

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL  
IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)  
B E T W E E N:**

**SOLICITORS REGULATION AUTHORITY LIMITED**

**and**

**LEWIS BRADY**

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**OPENING NOTE**

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Introduction and overview

1. The case concerns allegations of unwanted, inappropriate and sexually motivated conduct (touching) by the Respondent towards two complainants.
2. The Applicant's Rule 12 comprehensively summarises the evidence and the SRA's case and will be opened briefly orally at the outset of the hearing.
3. This Opening Note is provided to the Tribunal to assist with a brief summary and a reiteration of the legal framework relied upon by the Applicant, and already set out in the Rule 12 Statement, which the Respondent's Answer challenges.
4. In brief summary, the complainants allege that the Respondent's conduct and touching (for Person A – across five occasions (seven dates) and for Person B on two occasions) was unwanted. They describe their experiences in detail in witness statements provided and will be attending the hearing to give evidence, along with other witnesses.
5. The Respondent's position in summary is that he challenges factual aspects of the evidence of Person A and B and he does not accept that any conduct towards/touching of Persons A and B was not consented to or reciprocal. Further, he challenges the legal basis upon which the SRA's case is brought.
6. In terms of the complainants' accounts as against that of the Respondent, it will be a matter for the Tribunal to consider the evidence of the complainants and that of the Respondent, and all the available – and different forms – of evidence put before you.
7. This will be addressed further orally in opening the case to the Tribunal.
8. As far as the Respondent's challenge to the legal framework as set out in the Rule 12, is concerned, it is the SRA's submission that such challenge is unfounded and

flawed. The following response, in respect of the applicable legal framework, to the Answer is set out here.

The Respondent's position on nexus/*Beckwith* [2020] EWHC 3231 (Admin)

9. In brief summary, the Answer submits that the SRA has failed to show that either limb of the *Beckwith* test is satisfied, the test being (with their emphasis – noting their lack of emphasis on the word ‘implicit’):-
  - a. the conduct must *realistically* touch on the solicitor’s practice of the profession or the standing of the profession, in a way that is *qualitatively relevant*; and
  - b. the conduct must, *in a way that is demonstrably relevant*, engage a standard of behaviour set out in or *necessarily* implicit from the Handbook/the Code for Solicitors.
10. The assertion made is that the Respondent’s conduct did not have sufficient proximity to the Respondent’s practice (for the first limb) and that the SRA cannot prove a breach of a rule within the Code (for the second limb).

Response to Respondent’s submissions on nexus

11. In the first instance the SRA submits and maintains that there was sufficient nexus to practice. This is addressed at paragraphs 153 – 156 of the Rule 12 Statement, and as summarised at paragraph 153:-

*It is not conceded by the SRA that the matters alleged occurred outside the Respondent’s practice; to the contrary it is submitted that there was an overlap and/or connection between the Respondent’s professional life and the alleged conduct. Person A and Person B worked for the same Firm as the Respondent and the alleged conduct would not have occurred had it not been for the fact that they were colleagues from the same firm who attended Firm events, or social events organised for employees of the Firm and socialised around work together.*

12. The working relationship remained the origin and context of the occasions where it is alleged the Respondent conducted himself inappropriately towards the complainant. Further, it was – in the main – at, or after, social events arranged for teams within the Firm or work events organised by the Firm – including for example the Wine Tasting event on 20 October 2021 or the team Christmas party on 9 December 2021, and otherwise gatherings attended by employees of the Firm, that the conduct is alleged to have occurred. But for the connection to the Respondent’s practice or professional life, the conduct alleged by Persons A and B would not have occurred.
13. However, if such submissions in respect of nexus are not accepted, that does not undermine the SRA’s case against the Respondent. This is on the basis that the allegations concern non-consensual sexual touching which, it is submitted, is distinguishable from *Beckwith*. Consequently it is the SRA’s submission that nexus – or proximity/connection to the Respondent’s practice – in terms of showing or proving

a connection to the Respondent's practice or professional life in the usual sense that this has been taken, is not a pre-requisite. Indeed the position must surely be that non-consensual sexual touching/conduct will/must touch on the solicitor's practice of the profession or the standing of the profession, in a way that is qualitatively relevant because it is so inherently serious. (This is set out in the Rule 12 at paragraphs 152, 157, 158 and 161.)

14. It is therefore submitted that it is not necessary for the SRA to satisfy the first limb of *Beckwith* in the traditional sense of showing a link to work premises or a work event.
15. In respect of the second limb, it is our view that this is clearly satisfied; to not engage in non-consensual sexual touching must be a standard of behaviour expected of the profession whether on the basis of Paragraph 1.2 of the Code, or **necessarily implicit** from the Code.

