

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11050-2012

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

ESH RAT SADDIQ

Respondent

---

Before:

Mr J. Astle (in the chair)  
Miss N. Lucking  
Mr M.G. Taylor CBE DL

Date of Hearing: 12<sup>th</sup> September 2013

---

**Appearances**

Ms Katrina Wingfield, Solicitor Advocate of Penningtons Solicitors LLP, Abacus House, 33 Gutter Lane, London EC2V 8AR for the Applicant

The Respondent attended and was not represented

---

**JUDGMENT**

---

## **Allegations**

1. The allegations against the Respondent were that:
  - 1.1 She had occasioned or been party to, with or without the connivance of the solicitor by whom she was employed, an act or default in relation to that solicitor's practice which involved conduct on her part of such a nature that it would be undesirable for her to be employed or remunerated by a solicitor in connection with his practice. In particular:
    - 1.1.1 She misled her employers regarding her possession of the LPC qualification;
    - 1.1.2 She submitted a letter to the SRA purportedly sent by the University of Sheffield dated 28 March 2007, confirming that she had passed the LPC, knowing that she had not received such a letter and had not passed the LPC;
    - 1.1.3 She sent emails to the SRA purportedly from Mr Heathcote, Director of Legal Practice in the School of Law, University of Sheffield, knowing that he had not sent such emails.

## **Documents**

2. The Tribunal reviewed all of the documents submitted on behalf of the Applicant and the Respondent, which included:

### **Applicant**

- Application dated 31 August 2012;
- Rule 8 Statement and exhibit "KEW1" dated 31 August 2012;
- Supplementary Rule 7 Statement dated 15 May 2013;
- Witness Statement of Mr Martyn Heathcote and exhibits 1 to 8 dated 10 September 2012;
- Witness Statement of Mr Andrew Callaghan and exhibit "AC1" dated 22 May 2013;
- Witness Statement of Mr Simon Allen dated 23 January 2012;
- Chronology;
- Civil Evidence Act Notice dated 23 May 2013;
- Letter from Penningtons dated 11 September 2013;
- Additional bundle of documents;
- Schedule of Costs dated 11 September 2013.

### **Respondent**

- Response of the Respondent to the Rule 8 Statement dated 25 June 2012;
- Witness Statement of the Respondent dated 2 September 2013;

- Witness Statement of Mrs Halimah Aktar dated 1 September 2013;
- Character reference of Mr Barry Gall undated and electronically signed;
- Copy letter from the Respondent to Penningtons as to means and supporting documentation undated;
- Privacy application of the Respondent dated 11 September 2013.

### **Preliminary Matters**

3. The Respondent told the Tribunal that she wished to apply for the hearing to take place in private. She referred to her email dated 11 September 2013 in which she had requested "Please let this matter be held privately".
4. The Respondent said that she had previously requested that the Applicant not publish its decision to refer her to the Tribunal but that that had been refused by the Applicant and it had published its decision to do so in October 2012.
5. The Respondent made submissions addressing the grounds of exceptional hardship and exceptional prejudice per Rule 12 (4) of the Solicitors (Disciplinary Proceedings) Rules 2007 ("the 2007 Rules"). Her application was not supported by any documentary evidence. The Respondent confirmed on oath that her submissions to the Tribunal to enable the hearing to take place in private were true.
6. The Respondent agreed that the Applicant's decision to refer her case to the Tribunal had been on its website since October 2012. The Respondent accepted that the Applicant's decision had been in the public domain since that time.
7. Ms Wingfield told the Tribunal that the application was opposed. She said that the referral to the Tribunal of the case against the Respondent had been in the public domain since October 2012. Ms Wingfield said that she had communicated with the Respondent regularly and the Respondent had not raised the issue of the hearing proceeding in private until 11 September 2013, the day before the substantive hearing.
8. Ms Wingfield referred the Tribunal to the relevant rules being Rule 12 (3) and 12 (4) of the 2007 Rules and that the Respondent had to show that the case being heard in public would cause her exceptional hardship or exceptional prejudice of which the Tribunal had to be satisfied.
9. Ms Wingfield submitted per Rule 16 of the Rules that the hearing should take place in public. She said that the purpose of a Section 43 Order was regulatory in the public interest rather than punitive and she submitted that the hearing should proceed in public.

### **The Tribunal's Decision**

10. The Tribunal had listened carefully to the submissions of the parties and had read all of the documents to which it had been referred.
11. The Tribunal had regard to Rule 12 of the 2007 Rules which stated:

“(3) Subject to paragraphs (4) and (5) every hearing shall take place in public.

(4) Any party to an application and any person who claims to be affected by it may seek an order from the Tribunal that the hearing or part of it be conducted in private on the grounds of-

- (a) exceptional hardship; or
- (b) exceptional prejudice,

to a party, a witness or any person affected by the application.

(5) If satisfied that those grounds are met, the Tribunal shall conduct the hearing or part of it in private and make such order as shall appear to it to be just and proper”.

12. The Tribunal noted that the decision to refer the Respondent to the Tribunal had been published by the Applicant in October 2012 and had been on its website since then. There was no independent corroborative evidence before the Tribunal to support the Respondent’s application.
13. The Tribunal noted that an earlier application by the Respondent for the hearing to be dealt with by video link had been made by her on the grounds of lack of means and for no other reason. The Tribunal did not find the Respondent’s evidence to have been credible and it was not satisfied that the Respondent had discharged the burden upon her under Rule 12 that the requirements of subsections (4) and (5) be met.
14. The Tribunal refused the Respondent’s application and directed that the hearing should proceed in public.

### **Factual Background**

15. The Respondent was an unadmitted person and at the material time was employed by Russell Jones & Walker Solicitors (“RJW”) at their offices in Sheffield. She was employed as an unadmitted fee earner in the Road Traffic Section initially in the Manchester office from 6 February 2007 and subsequently in the Sheffield office when the Section moved to Sheffield. The Respondent’s employment was terminated on 13 May 2011.
16. The allegations against the Respondent related to events in 2010 and 2011 pertaining to the Respondent’s purported legal qualifications. It was the Applicant’s case that the Respondent had not passed the Legal Practice Course (“LPC”) yet led her employers and the Applicant to believe that she had done so. The Respondent was alleged to have produced documentation including email correspondence which purported to confirm that she had passed the LPC.
17. The Applicant’s case also related to an application for employment as a fee earner made by the Respondent to Minster Law Solicitors (“MLS”). The Applicant had become aware in October 2012 that the Respondent might be working at MLS.

