the substantial fee being charged, the Respondent failed to check Client A’s capacity upon signing the TR1 or upon being told that a local firm of solicitors had obtained an LPA fraudulently [**MJC1, page 96**]. In failing to carry out a full capacity check and instead charging a disproportionate fee the Respondent lacked integrity.

45. The Respondent was in a position of trust and responsibility as a solicitor. A solicitor acting with integrity would not have acted in such a manner by failing to establish whether a client had sufficient capacity to provide instructions particularly if their instructions are detrimental to that client’s best interests. By failing to carry out a proper assessment, the

Respondent failed to act with integrity and therefore breached Principle 5 of the SRA Principles.

Principle 7 – acting in the best interests of each client

46. Principle 7 of the Code requires solicitors to act in the best interests of each client. By failing to establish whether Client A had sufficient capacity to provide instructions the Respondent failed to act in the best interests of Client A as Client A would have been unaware of, or fail to understand, the fact and/or consequences of disposing of the Property in which he lived.

Paragraph 3.4 of the Code.

47. Paragraph 3.4 of the Code requires solicitors to consider and take account of a client's attributes, needs, and circumstances. The Respondent failed to verify the answers Client A provided during their meetings (for example, by verifying if Client A had a will after Client A told the Respondent he did not have a will) and failing to check the public register as to whether any LPA's were in place for Client A after Client A informed him that he did not have an LPA in place). The Respondent also failed to carry out an assessment of Client A's capacity to provide instructions and did not consider the implications of Client A's proposed disposal of the Property. These failures breached Paragraph 3.4 of the Code for Solicitors.

Representations made by the Respondent in relation to Allegation 2

48. The Respondent denies Allegation 2 and states that he had no reason to doubt Client A's capacity based on discussions with Client A on the two occasions he met with him to take instructions. The Respondent states "*I had no reason to believe that [Client A] lacked mental capacity and he did not at any time during our discussions present with lack of capacity.*" The Respondent questions why HJS took instructions in January 2023 from Client A with regard to the continuation of the LPA if HJS believed, at the time, that he lacked capacity to make decisions about his property and finances. Ms Buttaci, at paragraphs 28 and 29 of her witness statement dated 14 March 2023 comments that "*Where an LPA is granted and registered by the OPG and the donor of the LPA does not have capacity, the attorneys do not need the consent of the donor to act. Whilst [Client A] has capacity to decide what to watch on TV or what to eat for his dinner, I do not believe that [Client A] has the mental capacity to make any substantial decisions regarding his*

assets, including making a decision regarding the gifting of his property” [MJC1, page 132 paragraph 28-29].

Allegation 3 – From at least 18 November 2022 and throughout the period of the retainer (to at least 5 December 2022), inappropriately acted for, and was instructed by, both Client A and Ms Z in the transfer of Client A’s property and sole residence to Ms Z and in doing so acted where there was a conflict of interests or a significant risk of a conflict of interest between two current clients.

49. The facts relied upon by the Applicant are set out at paragraph 8 to 17 above and in the following paragraphs.

50. A client care letter dated 18 November 2022 was sent by the Firm to both Client A and Ms Z [MJC1, page 297]. It was signed by both clients on 20 November 2022. The Firm’s client matter file contained due diligence documentation for both Client A and Ms Z [redacted at MJC1, page 287 - 290].

51. Within the undated file notes [MJC1, page 311], the Respondent states that he informed Client A that the Firm had acted for Ms Z in the past and therefore the Respondent asked if Client A wanted to use another Solicitor. Client A declined as he wanted to get the matter completed soon.

