

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 -

CLARE ELIZABETH FORSTER

Respondent

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

I, **JAMES DANKS**, am a Solicitor and Partner at Blake Morgan LLP of Apex Plaza, Forbury Road, Reading, RG1 1AX.

I make this statement on behalf of the Applicant, the Solicitors Regulation Authority Limited ("**the SRA**").

The Allegation

1. The allegation against the Respondent, Clare Elizabeth Forster, made by the SRA is that, whilst in practice as a Solicitor at Hudgell Solicitors ("**the Firm**"):

1.1 Between 8 June 2023 and 27 November 2023, she falsely recorded time for tasks she purportedly undertook on four client matters.

In doing so, she breached any or all of:

1.2.1 Principle 2 of the SRA Principles 2019 ("**the Principles**"),

1.2.2 Principle 4 of the Principles;

- 1.2.3 Principle 5 of the Principles; and
- 1.2.4 Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs (**'the Code'**).

The facts and matters relied upon in support of this allegation are set out in paragraphs 7 to 61 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.

3. I also attach to this statement a bundle of documents, marked **Exhibit JD1**, to which I refer in this statement. Unless otherwise stated, page references in this statement relate to that exhibit, using the format [**JD1, X**].

4. The bundle is divided into the following sections:

4.1. Section A: Documentary evidence.

4.2. Section B: Correspondence and SRA documentation.

Professional Details

5. The Respondent was born on [REDACTED] 1994 and was admitted as a solicitor on 3 June 2019.

6. The Respondent does not hold a current practising certificate.

Background

7. The Respondent was employed by the Firm from 7 March 2022 as a clinical negligence solicitor. For the time that the Respondent was employed by the Firm, she was managed by Caroline Murgatroyd [**JD1, 87**].

8. The Firm's expectation was that fee-earners, at the level of the Respondent, should record 125 chargeable client matter hours per month, in order to achieve a target of 1500 client matter hours per year **[JD1, 2]**
9. The Respondent's work that was undertaken on an hourly rate basis, with the claim values ranging from £5000 to £50,000 **[JD1, 87]**. None of the matters that the Respondent had conduct of were undertaken on a fixed fee basis.
10. The Firm used the Proclaim Case Management System onto which time working on client files would be recorded **[JD1, 87]** and on which all employees are given training as part of their induction.
11. For the majority of the Respondent's employment at the Firm, there were concerns that she was not recording sufficient time on client matters.
12. In August 2022, Ms Murgatroyd noted that the Respondent was late working late into the evening on client matters **[JD1, 88]**.
13. Ms Murgatroyd raised this concern directly to the Respondent, who explained that she was aware that her time recording had not reached target and that she was working late night in order to meet the necessary time targets.

September 2022 to April 2023

14. The Respondent's probation review took place on 20 September 2022 and was conducted Ms Murgatroyd **[JD1, 88]**.
15. At the review, although the Respondent's low time recording was noted, Ms Murgatroyd was content that the Respondent had displayed the necessary competence and skills for the role and passed her probation **[JD1, 88]**.
16. Whilst the Respondent passed her probation, her time recording continued to be at a level below what the Firm expected **[JD1, 89]**.
17. The Respondent was given advice and training as to how to efficiently time record but, from November 2022 to April 2023 she recorded an average of 87.7 hours per month. Save for January 2023, when the Respondent recorded 116 hours **[JD1, 89]**, during these months the Respondent recorded no more than 89 hours per month.

18. In January 2023, Ms Murgatroyd conducted a performance review with the Respondent. Positive feedback was given in respect of the standard of the Respondent's work but it was noted that the time recording remained lower than expected **[JD1, 90]**.
19. In February 2023, Ms Murgatroyd noticed that the Respondent was not completing some of her work tasks in a timely manner.. To assist, Ms Murgatroyd determines that the Respondent would be removed from the new files list to allow her the opportunity to progress her existing caseload **[JD1, 90]**.