18. The Respondent denied the allegations against her and maintained that her version of events was correct and that she had received written confirmation that she had passed the LPC and was not aware of any problems in that regard until she had discovered in November 2010 that her training contract could not be registered by RJW.
19. An Adjudicator decided to refer the matter to the Tribunal in October 2011 and a further decision to refer was made on 12 July 2012.

### **Witnesses**

20. Mr Martyn Heathcote, Mr Andrew Callaghan and the Respondent gave evidence.

### Mr Martyn Heathcote

21. Mr Heathcote was sworn in to evidence and confirmed the truth of his statement. He said that he was the Director of Legal Practice at the University of Sheffield and responsible for the running of the LPC.
22. Mr Heathcote said that the Respondent had failed a number of subjects and had had to take re-sits. At the time the Respondent was studying for her LPC students had been allowed three attempts for each assessment but he said that there had been a three year time limit to complete the LPC although the Respondent had secured an extension to that time period. He said that January/February 2007 had been the Respondent's final attempt and she had re-sat her commercial paper in January 2007.
23. Ms Wingfield said that the Respondent's case was that the students re-sitting that paper had been given the incorrect paper and that she [the Respondent], having failed to pass her commercial paper for what would otherwise have been the final time, would have been entitled to a further re-sit attempt because of the confusion. Mr Heathcote told the Tribunal that had that been the case the Examination Board could have considered whether the student's exam performance had thereby been impaired but it was for the student first to submit that there had been extenuating circumstances and no such submissions had been received.
24. Mr Heathcote said that he had learnt of the matter involving the Respondent after the Applicant emailed the LPC office in approximately October 2010. He referred the Tribunal to a letter dated 28 March 2007 which was from Mr Callaghan addressed to the Respondent at her parents' address and which stated that she had failed the final sit of the commercial paper and had failed the course. Mr Heathcote also referred to the Profile of Marks of the Respondent which he said showed that she had only attained a mark of 38% in her commercial paper and had thereby failed the paper.
25. Mr Heathcote said that the Respondent gave the appearance of some confusion as to whether she had passed the LPC or not but the Training Contract could not be registered by the Applicant as the Respondent had not passed the LPC. The Respondent had then contacted the LPC office and had asked for clarification. Mr Heathcote said that the Respondent had asked to meet with him and they had met on 30 November 2010 and he referred the Tribunal to his notes of the meeting.

26. Mr Heathcote said that the issues he identified from the meeting were that the copy letter produced by the Respondent dated 28 March 2007 did not mirror the copy of the letter dated 28 March 2007 on the LPC office's file or the precedent used for notifying students that they had passed the LPC. He passed to the Tribunal the original letter dated 28 March 2007 from the LPC office being the letter which had notified the Respondent that she had not passed the LPC.
27. Mr Heathcote referred to the further letter dated 28 March 2007 [Exhibit 6 to his statement] which he said was a standard letter sent to students notifying them they had passed the LPC and were awarded a Diploma in Legal Practice. He said that the copy produced by the Respondent stated "Diploma in Legal Practice Course" and that was not something which would be stated in the LPC's standard letter. Mr Heathcote said that he had asked the Respondent about the wording of the letter. She had replied that she had discussed it with a friend who had previously passed the course which he had thought strange.
28. Mr Heathcote told the Tribunal that he had raised these issues with the Respondent including that signatures were not original but the Respondent had not responded. He said that the Respondent had also told him that she had received a Diploma Certificate but it was in the wrong name. Mr Heathcote said that his enquiries showed that it would be impossible for a Diploma Certificate to be issued in the wrong student's name as it was produced automatically from the student's file and there were no records of any other student with the same or a similar name to that of the Respondent.
29. Mr Heathcote referred to his notes of the meeting with the Respondent. He told the Tribunal that he had agreed to make enquiries to determine whether it was possible that an incorrect Certificate could have been issued. He referred to email correspondence between his office and the University regarding the Respondent's case that she had been sent a Certificate in the name of "Hashrat Saddique" which she said she had returned to student services and of which she had said she had heard nothing further but also had not pursued it. He said that the response to his investigations had been to the effect that there was no record of any student at the University, including in the archives, called "Hashrat Saddique" and names on Certificates were checked extremely carefully and students were either handed their certificates at graduation or had them sent by post if they had requested that in writing following graduation.
30. Mr Heathcote said that although the Respondent had stated in an email to him that she had provided him with the original letter dated 28 March 2007, she had not done so. He said that the Respondent had also stated that she had provided the original letter to the Applicant. Mr Heathcote said that this had been queried by his colleague Mr James McVeigh in an email dated 9 November 2010 to the Respondent when he stated:

"...unfortunately you only seem to have attached a copy of your mark profile, and not the actual letter. Please forward us a copy of said letter at your earliest convenience".

31. Mr Heathcote said that there were further emails from his office to the Respondent requesting the original of the letter and by email dated 9 November 2010 the Respondent stated:

“ ...

I have sent the letter to the SRA but have advised for them to return (sic) to me...”

32. Mr Heathcote said that the Respondent had stated in a further email dated the same date that she had not received the letter until July 2007 albeit it was dated 28 March 2007 and she had only re-sent a further copy to his office, not the original letter. Mr Heathcote said that it had then been discussed how likely it was that an incorrect letter would have been sent and he was satisfied that it was extremely unlikely that the letter the Respondent purported to have received would have been sent by his office or by the University. He said that it was also extremely unlikely that the Certificate would have been issued in an incorrect name.

33. Mr Heathcote referred the Tribunal to his email to the Respondent dated 10 December 2010, which stated:

“ ...

I have considered this matter very carefully indeed. I have reached the conclusion that the letter you purport to be from the University could not have originated from the Legal Practice Course Office.

Further, my enquiries lead me to believe that it is extremely unlikely that the University could have issued a certificate in the name that you stated.

I am afraid that all information held by the LPC office and on the central student database point to the fact that you failed the Commercial Law exam on your final sit and thereby failed the course”.

34. Mr Heathcote said that he emailed the Respondent again on 13 December 2010 and stated:

“ ...