52. During his interview, the Respondent stated that he had known Ms Z for 7-8 years and previously drafted a will for her mother [MJC1, page 156, line 17]. The Respondent also confirmed that Ms Z did not have separate legal representation [MJC1, page 174, line 2]. The Respondent did not think a conflict of interest may arise in a matter regarding the gift of a property

Breaches of the Principles and the Code of Conduct in relation to Allegation 3

Principle 2

53. The public is entitled to rely on solicitors behaving in an appropriate and trustworthy manner. By acting for two current clients in respect of a property transfer for no value, there was, at least, a significant risk of a conflict of interests between Client A and Ms Z and such conduct would clearly diminish the public's trust and confidence in solicitors and in legal services provided by authorised persons. By his actions, the Respondent abused the trust and confidence placed in him and in the provision of legal services, and therefore breached Principle 2 of the Principles.

54. The potential conflict of interest between Client A and Ms Z was because:

54.1. The interests of Client A and Ms Z were not aligned within the transaction: Client A was transferring the benefit of the property to Ms Z without consideration and without a right to remain in the property following the proposed gift.

54.2. The terms of the right to remain in the property, if negotiated, could not be negotiated even-handedly between the clients

55. As a result, the Respondent acted despite a clear conflict or a significant risk of a conflict of interest between his two clients. The public's confidence in firms and their employees, and in the provision of legal services generally, is likely to be undermined if solicitors continue to act for clients despite an obvious risk that a conflict of interest may materialise during the instructions.

Principle 7

56. Principle 7 requires solicitors to act in the best interests of each client. By acting for both parties in respect of a property transfer for no value, there was a clear conflict of interests between Client A and Ms Z. It was not in the best interests of Client A to be represented by the same solicitor as the beneficiary of the transaction nor was it in Client A's interest to be the client solely responsible for paying the Respondent's fees.

57. The client care letter of 18 November 2022 [**MJC1, page 297**] indicates that the Respondent was acting for both Client A and Ms Z. He was therefore acting for two clients to whom he had a separate duty to act in their best interests. For Client A, this was to ensure that he was not being taken advantage of and that his best interests would not be adversely affected by transferring his property for no consideration to Ms Z (including ensuring that he could remain living in the property after the transaction). For Ms Z, the Respondent's duty was to see that she received the legal title to the property with no ongoing obligations to Client A.

58. As a result, the Respondent failed to act in the best interests of each client when a conflict of interests or a significant risk of such a conflict should have been apparent to the Respondent and he, therefore, breached Principle 7 of the SRA Principles.

Paragraph 6.2 of the Code for Solicitors

59. Paragraph 6.2 of the Code for Solicitors states that a solicitor should not act in relation to a matter or particular aspect of it if you have a conflict of interest or a significant risk of such a conflict in relation to that matter or aspect of it, unless: (a) the clients have a substantially common interest in relation to the matter or the aspect of it, as appropriate; or (b) the clients are competing for the same objective. In either case the conditions are that all clients have given informed consent in writing, where appropriate there are effective safeguards for confidential information, and the solicitor is satisfied it is reasonable for them to act for all the clients.
60. The best interests of each client were at significant risk of conflicting as set out in paragraph 57 above. Under the terms of the transaction Ms Z would gain control over Client A's residential home with no consideration. Further, the Respondent could not have determined that there was a substantially common interest between the clients because, although the apparent objective of the transaction was a gift, Client A nevertheless required a residential home. Even if this was discussed with Client A; Client A lacked the capacity to provide informed consent. In failing to consider the lack of common interest between the clients the Respondent breached paragraph 6.2 of the Code for Solicitors.

Representations made by the Respondent in relation to Allegation 3

61. In the Respondent's representations following receipt of the Notice, the Respondent has admitted the following in respect of Allegation 3.

"During my first meeting with [Client A], he specifically informed me that he has two properties. The principal residence was he was currently residing and the property is in Isle of Wight. [Client A]'s specific instructions was that he wanted to gift his principal residence to Ms [Z] and he wanted to gift the Isle of Wight property to his niece who he was not in touch but said that he will eventually get in touch with her.

I was clearly acting for [Client A] and as per his instructions, I applied to the land registry to transfer the property. However, as soon as it came to my attention that he had given a Lasting Power of Attorney to a local firm of solicitors, which was not disclosed to me at the time of being instructed, I decided to withdraw the application from the land registry and made arrangement to return the fee to [Client A]. My decision to cancel the transaction and return the fee was taken to ensure that [Client A] does not suffer any loss."