April 2023

20. Due to the ongoing concerns in respect of the Respondent's time recording being below what was expected, prior to her annual review in April 2023, Ms Murgatroyd agreed with others at the firm that she would discuss with the Respondent about placing her onto a performance improvement plan ('PIP') to monitor her time recording **[JD1, 91]**.
21. Following the annual appraisal, due to the Respondent generally meeting the expected standard of work save for her time recording and timeliness, it was determined that the Respondent be allowed a further two months to demonstrate a suitable improvement in her time recording and avoid the need to be entered onto a formal PIP **[JD1, 92]**.
22. On 18 May 2023, Ms Murgatroyd met with the Respondent and confirmed that she was required to record at least 100 hours of chargeable time in June 2023 and then 125 hours in July 2023 **[JD1, 92]**.
23. On 24 May 2023, Maria Repanos became the Head of Clinical Negligence at the Firm.

Allegation 1 – False Time Recordings

24. Paragraphs 7 to 23 are repeated.
25. The Respondent recorded 111 hours in June 2023, and 121 hours of chargeable time in July 2023 **[JD1, 92]**.
26. On 17 July 2023, Ms Repanos emailed the Respondent as it had been noted that for four days that month, she had recorded only 50% of the expected time for those days **[JD1, 92]**.

27. As a result of this, it was determined that the Respondent should be placed on a PIP, which began on 1 August 2023 **[JD1, 92]**.
28. The PIP was expected to last for three months, and to conclude by the end of October 2023. Ms Repanos had responsibility for overseeing the Respondent's PIP and met with the Respondent on a regular basis **[JD1, 92]**.
29. On 9 October 2023, the Respondent spoke to Ms Murgatroyd. The Respondent explained that she that was experiencing some personal difficulties, and asked for two days to be taken as sick leave. Ms Murgatroyd approve this for the benefit of the Respondent well-being **[JD1, 92]**.
30. Following the Respondent's return to work , her time recording declined further **[JD1, 92]**. No issue was taken by Ms Murgatroyd and Ms Repanos due to the Respondent's personal circumstances, but the Respondent's time recording was monitored.
31. Ms Murgatroyd noted that the Respondent recorded no time at all on 17 October 2023, and just under 3 hours of time on 19 October 2023 **[JD1, 93]**
32. Ms Murgatroyd spoke to the Respondent following day. Their Respondent explained that her personal circumstances were causing her difficulties including being able to concentrate properly at work.

November 2023

33. Ms Murgatroyd had a further conversation with the Respondent on 8 November 2023, as the Respondent had only recorded 14 units on 6 November 2023 **[JD1, 93]**.
34. The Respondent explained that, whilst she had worked for longer than 14 units on 6 November, she had not recorded all of her time as one of the tasks she had been doing was only partially completed ('Matter 1').
35. The Respondent's expectation was to record the full time she had spent on the task once it had been completed **[JD1, 93]**.
36. The Respondent told Ms Murgatroyd that she had drafted a file note explaining the work undertaken, but that it had been lost due to IT issues. The Respondent was waiting for the Firm's IT team to determine if she if the file note could be recovered **[JD1, 94]**

37. Ms Murgatroyd asked the Respondent to have a further discussion with her in due course if the Firm's IT team was unable to restore the file note.
38. Despite the Respondent being asked by Ms Murgatroyd to record the time that had been spent on the partially completed task for Matter 1, purportedly undertaken on 6 November 2023, the Respondent did not record that time until 21 November 2023, when she recorded 43 units **[JD1, xx]**.
39. Ms Repanos e-mailed the Respondent on 20 November 2023 in respect of the low time recorded by the Respondent on 6 November 2023 **[JD1, 15]**. The Respondent replied the following day confirming that she had entered the time for Matter 1 **[JD1, 15]**
40. On 22 November 2023, Ms Murgatroyd checked the Respondent's time recording for that day. She noted that, at 5:00pm, no time had been recorded by the Respondent.
41. Upon checking the following day, Ms Murgatroyd noted that the Respondent had recorded 66 units for work on 22 November 2023, which had been recorded between 5:53pm and 10:43pm **[JD1, 94]**.
42. As a result of the time recording being made so late in the day, Ms Murgatroyd checked when the Respondent had entered time on previous days. She noted a pattern of entries being made late at night **[JD1, 95]**.
43. On 27 November 2023, Ms Murgatroyd again reviewed the Respondent's time recording for the previous day. She noted that the Respondent had recorded 12 units on a file ('Matter 2') for drafting a 'Stage 2 Pack' ('the Pack') **[JD1, 95]**.
44. The Pack includes a number of standard documents, including a client care correspondence, which is sent to a client following their signing of a CFA. 12 units was not an unusual amount of time to be recorded to prepare the Pack.
45. Ms Murgatroyd reviewed the Pack documents and noted that, despite time being recorded by the Respondent for the documents' completion, they were in fact blank.
46. As a result of the inconsistency between the time recorded by the Respondent but the lack of the Pack documentation being completed, she emailed the Respondent asking for the client care letter to be emailed to her **[JD1, 95]**.