Your exam has been checked. This was your final attempt and no resit would have been possible.

As mentioned previously, I have given this matter very careful consideration. If you do find out any more information concerning the certificate, I would be interested to hear it.”

35. Mr Heathcote said that the Respondent had been upset by the whole situation but he had made his position very clear including that there had been no extenuating circumstances placed before the Exam Board and the fail mark stood.

36. Mr Heathcote referred the Tribunal to further emails which he said had passed between him and Ms Bushell of the Applicant with regard to emails she had sent him dated 31 December 2010 and 11 January 2011 which had been forwarded to her by the Respondent. He said that Ms Bushell had asked him whether he had sent the emails to her and to the Respondent as she [Ms Bushell] had not received them direct to her email account. The emails purportedly from Mr Heathcote stated respectively:

Email 31 December 2010

“I have reached the conclusion that the letter Eshrat [the Respondent] received is from the University but did not originate from the Legal Practice Course Office (sic) this originated from the Main Office.

The information held by the central student database points to the fact that Eshrat passed the Commercial Law exam on her final sit and thereby passed the course...”

37. Mr Heathcote said that this email had been completely at odds with the email he had sent to the Respondent on 10 December 2010.

Email 11 January 2011

“Dear Carol

Eshrat has provided the hard copy of the email she received. I have been advised that I have to stand by the email and are (sic) now not in the position to discuss this matter any further.

I would like to confirm Eshrat has passed the course.

I apologise for the misunderstanding”.

38. Mr Heathcote told the Tribunal that the email address from which the two emails had been sent was not his correct email address and it appeared to have been set up as a false email account in order for it to appear that the emails had originated from him. He had confirmed to Ms Bushell that he had not sent those emails and said that he was shocked that the matter had escalated as it had and he had sought guidance from Ms Bushell as to what action he might take. He referred the Tribunal to a search which had been undertaken by the University of the domain name used to send the emails and it transpired that the domain name was registered to the Respondent’s parents’ address.
39. Mr Heathcote said that he had also referred in his statement to a telephone call on 5 January 2011 that had allegedly been made on his instruction by a member of his staff, Mr McVeigh, to Ms Bushell acknowledging that a mistake had been made and the Respondent had passed the LPC. He said that he had checked the following day and had spoken to Mr McVeigh who stated that he had not made the call and he had spoken directly to Ms Bushell who said that it was a different voice who had telephoned her.

40. Thereafter Mr Heathcote said that the Respondent had contacted the LPC office and had withdrawn her consent to any discussion of her matter outside of the University and had told Mr McVeigh that he would be receiving a form requesting information about her from RJW but that he should put the form to one side. He said that the Respondent had also subsequently attended at Student Services asking for a replacement certificate and in the Computer Services Department asking for her student record to be changed.
41. Mr Heathcote said that on 3 February 2011 an email purportedly from Ms Julie Fletcher at the University had been sent to Student Services and stated:
- “Dear Josh
- ...
- This matter has now been carefully considered after a full investigation. I can not (sic) see why the following amendments should now not be made:
- \*Commercial law exam – mark 50.\*
- Successfully passed the Legal Practice Course.
- Please make the amendments to the above record.
- I have notified the ex-student today regarding this matter and have advised her to contact you directly”.
42. Mr Heathcote told the Tribunal that the domain name was again not correct for Ms Fletcher and the email had not been written by or sent from her.
43. In cross examination the Respondent queried what was meant by “not completed” with regard to her records as referred to in an email sent to Student Services on 13 January 2011. Mr Heathcote said that it meant the course was still ongoing or the student had failed. He said that her mark for the commercial law paper had been 38% which was a fail and it was made clear by the University whether a student had passed or failed. He said that the Applicant had queried the matter originally as it had not been clear as to whether the Respondent had passed the course.
44. Mr Heathcote told the Tribunal that the University set the exams, the student sat the exams which were then marked and externally moderated and the marks were agreed or not. He said that there was an internal and an external Exam Board and that any extenuating circumstances would be discussed at the internal board. He said that the external board would have been in approximately March 2007 and shortly thereafter the letters would have been sent out notifying students whether they had passed or failed, their marks and whether any re-sits were required. The marks were recorded on a central system within the University and Mr Heathcote said that the Respondent’s marks would have been updated in March 2007 in the LPC system and then in the central system. The key date was the date the student’s marks were agreed by the Exam Board.

45. Mr Heathcote referred to an email dated 13 October 2010 to Ms Fletcher which stated:

“... ”

Please can you confirm whether Miss Eshrat Saddiq...passed the LPC. The 2003 results spreadsheet shows “RF” for referred”.

46. Mr Heathcote said that the explanation for this was that the “RF” reference had not been changed from the 2003 spreadsheet as the Respondent had not passed.
47. Mr Heathcote said that he did not know how many students had re-sat the commercial law paper with the Respondent.
48. In response to a question from the Tribunal Mr Heathcote said that he had contacted the police having taken advice from Ms Bushell and spoken to his Head of School but there had been no prosecution although the police had interviewed the Respondent. He said that his understanding of the reason for there being no prosecution was that the police believed that the Respondent’s ultimate objective had not been to obtain money/property but what she had or had not done had been in order to save face.
49. Mr Heathcote said that any extenuating circumstances would have been brought to the attention of the Chief Invigilator who had to submit a report following the exam. He said that some students dealt with such matters immediately and others might await their results before raising any such issues. He did not recall having seen any reference to extenuating circumstances in the Exam Board minutes.

#### Mr Andrew Callaghan

50. Mr Callaghan affirmed and confirmed the truth of his statement. He told the Tribunal that he was employed as a senior lecturer at the University of Sheffield and he had been working there since 2000 and from 2004 to 2010 was the Director of the LPC.
51. Mr Callaghan confirmed that the Respondent had taken two re-sits in early 2007. He said that the commercial law re-sit had been the fourth attempt by the Respondent; one attempt had been disregarded due to extenuating circumstances.
52. The Respondent told the Tribunal that she did not have a copy of Mr Callaghan’s statement. Ms Wingfield said that a Civil Evidence Act Notice had been served upon the Respondent by email dated 23 May 2013.
53. Mr Callaghan confirmed that the Respondent’s commercial law paper had been marked by two people and that both had marked the paper as a fail. He referred to the Profile of Marks [date issue 29 March 2007] attached to his statement which showed that the Respondent’s mark for her commercial law paper was 38% and stated:

“20115537 [the Respondent]

This is an 02-03 student who successfully applied to have 3 year time limit waived.