Allegation 4 – From at least 18 November 2022 and throughout the period of the retainer (to at least 5 December 2022), failed to consider Client A's right to remain in the property

following completion of the property transaction in his best interests and he thereby breached any or all of Principles 2 and/or 7 of the Principles and Paragraph 3.4 of the Code for Solicitors

62. The facts relied upon by the Applicant are set out at paragraph 8 to 17 above and in the following paragraphs.
63. The deed of gift dated 20 November 2022 stated that Client A was to gift the property to Ms Z. In doing so, Client A would transfer all legal and beneficial rights in the property to Ms Z for no consideration.
64. During the interview with the FIO, the Respondent confirmed that he did not ask Client A why the transfer to Ms Z had to take place at that time rather than via provision in his will [MJC page 187]. The Respondent claimed he asked Client A if he understood the effect of transferring his property rights and Client A said "Yes". The Respondent understood that Client A was going to continue living in the property but he did not advise him in relation to a tenancy agreement [MJC1 page??? line 6].
65. The Respondent agreed that there was a possibility that Ms Z could evict Client A [MJC1, page 191, line 7] and that this would not have been in Client A's best interests [MJC1, page 191 line 31].
66. The Respondent claims that he did consider putting a signed agreement in place once the transfer was executed to secure the rights of Client A. However, this was never discussed with Client A or undertaken [MJC1, page 192 line 10].

Breaches of the Principles and the Code of Conduct in relation to Allegation 4

Principle 2

67. A solicitor, in accordance with Principle 2 of the Principles, is required to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons. By failing to consider Client A's right to remain in the Property following completion of the property transaction, the Respondent failed to act in a way that upholds the public trust and confidence in him and in the provision of legal services and therefore breached Principle 2 of the Principles.

68. The facts illustrate that the Respondent understood that Client A would have no ongoing rights to the property following the deed of gift and that Client A would receive no payment. Nevertheless, the Respondent attempted to register the deed of gift without taking further steps to safeguard Client A's right to remain in his home and to avoid being evicted in the future. Such behaviour is likely to undermine the public's trust in the profession, particularly when it is so clearly not in the best interests of the Respondent's vulnerable client.

Principle 7

69. In accordance with Principle 7, the Respondent was required to act in the best interests of Client A. By failing to consider Client A's rights to remain in the Property following the transfer of the Property to Ms Z, Client A's rights to remain in his home were put at risk. By failing to protect his client's interests the Respondent breached Principle 7 of the Principles.

70. Client A was to relinquish all legal and beneficial interests in the property for no consideration through the deed of gift. He would, therefore, gain no payment to finance new accommodation. Furthermore, in the absence of a written agreement with Ms Z, he would have had no rights whatsoever to remain in the property should Ms Z seek his eviction. Such safeguards were of paramount relevance and importance in light of Client A's vulnerabilities. Therefore, The Respondent's failure to consider Client A's right to remain in the property, or put in place an agreement securing as such, was not in the best interests of Client A.

Paragraph 3.4 of the Code for Solicitors

71. Paragraph 3.4 of the Code for Solicitors requires solicitors to consider and take account of a client's attributes, needs, and circumstances. The Respondent would have been aware, following the deed of gift, that Client A would have no ongoing rights to the property, yet the Respondent attempted to register the deed of gift without taking any steps to ensure Client A's right to remain in his home. In failing to ensure Client A had a right to remain in his home, the Respondent failed to consider and take account of Client A's individual needs and circumstances as a vulnerable client who could subsequently have been made homeless.

Representations made by the Respondent in relation to Allegation 4

72. In the Respondent's representations following receipt of the Notice [MJC1, page 26 to 28], the Respondent has admitted the following in relation to Allegation 4.