#### Response to the Respondent's assertions about the SRA's Guidance

16. As for the submissions on the SRA's Guidance; the SRA's Guidance on Sexual Misconduct, published on 1 September 2022, (the Guidance) is not saying anything new, or seeking to bring in new standards. Hence what is stated at paragraph 155 of the Rule 12, which the Answer criticises.
17. Through the Guidance, the SRA was not seeking to expand the application of its rules or impose additional, or new, requirements on regulated persons and thus it did not need to make any application to the LSB for approval.
18. To not subject someone to unwanted, non-consensual sexual touching is not a new requirement. To treat colleagues with respect and dignity is equally not a new requirement unknown to the profession before the Guidance. Hence – the guidance issued by the SRA is reiterating what expected standards are rather than introducing any new requirement or expectation. The Respondent's Answer seems to seek to suggest that the Guidance does not represent the current (or existing at the relevant time) state of the law. That is not correct.
19. The Guidance arises out of the *Beckwith* judgment, which was released on 27 November 2020, following the hearing on 20 October 2020. So even if the Guidance post-dates the time period of the alleged conduct, the *Beckwith* judgment does not; the Respondent's alleged conduct was in September 2021 – March 2022, so after the Beckwith judgement which the Respondent would no doubt have been aware of given that it was something which was highly publicised and reported on.
20. And as the Chief Executive of the SRA stated in the SRA's News Release of 1 September 2022, regarding the Guidance [emphasis added]:-

*"Importantly, as we said in 2020, the Beckwith judgment made it clear that it was "common sense" that upholding our principles of acting with integrity could reach into a solicitor's private life. So alongside, we are*

*also publishing updated guidance on acting with integrity. I urge everyone to take time to read the new guidance.”*

21. The link is to the SRA’s statement of 21 December 2020 which comments on the *Beckwith* case as follows [emphasis added]:-

*We welcome the court's firm confirmation that our Principles of acting with integrity and upholding public confidence comply with human rights standards by providing the necessary degree of legal certainty, and that "common sense dictates" that those principles are entitled to reach into a solicitor's personal life.*

*We also welcome the clarity of the court's confirmation that the public is entitled to expect that junior staff and members of the profession are treated with respect by more senior colleagues. Solicitors must not, as the court emphasised, "take unfair advantage of others" whether in a professional or personal capacity.*

*In overturning the Tribunal's decision, the court expressly limited itself to the circumstances of this case. Our case did not depend on the issue of consent. Rather, we argued that the circumstances indicated vulnerability and abuse of a position of seniority and authority. Those and some other key facts were not found proved by the Tribunal. The court's judgment was based on and limited to the application of our Principles to the findings of fact made by the Tribunal in this case.*

*It's important to be clear that the events in question took place prior to the introduction of our new Standards and Regulations and the full suite of supporting resources. We do not expect to win all the cases that we prosecute and we always reflect on important cases. In this instance, we are carefully considering whether this case highlights whether we need to do more to improve our ability to take appropriate action in the future.*

*Finally, I want to emphasise that allegations of sexual misconduct and sexual harassment are matters that we take very seriously and will continue to act upon.*

22. From this, the Respondent would thus have been aware of conduct – even in private life – being within the remit of the SRA. However, it would hopefully be obvious to any regulated person that non-consensual sexual touching or conduct – whether in the private rather than the public sphere – is something which is obviously and implicitly, if not expressly, unacceptable from the Code and is in clear breach of the Principles.
23. The Respondent therefore cannot surely be claiming that an authority is needed for the SRA to be able to say that *“non-consensual touching, in this instance of colleagues, which is sexually motivated, is so serious that it raises a regulatory issue irrespective*

*of whether or not it could be considered to have happened outside of the Respondent's practice".*

24. Furthermore, this is based on the Guidance, which is – as stated above – not setting out anything new but is reiterating expected standards of conduct:-

*Sexual misconduct might also happen entirely outside of practice and not directly relate to the practice of the individual but might be so serious that we consider it raises a regulatory issue.*

*Some sexual misconduct allegations totally removed from legal practice might still be so serious that they damage public confidence in the profession and therefore might still amount to professional misconduct. Examples include criminal convictions for sexual offences as well as serious non-consensual sexual touching even where no criminal proceedings are planned, current or concluded.*

25. On a more minor point, the Guidance is not titled 'A firm social event'. It is titled 'Sexual Misconduct', the title of 'A firm social event' is one of the non-exhaustive examples provided.