Sat BLP and Commercial Law as final sits.

Passed BLP but failed Commercial Law so fails course”.

54. Mr Callaghan said that he had thereafter written to all students to notify them whether they had passed or failed. He referred the Tribunal to the letter dated 28 March 2007 addressed to the Respondent notifying her that she had failed the LPC and that this was the standard letter sent to students. He confirmed that he would have signed the original letter.
55. He referred to the further letter dated 28 March 2007 which purported to notify the Respondent that she had passed the LPC and which he said was a forged letter as whilst it looked very like his signature he had not written the letter and he had not signed it. He commented that it was a very good forgery. It was very similar to the standard letter but was not the same.
56. Mr Callaghan referred the Tribunal to the schedule of students who had passed or failed the LPC and that this included the Respondent and the result stated “FL” which he said stood for fail.
57. In cross examination Mr Callaghan said that he could only deal with the documentation in front of him and he had no knowledge of whether the Respondent had been told by Mr Heathcote that she had “incompleted” the course as she submitted. He said that “RF” meant neither a pass nor a fail but she had failed the course.
58. Mr Callaghan said that all results were checked and that he signed all of the student notification letters personally. He said that there were three standard letters; pass, fail and neither pass nor fail.

### **Findings of Fact and Law**

59. The Applicant was required to prove the allegations. The Tribunal had due regard to the Respondent’s rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
60. **The allegations against the Respondent were that:**
  - 1.1 **She had occasioned or been party to, with or without the connivance of the solicitor by whom she was employed, an act or default in relation to that solicitor’s practice which involved conduct on her part of such a nature that it would be undesirable for her to be employed or remunerated by a solicitor in connection with his practice. In particular:**
    - 1.1.1 **She misled her employers regarding her possession of the LPC qualification;**

- 1.1.2 She submitted a letter to the SRA purportedly sent by the University of Sheffield dated 28 March 2007, confirming that she had passed the LPC, knowing that she had not received such a letter and had not passed the LPC;**
- 1.1.3 She sent emails to the SRA purportedly from Mr Heathcote, Director of Legal Practice in the School of Law, University of Sheffield, knowing that he had not sent such emails.**

Submissions on behalf of the Applicant

- 60.1 Ms Wingfield referred the Tribunal to the Rule 8 Statement dated 31 August 2012 and the Rule 7 Supplementary Statement dated 15 May 2013 upon which she relied.
- 60.2 Ms Wingfield told the Tribunal that whilst the Respondent had responded to the Rule 8 Statement, no response had been received from her to the Rule 7 Statement.
- 60.3 The Tribunal confirmed that it had seen and read all of the documents.
- 60.4 Ms Wingfield told the Tribunal that the Applicant was seeking a Section 43 Order against the Respondent which was a regulatory order to prohibit the Respondent's employment by any legal firm in the future subject to the approval of the Applicant. Ms Wingfield said that that being the case, the burden of proof was the civil standard on the balance of probabilities and not the criminal standard.
- 60.5 Ms Wingfield said that the Respondent had begun the LPC in 2003. She had been employed by RJW from February 2007 and in January 2007 she had had to undertake a re-sit of the LPC commercial paper. Ms Wingfield said that it was the Applicant's case that the Respondent had been notified by the University of Sheffield by letter dated 28 March 2007 that she had failed the LPC albeit that was disputed by the Respondent.
- 60.6 Ms Wingfield referred the Tribunal to a statement by Mr Simon Allen, a partner in RJW, in relation to which she said that a Civil Evidence Act Notice had been served but no request had been made that he attend the hearing. She said that his statement detailed the Respondent's working history with RJW and that she had been employed as an unadmitted person by RJW but had hoped to secure a Training Contract although that had not happened until 2010.
- 60.7 Ms Wingfield said that RJW had applied to the Applicant to register the Respondent's Training Contract in August 2010 but RJW had been notified on 4 November 2010 that the Applicant was unable to register the Training Contract. She said that there had then been ongoing communication between the Respondent and the University as to whether she had or had not passed the LPC and between the Respondent, the University and the Applicant in November/December 2010 to seek to establish whether the Respondent had or had not passed the LPC.
- 60.8 Towards the end of November 2010 Ms Wingfield said that the Respondent had met with Mr Heathcote who had written to the Respondent in December 2010 and confirmed that she had not passed the LPC.

- 60.9 Ms Wingfield said that there had then followed email correspondence purportedly from Mr Heathcote to the Applicant stating that the Respondent had passed the LPC. The emails in question had not been sent from his genuine email address but a false email address which had been registered at the Respondent's parents' address and her last known address.
- 60.10 Ms Wingfield said that RJW had terminated the Respondent's employment on 13 May 2011. The Applicant had prepared a case note for adjudication which was sent to the Respondent on 31 August 2011 and the Adjudicator's Decision to refer the Respondent's conduct to the Tribunal was sent to the Respondent in October 2011.
- 60.11 Ms Wingfield told the Tribunal that despite the Respondent having been in correspondence with the Applicant and the University since November 2010 regarding the LPC and having failed the course, she had subsequently applied to MLS for employment and indicated that she had obtained a Diploma in Legal Practice.
- 60.12 Ms Wingfield said that there had then been a hiatus while the Applicant carried out further investigations and a further decision was made to refer the Respondent's conduct with regard to MLS to the Tribunal in July 2012. She said that the MLS issue had only come to light from communication with RJW which indicated that the Respondent might be working there [MLS]. The original proceedings were lodged in August 2012 and the Rule 7 Statement in May 2013. Ms Wingfield confirmed that the Applicant had published its decision to refer the Respondent to the Tribunal on its website in October 2012. There had been some problems with regard to service as the Respondent had left her parents' address and despite having been asked to provide another postal address on a number of occasions she had failed to do so.
- 60.13 Ms Wingfield said that there had also been difficulties with regard to the Respondent's email address which she had initially provided as this had been incorrect and stated that she was at hotmail.com whereas her correct email address was hotmail.co.uk. Ms Wingfield said that as a result of that not all documents had initially reached the Respondent but that she had been aware that her case had been referred to the Tribunal as she had complained about the Applicant's decision to publish the referral.
- 60.14 Ms Wingfield said that the Respondent had been suspended by MLS in February 2013 and she had then been off work on sick leave until she had resigned in May 2013 after the Rule 7 Statement had been filed.
- 60.15 Ms Wingfield said that the Respondent denied that she had forged the letter dated 28 March 2007 which stated that she had passed the LPC. Ms Wingfield said that the letter was not in the same format as the standard letter sent by the University and used incorrect terminology with regard to the LPC.
- 60.16 Ms Wingfield submitted that the Respondent appeared to accept that the bogus emails had been forwarded from a false email account.
- 60.17 Ms Wingfield said that the Respondent had produced a witness statement of a Mrs Aktar but she had not served a Civil Evidence Act Notice upon the Applicant and

she submitted that little if any weight should be attached to that statement by the Tribunal.