"It was informally discussed and agreed that [Client A] will continue to live there and Ms [Z] will be responsible for looking after him as she has been doing. It was also agreed that a contract will be drawn up clearly outlining the duties and responsibilities of Ms [Z] and [Client A]'s right to continue living in the property. That said, I admit my recklessness in not having the contract in place prior to lodging the application with the land registry."

Allegation 5 – During the transaction, between 16 November 2021 and 5 December 2022, charged a disproportionate and unjustified fee with Client A and he thereby breached any or all of Principles 2, 5 and 7 of the SRA Principles 2019 and Paragraph 1.2 of the Code for Solicitors.

73. The facts relied upon by the Applicant are set out at paragraph 8 to 17 above and in the following paragraphs.

74. In his email to the FIO dated 17 February 2023, the Respondent explained that he would usually charge a client £1,200.00 for a property matter similar to Client A's and Ms Z's. However, due to Client A's 'age and health' and the 'specific nature' of his instructions, the Respondent charged a fixed fee of £15,000.00 with Client A [MJC1, page X].

75. During his interview with the FIO, the Respondent stated that he needed to spend a lot more time on Client A's and Ms Z's matter than he would in normal circumstances. He would normally spend 3 to 4 hours on a similar matter [MJC1, page 177, line 3]. The Respondent had calculated the fee of £15,000.00 on the basis that he would spend seventy to eighty hours on the matter [MJC1, page 177, line 14] the Respondent confirmed that he actually spent twenty-five to thirty hours on the matter [MJC1, page 179, line 3]. In contrast, the Firm's time records indicate that the Respondent spent only 18.5 hours on the matter [MJC1, page 216]. The Respondent could not further evidence the time he had spent on the matter [MJC1, page 181, line 1].

76. The Respondent stated, "...the fees were a little exorbitant to the amount of work that actually I, I, I did... I wouldn't say exorbitant, but it was higher than, I mean the amount of time that I spent was considerably lower than what I envisaged initially..." [MJC1, page 184, line 1].

77. In making this admission, the Respondent also acknowledged that the fee represented 25% of the Firm's turnover [MJC1, page 179 line 35] and that he had never worked on a single transaction where a fee of that size [MJC1, page 180 line 10].

78. In addition, not included within the £15,000 fixed fee, were payments of £131.00 to Shepperton Cars on 24 November 2022. These payments were for taxi travel for the Respondent (organised by Ms Z) to and from Client A's property [MJC1 page 62] on 20 November 2022. The client care letter of 18 November 2022 does not list taxi fares as a disbursement not included within the fixed fee to be charged to Client A.

Breaches of the Principles and the Code for Solicitors in relation to Allegation 5

Principle 2

79. The Respondent abused his position as a solicitor by unfairly charging an unjustified and disproportionate fee for his work on Client A's matter. The Respondent has not been able to provide evidence to support that the fee was commensurate to the time incurred or the complexity of the matter.

80. A solicitor, in accordance with Principle 2 is required to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons. By charging a disproportionate and unjustified fee (£15,000 plus travel expenses as compared to £1,200) to Client A, the Respondent failed to act in a way that upholds the public trust and confidence in him and in the provision of legal services and therefore breached Principle 2 of the Principles.

Principle 5

81. Paragraph 41 is repeated.

82. Principle 5 requires a solicitor to act with integrity. By charging a disproportionate and unjustified fee to Client A, the Respondent showed a lack of integrity to unduly profit from a vulnerable client and this had the potential to cause significant harm to Client A. The Respondent abused his position in taking an unfair advantage of his client and his behaviour is sufficiently serious because the Respondent is an experienced practitioner. The Respondent would have known that the fee was unjustified because:

- 82.1. The matter was a conveyancing transaction in which the usual fee was £1,200 (as admitted by the Respondent).
- 82.2. The fee was proportionate to the value of the transaction, the complexity of the transaction nor to the hours worked.
- 82.3. The excessive fee had the appearance of taking advantage of a client (whether or not lacking capacity).
83. The Respondent's abuse of his position by charging his client an excessive fee (see paragraph 74 to 78, above) lacked integrity because the Respondent misled or attempted to mislead his client to gain financially. This lacked integrity according to Lord Justice Jackson's statements set out at paragraph 41 above.