47. The Respondent did not reply to Ms Murgatroyd's e-mail, who therefore called the Respondent via Microsoft Teams later that morning **[JD1, 95]**.
48. During this call, the Respondent appeared upset. She confirmed that she had not spent 12 units drafting the Pack, as had been recorded by her.
49. The Respondent explained she had recorded the time and planned to do the work the following day. She told Ms Murgatroyd that she was behind on her time target and had panicked **[JD1, 96]**.
50. Following Ms Murgatroyd call with the Respondent, she raised concerns about the Respondent's well-being and health **[JD1, 81]**.

30 November 2023

51. A meeting took place between Ms Repanos and the Respondent in the office on 30 November 2023 **[JD1, 12 and 104]**.
52. During the meeting, the Respondent confirmed that, contrary to what she had told both Ms Murgatroyd and Ms Repanos, she had not carried out work on Matter 1 on 6 November 2023, but had recorded time on the file.
53. The Respondent also explained that there were a number of files on which she had recorded time, but not undertaken the relevant work. She stated that she kept a list of her cases, and had highlighted those on which time had been recorded without the purported work having been carried out ('the List') **[JD1, 10]**.
54. Ms Repanos obtained the List from the Respondent's desk, and undertook a review of the cases that had been highlighted by the Respondent.
55. In respect of Matter 3, the Respondent recorded 55 units on 8 June 2023 but the attendance note was blank save for the case reference and the date. The Respondent had also recorded, on 30 June 2023, two units for drafting an order, four units for work on an application notice, and 10 units for work on a witness statement. None of these documents had, in fact, been worked on by the Respondent **[JD1, 117]**.

56. In respect of Matter 4, the Respondent also confirmed to Ms Repanos that she had falsely recorded time on 23 November 2023 [JD1, 117].
57. Following the Respondent's admissions during the meeting, the Firm undertook an investigation in respect of the time allocated to the Respondent's cases [JD1, 36].
58. As a result of this investigation, 99.9 hours of recorded time was removed from the live cases that had been in the Respondent's name are due to there being insufficient evidence that work had in fact been undertaken [JD1, 4].

The Respondent's Position

59. The Respondent accepted to the Firm that she had recorded time on a number of matters, but had not undertaken the applicable time [JD1, 146].
60. The Respondent's acceptance of her conduct has been consistent in her communication with the SRA, including her response to the Notice.
61. The Respondent has explained that she recorded time in order to fulfil the Firm's time recording requirements, and to satisfy the PIP, and that her intention was always to complete the work, which had been charged for, in her own time.

Breaches of the Principles in relation to allegation 1

Principle 4 and Paragraph 1.4

62. 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.”

63. When the Respondent entered time recordings for Matters 1 to 4 on 8 June 2023, 30 June 2023, 21 November 2023 (for work purportedly done on 6 November 2023) and 23 November 2023, she was aware:

63.1. That the Firm had a target number of chargeable hours that it expected fee-earners to record;

63.2. That she had not recorded the appropriate number of chargeable hours consistently, and that her line manager had raised concerns to her about this;

63.3. That in June 2023 and July 2023, she was expected to record a set number of chargeable hours or she would be formally entered onto a PIP;

63.4. That she had not undertaken the work that the time purportedly represented;

63.5. That by recording the false time, the Firm could be under the impression that her time recording was higher than the reality.