60.18 Ms Wingfield said that it was the Applicant's case that the Respondent knew she had not passed the LPC. The Applicant had no record of ever having received the original letter dated 28 March 2007 which the Respondent maintained she had received and which she said stated she had passed the LPC and it had only received a scanned copy. Mr Callaghan in his evidence had stated that he had not signed that letter.

60.19 Ms Wingfield referred the Tribunal to the exhibits to the Rule 5 Statement which detailed the background to the case. She said that following RJW's correspondence with the Applicant regarding their inability to register the Training Contract, the Respondent had written to the Applicant by letter dated 5 November 2010 which stated:

“ ...

Please find attached a letter from the University of Sheffield and my mark profile. As you can see I have not failed the course and have passed. The institution will be in touch to advise you of the error...”

60.20 Ms Wingfield said that the Respondent had purportedly sent the original letter of 28 March 2007 but that had never been received by the Applicant. An email from Ms Bushell to the Respondent dated 24 November 2010 stated:

“ ...

As the information you have provided does not match the information provided by Sheffield University, we will need to look into this further...”

60.21 Ms Wingfield said that there had been further correspondence between the Applicant, Respondent and the University including the email correspondence referred to by Mr Heathcote in his evidence including the false emails alleged to have been sent by him and his office. Ms Bushell wrote to the Respondent again by email dated 4 January 2011 and stated:

“I confirm I have received your email of today's date and 31 December 2010, as I had not received these directly into my own email account...Mr Heathcote has confirmed he has not sent these emails to me or copied them to you.

Therefore I confirm your training contract will not be registered and your file will be forwarded to our Senior Assessment Officers who will contact you shortly regarding the emails and the letters you forwarded to the SRA regarding your LPC results.

The Senior Assessment officers will be contacting you under the Solicitors Training Regulations 2009 – Regulation 31 regarding your character and suitability and whether you may still be awarded student enrolment and continue with your training...”

60.22 Ms Wingfield said that there had then been the telephone call purportedly from Mr McVeigh in the LPC office to Ms Bushell and referred the Tribunal to an attendance note of Ms Bushell dated 4 January 2011 which was annotated with Ms Bushell's handwritten note that:

“ ...

Telephoned James Mcvee [McVeigh] @ Sheffield Uni (sic) and confirm (sic) he was not the person I spoke to on 4/1/11”.

60.23 Ms Wingfield said that on 14 April 2011 the Applicant had written to the Respondent and advised her of the allegations against her, requested her response and explained the provisions of Section 43. The Respondent had then informed the Applicant that she was unwell but she had responded to the Applicant's letter of 14 April and had given her version of events and that she was on long-term sick leave and was resigning from RJW. Her address had been given as her parents' address in Sheffield.

60.24 Ms Wingfield said that by letter dated 30 April 2012 the Applicant had written to the Respondent and stated:

“ ...

As you know the SRA has been investigating your conduct in light of concerns about your having misled parties into believing that you had passed the Legal Practice Course (LPC) when this was not the case.

...

...it has been decided that we should put the matter again before an Adjudicator in the belief that we may obtain an Order under Section 43 Solicitors Act 1974 (as amended) directly from an Adjudicator...”

60.25 Ms Wingfield referred the Tribunal to the statement of Mr Simon Allen dated 23 January 2012 which had been referred to and which stated:

“ ...

3. Eshrat Saddiq commenced employment with the firm on 6<sup>th</sup> February 2007, working out of our Manchester office. She was employed as a fee earner in the Road Traffic Section.

4. Miss Saddiq provided a CV which identified that she had obtained an LLB (Hons) Law at Sheffield Hallam University and an LPC at the University of Sheffield.

5. ...My interview notes...make reference to the fact that, at interview, she told me she had the LPC qualification...

6. I confirm that at no time was Eshrat asked by any member of the firm to produce certificates in respect of the aforementioned qualifications...

7. ...She did not indicate that there was any problem in relation to her qualifications in law, either in respect of the degree or the LPC.

8. Her employment was terminated on 13<sup>th</sup> May 2011. We had no indication that there was difficulty in relation to the LPC qualification until notified by the SRA. Unfortunately, having raised the issue with her, instead of admitting that she had misled us, she maintained a position that any error was on the part of the University of Sheffield and that she could prove that she had passed the qualification. Ultimately, it became clear that she had misrepresented her position. She was then dismissed on that basis. In addition, although I believe this was as a result of the matter coming to light, the quality of her work on files had declined appreciably and poor file and case management were, therefore, also raised at the time of her dismissal.

9. Eshrat Saddiq presented as a bright, affable individual who was committed to working hard for the benefit of injured people. During her time at the Sheffield office her work was of a good standard. She had very positive client feedback and was progressing well within the firm. The training contract and the subsequent discovery of the issue surrounding her LPC resulted in a deterioration of the standard of her work and client care. The most disappointing aspect of all is that, instead of owning up to her error, she continued to attempt to mislead the SRA and RJW by maintaining that any fault was on the part of the University. In doing so, the hole that she was in simply became deeper. Furthermore, she put at risk the good reputations of the University of Sheffield, the solicitors' profession and this law firm".

60.26 Ms Wingfield said that there had then been email correspondence between the Applicant and the Respondent with regard to their investigation and Section 43. She said that a number of attempts had been made by the Applicant to obtain a postal address for the Respondent but without success. An email dated 28 May 2012 from the Applicant stated:

“ ...