Principle 7

84. In accordance with Principle 7, the Respondent was required to act in the best interests of Client A. Contrary to the provisions of Principle 7, the Respondent admitted to fixing Client A's fee far in excess of what he would typically charge another client due to Client A's requirements and the additional time he would spend on the matter. Notwithstanding this, the Respondent did not in fact carry out any additional work contemplated (such as an agreement to protect Client A's right to remain at the Property) in any event. Accordingly, the Respondent charged a disproportionate and unjustified fee to Client A for dealing with the property transfer and the seriousness of this behaviour is aggravated because of the vulnerability of Client A. By doing so, the Respondent failed to act with in the best interests of his client and therefore breached Principle 7 of the Principles.

Paragraph 1.2 of the Code for Solicitors

85. In accordance with paragraph 1.2, the Respondent was not to abuse his position by taking unfair advantage of clients or others. The Respondent abused his position by unfairly charging disproportionate and unjustified fee for his work on Client A's matter. The Respondent has not been able to provide evidence to support that the fee was commensurate to the time incurred. Further, outside of the fixed fee, the Respondent took advantage of Client A by additionally charging him for travel expenses. The level of the fixed fee was objectively disproportionate and unjustified and the Respondent himself accepts that the fee was excessive [MJC1, page 184, line 1].

Representations made by the Respondent in relation to Allegation 5

86. In his representations [MJC1, page 27], the Respondent has admitted the following in relation to Allegation 5:

“A fixed fee of 15,000 GBP was agreed for the transaction and the time spent on the matter.

However, it was informally agreed that there will not be any fee for any work that will be required in the matter or if [Client A] required any further legal assistance or work to be done. Given [Client A]’s age and assessing his mental capacity made this transaction different from others. A great deal of judgement and assessment was required to ensure that [Client A] was aware of what he was doing and the consequences of his decision. I did not factor any other that was needed to be done in the matter in writing in the terms of engagement.

I admit that was not put down in writing and I admit my mistake here.”

87. As a result of the Respondent’s representations, it is apparent that the Respondent was aware that Client A needed had at least reduced capacity yet, rather than fully assess Client A’s capacity appropriately, the Respondent chose to charge an excessive fee in order to gain financially.

Allegation 6 – On 16 November 2021, allowed client money to be transferred into his personal bank account and subsequently failed to ensure that this was paid promptly into a client account and he thereby breached any or all Rules 2.3 and 6.1 of the SRA AR.

88. The facts relied upon by the Applicant are set out at paragraph 8 to 17 above and in the following paragraphs.

89. Within Client A’s Halifax bank statements, there was a payment of £10.00 with the description matching the name of the Respondent [MJC1, page 94]. The same payment was reflected within the Respondent’s RBS statement [MJC1, page 113].

90. In Ms Buttaci’s email dated 6 January 2023, she notes this payment as a ‘*test payment of £10.00 [that] was sent to the personal bank account of [the Respondent]’* on 16 November 2022 [MJC1, page 93]. Ms Buttaci’s email also states that this payment was highlighted by an investigation by Halifax’s fraud team.

91. In his email to the FIO dated 17 February 2023, the Respondent states that the payment of £10 was *'indeed sent in error to [his] personal account on 16 September'* and that he had called (presumably either Client A or Ms Z) to notify that future payments be made to the Firm's client account [**MJC1, page 105**].

Breaches of the Principles and the Code for Solicitors in relation to Allegation 5

SRA AR Rules 2.3 and/or Rule 4.1

92. In accordance with SRA AR Rule 2.3, the Respondent was required to ensure that client money is paid promptly into a client account, subject to the exceptions outlined at Rule 2.3 (a) to (c), inclusive (which do not apply in this case). By requesting money to be paid into his personal account, receiving that money and taking no action to ensure that it was promptly paid into a client account the Respondent breached Rule 2.3.