#### The need for a breach of the Code?

26. The Answer asserts that initially the SRA must demonstrate a breach of the Code before there can be any breach of the Principles. In respect of a breach of Rule 1.2, the Answer contends that per *Beckwith* for this to succeed the SRA must be able to demonstrate (a) a position of seniority or authority and (b) a subsequent abuse of that position, which it has failed to do.

#### Response on behalf of the Applicant

27. In and of itself the first assertion is not accepted; the Principles are the overarching and overriding standards by which a solicitor must conduct himself or herself and comprise the fundamental tenets of ethical behaviour that the SRA expects a solicitor to uphold. The Code then gives examples, more prescriptively, of what might amount to conduct which breaches the Principles.
28. Further as set out in the Rule 12, the Respondent's assertion on this issue, is not in fact consistent with what *Beckwith* set out. See paragraph 150 of the Rule 12, referring to paragraph 54 of *Beckwith* [emphasis added]:-

*"There can be no hard and fast rule either that regulation under the Handbook may never be directed to the regulated person's private life, or that any/every aspect of her private life is liable to scrutiny. But Principle 2 or Principle 6 may reach into private life only when conduct that is part of a person's private life realistically touches on her practise of the profession (Principle 2) or the standing of the profession (Principle 6). Any such conduct*

*must be qualitatively relevant. It must, in a way that is demonstrably relevant, engage one or other of the standards of behaviour which are set out in or necessarily implicit from the Handbook. In this way, the required fair balance is properly struck between the right to respect to private life and the public interest in the regulation of the solicitor's profession."*

29. Further, the Tribunal is invited to refer to what is as set out at paragraphs 163 and 164 of the Rule 12. These paragraphs answer the Respondent's arguments as to the SRA having failed to identify a breach of the Code which is a pre-requisite before there can be a breach of the Principles.
30. As to the Answer's second point on this issue, regarding the necessity of the SRA to show the Respondent's seniority over the complainants, the Answer seems to misunderstand *Beckwith*'s applicability to this case – in respect of the issue of consent.
31. As set out above, *Beckwith* was not about non-consensual sexual activity; see paragraph 37 of the judgment – "*There was no allegation that that 'encounter' took place without consent. The Tribunal was therefore required to approach the matter on the basis that the sexual activity that occurred was consensual*".
32. It was in this context of there being no suggestion that the conduct was non-consensual that consideration was then given to the seniority of the Respondent over Person A.
33. That is not the case here. In respect of Person B, the allegation is one of non-consensual touching, she described it to Person A as that she had been sexually assaulted. In relation to Person A, it is also the SRA's case that the touching was non-consensual; for example, when the Respondent placed his hand on her thigh and rubbed it, she says that she intercepted him with her arm to move his hand away. She otherwise describes his conduct towards her as general unwanted attention, she would move away when he persisted in touching her. When asked by Person B if she wanted to 'shag' the Respondent – when the Respondent was nearby, she said 'no'. When at Person B's home – and with what occurred there, Person A indicates that she felt frozen or detached from her body in the circumstances that there were a group of the Respondent's friends around and, essentially, she didn't want to make a scene. Then when back at the Respondent's flat she describes trying to stop him from kissing her and that she was focused on moving his face away from her face – with her hands, and that from her body language it was clear that she was not consenting to what was happening to her by the fact that she was continuously pushing him away, pushing his arms and face, and yet he continued.
34. The Respondent's conduct in this case is thus distinguishable from the alleged conduct in *Beckwith*.
35. It is simply an inconceivable proposition that non-consensual touching, even in a Respondent's private life, is not something that would be considered to be in breach of explicit or implicit standards set out by the Code in the context of the requirements of the Principles.

36. Further, in respect of Person A, given her role she was in a more vulnerable position vis-à-vis the Respondent, as set out in the Rule 12. But that is not a pre-requisite for the misconduct alleged in this case in any event, as it is distinguishable from *Beckwith* on grounds of the conduct alleged being non-consensual.
37. Similarly in respect of Person B, the arguments made in the Answer about the irrelevance of the Rule 12's reference to the friendship between the Respondent and Person B being platonic and that the Respondent abused that position, are erroneous and lack import – in the context that the alleged touching was non-consensual. Whatever the status of their friendship or work-relationship, despite their equivalent level of seniority, that is equally irrelevant in the context of the allegation being about non-consensual sexual touching.
38. Further submissions will be made orally as necessary.

**Louise Culleton  
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27 March 2025**