Thank you for your email confirming that the papers have gone to your parents' address. You have stated that you are reviewing the documents and will be in touch shortly...”

60.27 The Respondent replied by email dated 17 June 2012 which stated:

“I have had the opportunity to read the letter in full now.

Please find attached my statement and exhibits.

I was not dishonest I was so upset that I believed for so many years that I had passed my LPC just to be told that i (sic) never. I received the letter through the post and have always believed it was from the university. As for the emails I admit that I sent them but I have explained this in my statement.

I had no intention to be dishonest or jepordise (sic) my career.

I would like the adjudicator to know this and I am sincerly (sic) sorry for all the trouble...”

60.28 Ms Wingfield said that the Respondent provided a statement dated 14 July 2012 albeit received by the Applicant as at 28 June 2012. The statement stated, inter alia:

“...

...I then received an email which stated the total opposite as to what was stated in previous emails. I was most confused as it stated that this was an error and I had passed.

I emailed this over to Carol Bushell and advised that I had received this email. Carol Bushell advised that she will need to confirm with Martin (sic) Heathcote on the 4 January 2011. I advised I have no objections to this.

I was later told that Martin (sic) Heathcote did not send this email. I advised I did receive these emails and sent them to Carol Bushell.

It is acknowledged in this statement that, (sic) I should have know (sic) that these emails have been placed by someone who is attmepting (sic) to help me. However in the spare (sic) of the moment you clinch onto everything possible. I apologise to the Adjucitaor (sic)...”

60.29 Ms Wingfield said that the second Adjudicator’s Decision was dated 12 July 2012 that the Respondent should be referred to the Tribunal for a Section 43 Order. She said that the Rule 7 Statement was then lodged dated 15 May 2013, the Respondent having applied for employment with MLS where she had been employed from 4 July 2011. Her Candidate Profile had stated “Education University of Sheffield, Legal Practice Course” and on the extract from her employment application form it stated “Education 2005 to 2007 University of Sheffield Diploma Legal Practice”.

60.30 Ms Wingfield said that it had in fact been 2003 to 2007 due to the Respondent’s re-sits and extensions but that she had not passed the LPC and did not have the Diploma in Legal Practice. She had held herself out as having obtained the LPC. The declaration was signed by her that “all information you have given is true, complete and accurate...” as at March 2011 but by that time she had been well aware of the issues regarding the LPC and that she had been advised that she had failed the course.

#### Submissions of the Respondent

60.31 The Respondent told the Tribunal that in relation to Mr Allen’s statement she had maintained that she had her LPC but not that she had completed it. She said that she had had more than one opportunity to apply for a training contract including in 2009 when she had applied but had been unsuccessful. She said that all that time she had believed that she held the LPC qualification.

- 60.32 The Respondent said that she had received the letter of 28 March 2007 in July 2007. She said that she had chased the University for her LPC results and had been advised on the telephone that she had passed the course. She said that the letter she had received in July 2007 was the letter she was alleged to have forged.
- 60.33 The Respondent said that she had continued her employment with RJW and had applied for a training contract. She said that she had only applied when she believed that she had officially passed the LPC and had received the certificate albeit that had been in the wrong name and had been returned. She said that she had been working long hours and once she had passed she had not given it any further thought. She told the Tribunal that she had taken pride in her work and had had no complaints or any issues regarding her conduct.
- 60.34 In 2010 the Respondent said that she was told that RJW was offering her a training contract and it had only been then that the issues regarding the LPC had come to light when they had attempted to register the contract. She said that the Applicant had contacted her and they had been told by the University that she had not completed the course, namely that it was incomplete but not that she had failed it. She said that it had only been later that the University had told the Applicant that she had failed the course.
- 60.35 The Respondent said that there had clearly been confusion and error on the part of the University. She said that Ms Bushell had advised her to speak to the University. She had told Miss Bushell that her final examinations had been in 2007 and not 2005.
- 60.36 The Respondent stated that the letter she had received had told her that she had passed the LPC. Had she failed she said that she would have gone back to the University but she had not done so as she had received the letter dated 28 March 2007 which she said had not been forged. She had just wanted answers as to what had happened. She said that the emails she had sent to Mr Heathcote had expressed her concerns and that she had felt that she was being accused of something. She did not know who had sent the letter or what it meant.
- 60.37 The Respondent said that in response to Mr Heathcote's email dated 10 December 2010 which stated that he had considered the matter very carefully and the letter could not have originated from the LPC office and that she had failed the course, she had replied:

“ ...

I am very disappointed and do not believe this matter had been looked into carefully.

...

If I failed the commercial law exam why was I not made aware of this. As advised in my previous email I also did not receive any other letter apart from the letter I have given to you, which clearly states I passed the exam which I received in July 2007.

...

Has my exam paper been checked to see if I failed or passed?

I am very upset with this whole situation...”

- 60.38 The Respondent said that she had attended various departments within the University in an effort to seek answers but to no avail. She was adamant that she had passed having received the letter in July 2007. She said that had she known that she had failed she would have requested to re-sit the paper but that she had gone round in circles attempting to resolve matters including with regard to the certificate.
- 60.39 The Respondent told the Tribunal that throughout this time she had only discussed matters with one person being her friend Mrs Aktar who was now resident in Australia. She said that when she had found out about the emails purportedly sent from Mr Heathcote and the LPC office she had believed when she originally received them that he had re-considered matters and she had not taken any notice of the email address. She had been excited about the LPC but had subsequently been very confused.
- 60.40 The Respondent said that she had then discovered that the emails purportedly from Mr Heathcote had been sent by her friend Mrs Aktar. She said that she had told her to do nothing else but that there had been no involvement on her part in the sending of the false emails. In relation to the telephone calls purportedly from the LPC office she said that she had no knowledge of those. She referred the Tribunal to Mrs Aktar’s statement which stated:

“ ...

Eshrat Saddiq confided into me regarding the issues she was having with the LPC. She advised that she had received a letter in 2007 stating that she had passed the course. She was very emotionally disturbed. She advised that she has been to the University and they have advised this letter was not sent by them (sic) she was very confused.

...