Rule 6.1

93. In accordance with SRA AR Rule 6.1, the Respondent was required to correct any breaches of the SRA AR Rules promptly upon discovery. Any money improperly withheld or withdrawn from a client account must be immediately paid into the account or replaced as appropriate. The Respondent did not correct the breach and therefore was in further breach of the SRA AR, namely Rule 6.1.

Representations made by the Respondent in relation to Allegation 6

94. In the Respondent's representations [**MJC1, page 27**] following receipt of the Notice, the Respondent has stated:

"My personal account was with Royal Bank of Scotland and my firm's client and office accounts were with NatWest Bank, both being part of the same group. I accidentally gave details of my personal account and realised with I received £10 in my personal account and informed [Client A] and Ms [Z] of my mistake. Two subsequent of £4000 and £3500 were indeed sent to the client account as they were funds received on account. The transactions were recorded in the ledger.

It was an administrative oversight not to have returned or transferred the £10 to the client account from my personal account. It was a genuine mistake as opposed to wilful intention to conceal the money."

The SRA's investigation

95. Without notice to the Firm, the investigation stated on 18 February 2023 and, on 21 March 2023, a recorded regulatory interview took place with the Respondent [MJC1, page 143].
96. The date of the Notice Recommending Referral of Conduct to the Tribunal was dated 23 January 2024 and the final allegations (1-6) can be seen below [MJC1, page 2].
97. The Forensic Investigation Report ("FIR") as finalised on 02 May 2023 [MJC1, page 31] and the Decision on Referral to the Tribunal was 26 March 2024 [MJC1, page 316]. The FIR at Section A - Executive Summary highlighted that it was not possible to calculate whether the Firm held sufficient funds to meet its liabilities to clients. The Firm had provided different versions of their books of account as at 31 January 2023 and all versions provided contained errors and were not in compliance with the SRA Accounts Rules [MJC1, pages 217 and 230]
98. The SRA began a "no notice" investigation in January 2023 following a complaint to the SRA from Ms Buttaci of HJS, dated 06 January 2023 [MJC1, page 62]. HJS acted for Client A under a lasting power of attorney.
99. The email referred to possible fraudulent activity on a client's account (Client A) which included a £10.00 payment to the personal account of the Respondent and payments totalling £6,000 to the firm's account.
100. Without notice to the firm, the investigation started on 16 February 2023 and, on 21 March 2023, a recorded regulatory interview took place with the Respondent.
101. The Forensic Investigation Report ("FIR") as finalised on 02 May 2023
102. The date of the Notice Recommending Referral of Conduct to the Tribunal was dated 23 January 2024.
103. The Respondent provided representations on 15 February 2024 in which he made various admissions (set out in respect of each allegation above). He made the further representation that:

"I do not disagree on certain allegation that the SRA has put forth, I have done all within my bounds that the client does not suffer any loss as a result of instructing me, cancelled the transaction and returned the fee without being prompted as soon as certain facts came to light.

I have terminated my client account and do not deal with any work that will require me to hold client money. I admit there have been lapses, I have dealt with them timely and responsibly."

104. On 26 March 2024 an Authorised Decision Officer of the SRA decided to refer the Respondent to the Tribunal.

Statement of Truth

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

Signed:

Dated: 4 July 2024

CASE NO.

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

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

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

- and -

YUSUF JAMAL SIDDIQUI

Respondent

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

SRA Principles 2019

You act:

- Principle 2 in a way that upholds public trust and confidence in the solicitors profession and in the legal services provided
- Principle 4 with honesty
- Principle 5 with integrity
- Principle 7 in the best interests of each client

SRA Code of Conduct for Solicitors, RELs and RFLs 2019

- 1.2 You do not abuse your position by taking unfair advantage of clients or others.
- 1.4 that solicitors must not mislead or attempt to mislead their clients, the court or others by their own acts or omissions or being complicit in the acts or omissions of others

- 3.2 you ensure that the service you provide to clients is competent and delivered in a timely manner.
- 3.4 You consider and take account of your client's attributes, needs and circumstances