64. Given this state of knowledge and belief, the Respondent acted dishonestly by the standards of ordinary decent people. Ordinary decent people would consider it dishonest for a solicitor to artificially inflate their recorded hours, in order to create an impression to their colleagues that may cause them to be misled.

65. Whilst sporadic, the Respondent's actions continued over a number months, during when she had numerous opportunities to inform the Firm of the true position.

66. By doing so, the Respondent failed to act with honesty and therefore breached Principle 4 of the SRA Principles, and Paragraph 1.4 of the Code.

Principle 5

67. The Respondent's actions amounted to a failure to act with integrity (i.e. with moral soundness, rectitude and steady adherence to an ethical code) in breach of Principle 5 of the SRA Principles. 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 held:

“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”.

68. Paragraphs 64 to 65 are repeated.

69. The Respondent was in a position of trust and responsibility as a solicitor. A solicitor acting with integrity would not have acted in a manner that could have created their colleagues to have a misleading impression as to how much time was being recorded.

70. Further, a solicitor acting with integrity would have acted in a manner that was in accordance with the purpose of the PIP, even if it was to the detriment of the solicitor if that action demonstrated that hours’ targets were not being met.

71. By the conduct stated in the preceding paragraphs, the Respondent therefore breached Principle 5 of the SRA Principles.

Principle 2

72. The trust that the public places in solicitors, and in the provision of legal services, depends upon the reputation of the solicitors’ profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. Solicitors are required to discharge their professional duties with integrity, probity and trustworthiness.

73. The Respondent was in a position of trust and responsibility as a solicitor and she was responsible for ensuring that the time that she recorded was accurate.

74. Members of the public should also be able to place their trust in members of the profession, who are held in high regard. 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.

75. Members of the public would expect a solicitor to act in a straight-forward and transparent manner with colleagues, and other members of the profession. This clearly includes not providing information that they know to be inaccurate, and correcting any misleading impression that may have been caused by that information.

76. Time recording, which often translates into fees that are charged to a client, is an essential part of being a solicitor.

77. By her actions, the Respondent abused the trust placed in her by her colleagues and members of the public, and profession, and did not conduct herself in a manner that maintains public trust in her and the provision of legal services, and therefore breached Principle 2 of the SRA Principles.

The SRA's investigation

78. The Firm reported the Respondent's conduct to the Applicant. In response to the referral, the Respondent provided her acceptance of the concerns regarding the false recording of time on four matters **[JD1, 147]**.

79. In addition, the Respondent also provided a witness statement dated 25 March 2024 **[JD1, 153]**. Within this witness statement, she reiterated her admissions and provided mitigation regarding her health and personal circumstances at the relevant time.

80. The SRA issued a Notice Recommending Referral of Conduct to the Tribunal **[JD1, 162]** dated 23 October 2024 ('the Notice'). The Notice was provided to the Respondent for comment.

81. In the Respondent's representative's written response to the Notice of 25 November 2024 **[JD1, 177]**, the allegation is admitted. In addition to the admission, mitigation in respect of the Respondent's health and personal circumstances is advanced, and supported by medical evidence **[JD1, 181]**.

82. On 13 December 2024, an Authorised Decision Officer of the SRA decided to refer the Respondent to the Tribunal **[JD1, 182]**.

Statement of Truth

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

Signed:

A handwritten signature in blue ink, consisting of a stylized initial 'J' followed by a series of connected loops and a horizontal line at the end.

Dated:

7 April 2025

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 -

CLARE ELIZABETH FORSTERRespondent

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

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

SRA Code of Conduct for Solicitors, RELs and RFLs 2019

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

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AND IN THE MATTER OF:

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- and -

CLARE ELIZABETH FORSTERRespondent

APPENDIX 2 TO STATEMENT PURSUANT TO RULE 12 (2)
SOLICITORS (DISCIPLINARY PROCEEDINGS) RULES 2019
Cross Reference Schedule

<u>Reference in Rule 12</u>	<u>Firm Reference Number</u>
Matter 1	241071.002
Matter 2	323327.001
Matter 3	309987.001
Matter 4	308131.001