She advised that she has also received an email from the director of the LPC stating that he has checked all records and can now confirm she has failed. I asked her to email a copy to me. I’m not sure what I thought about but I knew Eshrat was not lying (sic) she did receive the letter in the post. I then created an email account on her behalf and re-drafted the email. I sent this email to Eshrat. I can recall her calling me (sic) she was happy as she believed the Director had reconsidered it and stated she believes it has been sent to the SRA and she will now contact them.

I believe she did contact the SRA but they did not receive the email and she forwarded her email to the SRA.

Eshrat has not been dishonest (sic) she knew nothing about the emails (sic) when she did find out she was furious and too scared as she did not know what

to do. She stopped talking to me until now when she wanted me to complete a statement.

...I did not know this will get her in so much trouble.

I am sorry for the delay of the statement and all the trouble I have caused..."

60.41 The Respondent considered that the Adjudicator's Decision to refer her to the Tribunal with regard to Section 43 had been very harsh. She said that she had done nothing wrong until these proceedings had been brought against her.

60.42 When she had recovered from her ill health the Respondent said that she had decided to move on and she had contacted the Applicant with regard to her position in seeking new employment. She said that when she had applied to MLS she had erred by not having updated her CV and had not thought to remove reference to the LPC. She said that she had been told by the Applicant that she was free to work since no decision had been made against her. She said that the Applicant had then contacted MLS and told them about the proceedings and she had made a complaint against the Applicant.

60.43 The Respondent referred the Tribunal to the character reference of Mr B Gall. She said that he was a former colleague who she had known for 7 years. The reference stated:

"...

When I first met her Eshrat was working as a part-time Team Manager in order to finance herself through her Law Studies at the University of Sheffield. She was good at her job and had the respect of her mixed team of male and female colleagues of various nationalities. If problems arose she settled them firmly, fairly and diplomatically.

She was hardworking but always had time for a pleasant word with her staff.

Eshrat is ambitious and prepared to work hard to achieve her objectives.

Socially, Eshrat is good company and has a lovely personality. She is friendly, honest, loyal and always cheerful. She is ready to help anyone with a problem and always has a smile.

Eshrat is very loving and in turn is much-loved by her family and friends. She is an excellent daughter, sister, sister-in-law, aunt and friend.

I am almost 71 years of age and believe that I am a good judge of people, both in business and socially.

Eshrat Saddiq is a lovely young lady, one of the very best, and would be a credit to any organisation for which she worked and whom she represented to the public".

- 60.44 The Respondent confirmed on oath that all of her submissions and documents referred to were true. She said that she had worked in the profession for the last 10 years until February 2013 and that she had been well respected. She had only wanted the University to admit that they had made a mistake and she had not known that she had failed the course of which she was adamant.
- 60.45 The Respondent said that she was not working and she wanted to be able to continue to work in the profession. She said that when she had been interviewed by the police they had advised that there had been no deception and they had not taken any action against her.
- 60.46 In cross examination the Respondent said that she had wanted to discover whether the University had sent her the letter of 28 March 2007 or not. It had been for that reason that she had visited the various departments at the University.
- 60.47 The Respondent agreed that she had been told by Mr Heathcote that the University had not sent the letter of 28 March 2007 purportedly from them and that she had not passed the course but she had not believed it. She said that she thought that Mr Callaghan might have sent the letter and she had wanted answers. She said that she had not produced the letter herself.
- 60.48 With regard to the emails the Respondent said that she had not known that they were false until Ms Bushell had told her that they had not been sent by Mr Heathcote. She thought that she had been informed of that on 4 January 2011. Although further false emails had been sent on 12 January 2011 and in February 2011 she said that she had told her friend not to send anymore. She denied that she had been involved in the emails and that she would not have been silly enough to have registered the domain name at her parents' address. She said that her friend Mrs Aktar had still been in the UK on 4 January 2011 and that she had set up the fake email address and registered it at the Respondent's parents' address where she was still living at the time. The Respondent said that she did not know why there was no address on Mrs Aktar's statement and confirmed that she had helped to draft the statement.
- 60.49 With regard to her CV sent to MLS, the Respondent said that she had sent the wrong CV but that she had been told by the Applicant that she could still state that she had passed the LPC until proceedings had taken place and any order had been made. She said that she did not have details of the person she had spoken to about this.
- 60.50 The Respondent said that the LPC was not relevant to her application to work at MLS but she admitted that it was a lie. She subsequently denied that she had lied on her application form and maintained that her position at MLS had not been dependent upon her having passed the LPC. She denied that by stating this she had been given preferential treatment with regard to her application.
- 60.51 The Respondent told the Tribunal that had she been dishonest she would have admitted it. The Respondent denied that she was economical with the truth.
- 60.52 In relation to the character statement of Mr Gall, the Respondent acknowledged that it was undated and only had an electronic signature. She said that the Applicant had had the reference for some time as she had asked for a reference from him in 2011. She

accepted that he did not know that she was using the reference for the purpose of these proceedings.

- 60.53 In response to a question from the Tribunal the Respondent said that she had sent emails which she had received from the University to Mrs Aktar at her request. She said that she had been hysterical at the time.
- 60.54 The Respondent told the Tribunal that her husband was a factory worker in Pakistan and that occasionally he came back to the UK to work on a temporary basis.
- 60.55 In response to a further question from the Tribunal the Respondent acknowledged that Mr Allen had been very complimentary about her and her work in his statement. The Respondent denied that she had misrepresented her position but she admitted that she should have gone to him in 2007 when she received the letter and should have told him what was happening and that that had been her biggest mistake.
- 60.56 The Respondent told the Tribunal that she had always believed that she had passed the LPC and that if it made a Section 43 Order against her that would be harsh and she did not consider that it was applicable.

#### The Tribunal's Findings

- 60.57 The Tribunal had listened carefully to the parties' respective submissions and had had regard to all of the documentation.
- 60.58 The Tribunal was satisfied on the balance of probabilities as applicable to the application before it that the Applicant had proved allegations 1.1, 1.2 and 1.3 and it found them proved on the facts and on the documents.
- 60.59 The Tribunal found allegation 1.1 proved in that the Respondent had misled RJW regarding her possession of the LPC qualification for reasons which included, inter alia:
- 60.59.1 The University representatives had given clear and convincing evidence that the forged letter dated 28 March 2007 purportedly sent by Mr Callaghan had not been sent by him or signed by him nor by anyone else from the University;
- 60.59.2 The University representatives who had appeared before the Tribunal [Mr Heathcote and Mr Callaghan] had given clear and convincing evidence that Mr Callaghan had written to the Respondent as at 28 March 2007 notifying her that she had failed the LPC;
- 60.59.3 The Tribunal had heard no explanation from the Respondent as to why she had failed to receive that letter;
- 60.59.4 The Tribunal had received no convincing explanation from the Respondent as to how she came to receive the forged letter of 28 March 2007;

- 60.59.5 The Tribunal concluded on the evidence it had seen and heard that the forged letter of 28 March 2007 was either created by the Respondent or by someone with the Respondent's knowledge;
- 60.59.6 The Tribunal concluded that the Respondent knew the letter was false when she submitted it to RJW and thus she had knowingly misled them.
- 60.60 The Tribunal found allegation 1.2 proved in that the Respondent had submitted the letter to the Applicant knowing that she had not received such a letter and that she had not passed the LPC, which followed from the Tribunal's findings with regard to allegation 1.1.
- 60.61 The Tribunal found allegation 1.3 proved in that the Respondent sent to the Applicant emails purportedly from Mr Heathcote knowing that he had not sent such emails because:
- 60.61.1 The Tribunal had heard clear and convincing evidence from Mr Heathcote that he had not sent the emails;
- 60.61.2 The emails were sent from a domain address registered at the address of the Respondent's parents at which the Respondent had been living at the time of said registration;
- 60.61.3 The Respondent's explanation of how the emails came to be sent by Mrs Aktar had been provided at the last minute in proceedings in which it would have expected such evidence to have been provided much earlier had it been true.
- 60.61.4 Mrs Aktar had not attended to give evidence. The only evidence of her assertion that she had sent the emails was the witness statement of Mrs Aktar purportedly signed by her without any form of validation or corroboration. The Tribunal attached little if any weight to her statement.
- 60.62 In making its findings the Tribunal had taken into account the fact that the Respondent had made an application to MLS which led them to believe that she had passed the LPC at a time when she had accepted that at the very least this was in question and was being investigated. The Respondent had produced no evidence or corroboration of her explanation that she had received advice from the Applicant that she could safely have made the application to MLS on that basis.

### **Previous Disciplinary Matters**

61. None.

### **Mitigation**

62. The Respondent's mitigation was included in her submissions to the Tribunal.

**Sanction**

63. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.
64. The Tribunal had found proved all of the allegations against the Respondent. It found that these were serious allegations which had involved the misleading of solicitors and of the Applicant.
65. The facts of the case which had been found proved included that there had been a forged letter which the Respondent had submitted to the Applicant which confirmed that she had passed the LPC when she knew that she had not and there had been no explanation as to how she had received such a letter. The Respondent had also sent emails to the Applicant knowing that such emails had not been sent by Mr Heathcote, Director of the LPC.
66. The Tribunal was most concerned that in spite of these matters the Respondent had still proceeded to apply to MLS for employment and had held out that she had passed the LPC in her application. It was not accepted that this had been a mere aberration on her part.
67. The Tribunal had no hesitation in making a Section 43 Order against the Respondent, satisfied that she had occasioned or been a party to an act or default in relation to RJW's practice which had involved conduct on her part of such a nature that it would be undesirable for her to be employed or remunerated by a solicitor.

**Costs**

68. Ms Wingfield referred the Tribunal to the Applicant's Schedule of Costs in the sum of £18,192.15. She said that the costs included the Respondent's travel costs which had been paid by the Applicant to enable the Respondent to attend the hearing but on the basis that the costs would be claimed back by the Applicant.
69. Ms Wingfield said that the Schedule of Costs had been served upon the Respondent at the end of August 2013. She said that the costs included substantial additional work which had had to be undertaken since August 2013 with regard to additional documents having been received, the issue of the video link and the privacy application by the Respondent.
70. Ms Wingfield said that whilst the costs appeared relatively high for a Section 43 application the case had been disputed throughout by the Respondent and there had been an adjourned substantive hearing plus further matters which had had to be investigated with regard to MLS.
71. The Respondent submitted that the costs were excessive and told the Tribunal that she could not afford to pay anything towards the costs.
72. The Respondent referred the Tribunal to the financial information she had provided including bank statements. She said that she was in receipt of minimal income and was barely making ends meet. Her only income was that of her husband.

73. Ms Wingfield said that there was no address on the bank statements and nothing to substantiate that her outgoings with regard to rent, gas and electricity were £400 per month as stated. She said that if the Respondent was unemployed she would have expected her to have been in receipt of benefits.
74. Ms Wingfield said that whilst the Respondent stated that she had received some financial assistance from a relative she had redacted the name of that relative and there could be no verification of that statement or of the amount of £900 which she stated she owed. She said that although the Respondent stated that she was spending £120 per month on petrol in her search for employment there was no proof of that.
75. The Respondent told the Tribunal that it was her intention to apply for benefits and that she might be able to afford £500 towards the costs but that was all.
76. The Tribunal had had careful regard to the submissions on costs and all of the documentation in support. It took into account that there was no breakdown of the case working costs and that there appeared to have been some element of duplication of work but it was satisfied that the proceedings had been properly brought.
77. The Tribunal also took into account the Respondent's financial position and that whilst she was not without income, it was limited. In all the circumstances it summarily assessed the costs in the sum of £15,000 not to be enforced without leave of the Tribunal.

### **Statement of Full Order**

78. The Tribunal Ordered that as from 12th day of September 2013 except in accordance with Law Society permission:-
- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Eshrat Saddiq
  - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Eshrat Saddiq;
  - (iii) no recognised body shall employ or remunerate the said Eshrat Saddiq;
  - (iv) no manager or employee of a recognised body shall employ or remunerate the said Eshrat Saddiq in connection with the business of that body;
  - (v) no recognised body or manager or employee of such a body shall permit the said Eshrat Saddiq to be a manager of the body;
  - (vi) no recognised body or manager or employee of such a body shall permit the said Eshrat Saddiq to have an interest in the body.

And the Tribunal further Ordered that the said Eshrat Saddiq do pay the costs of and incidental to this application and enquiry fixed in the sum of £15,000.00, such costs not to be enforced without leave of the Tribunal.

Dated this 24<sup>th</sup> day of September 2013  
On behalf of the Tribunal

Mr J Aistle  
Chairman