

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11148-2013

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

FRANCES LOUISE BROUGH

Respondent

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Before:

Mr D. Green (in the chair)

Ms A.E. Banks

Mr M. G. Taylor CBE DL

Date of Hearing: 22 January 2015

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**Appearances**

Mr Mark Barnett, solicitor, of the SRA, The Cube, 199 Wharfside Street, Birmingham B1 1RN for Applicant.

The Respondent did not appear and was not represented.

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**JUDGMENT**

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## Allegations

1. The allegation against the Respondent, made in a Rule 5 statement dated 24 April 2013, on behalf of the SRA, is that contrary to both, alternatively either of Principles 1 and 6 of the SRA Principles 2011 she has been convicted of the following two offences:
  - 1.1 Assault by beating contrary to section 39 of the Criminal Justice Act 1988;
  - 1.2 Criminal damage contrary to sections 1(1) and 4 of the Criminal Damage Act 1971.
2. The further allegation against the Respondent, made in a Rule 7 statement dated 12 August 2014, on behalf of the SRA, is that she has acted contrary to all or any of Principles 1, 2 and/or 6 of the SRA Principles 2011 by virtue of the following convictions:

	<b>Date of conviction</b>	<b>Court</b>	<b>Offence</b>	<b>Plea</b>	<b>Sentence</b>	<b>Appeal</b>
1.	07/02/2013	Berwick upon Tweed Magistrates Court	Drink driving	Guilty	Fined £110, disqualified from driving for 17 months	No
2.	16/9/2013	Mid and South-East Northumberland Magistrates' Court	Assaulting a police constable	Not guilty	10 weeks imprisonment	Yes
3.	12/08/2013	Mid and South-East Northumberland Magistrates' Court	Assault by beating	Not guilty	16 weeks imprisonment consecutive	Yes
4.	12/08/2013	Mid and South-East Northumberland Magistrates' Court	Assault by beating	Not guilty	16 weeks imprisonment concurrent	Yes
5.	12/08/2013	Mid and South-East Northumberland Magistrates' Court	Assaulting a police constable	Guilty	16 weeks imprisonment concurrent	Yes
6.	19/08/2013	Mid and South-East Northumberland Magistrates' Court	Breach of a non-molestation order	Guilty	Eight weeks imprisonment concurrent	Yes

	<b>Date of conviction</b>	<b>Court</b>	<b>Offence</b>	<b>Plea</b>	<b>Sentence</b>	<b>Appeal</b>
7.	23/09/2013	Mid and South-East Northumberland Magistrates' Court	Assault by beating	Guilty	10 weeks imprisonment concurrent, Restraining Order	Yes
8.	23/09/2013	Mid and South-East Northumberland Magistrates' Court	Assault by beating	Guilty	10 weeks imprisonment concurrent	Yes
9.	23/09/2013	Mid and South-East Northumberland Magistrates' Court	Using threatening, abusive or insulting words or behaviour or disorderly behaviour	Guilty	Four weeks imprisonment concurrent	Yes
10.	03/12/2013	Southwark Crown Court	Fraud (dishonest false representation made for gain for self or loss to other/expose other to loss)	Guilty	15 months imprisonment suspended for two years	No
11.	03/02/2014	Newcastle upon Tyne Crown Court	Breach of a non-molestation order	Guilty	Three months imprisonment suspended for two years consecutive to Southwark indictment	No
12.	03/02/2014	Newcastle upon Tyne Crown Court	Breach of a non-molestation order	Guilty	Three months imprisonment suspended for two years consecutive to Southwark indictment	No

## Documents

3. The Tribunal reviewed all the documents submitted by the parties, which included:

Applicant:

- Application and Rule 5 Statement dated 24 April 2013, together with Exhibit MB1;
- Rule 7 Statement dated 12 August 2014, together with exhibit MB2;
- Copy Land Registry entry relating to a property in Alnwick, Northumberland dated 12 March 2014;
- Statement of Douglas John Corbitt dated 30 September 2014, together with exhibit marked “A”;
- Statement of Douglas John Corbitt dated 29 October 2014, together with further exhibit marked “A”;
- Letter to the Respondent from Mr Barnett dated 13 January 2015;
- Schedule of Costs of the Applicant dated 6 January 2015, under cover of a letter also dated 6 January 2015.

Respondent:

- None.

Tribunal:

- Memorandum of case management hearing on 6 November 2013;
- Memorandum of case management hearing on 13 March 2014;
- Memorandum of case management hearing on 24 June 2014;
- Memorandum of case management hearing on 17 October 2014;
- Memorandum of case management hearing on 11 November 2014.

### **Preliminary Matter (1)**

4. Mr Barnett asked that an error in the allegation contained in the Rule 5 Statement dated 24 April 2013 be amended so that “SRA Principles 2001” then read “SRA Principles 2011”.

#### The Tribunal’s Decision on Preliminary Matter (1)

5. Since this was clearly a typographical error, the Tribunal would permit the amendment requested.

### **Preliminary Matter (2)**

6. Mr Barnett told the Tribunal that he had had no communications at all with the Respondent. The Tribunal had before it witness statements from the process server, Mr Douglas Corbitt, demonstrating that both the Rule 5 Statement and the Rule 7 Statement and accompanying documents had been personally served upon her.

7. The matter had a long procedural history and at the case management hearing on 17 October 2014 the then Division of the Tribunal had been satisfied as to the service of the proceedings.

#### The Tribunal's Decision on Preliminary Matter (2)

8. The Tribunal had taken careful note of the contents of the two statements of the process server and found that the proceedings had been properly served upon the Respondent, both in relation to the Rule 5 Statement and to the Rule 7 Statement.

#### **Preliminary Matter (3)**

9. Mr Barnett asked that the Tribunal proceed to hear the matter in the Respondent's absence. In his submission, the Respondent had waived her right to attend and there was a strong public interest in the matter being concluded today. The allegations before the Tribunal were very serious, including that of a conviction for fraud. There would be no useful purpose served in adjourning the proceedings today and it was in Mr Barnett's submission unlikely that the Respondent would ever engage with these proceedings; indeed, every attempt to communicate with her on the matter had been met with silence.

#### The Tribunal's Decision on Preliminary Matter (3)

10. The Tribunal would proceed to hear the matter in the absence of the Respondent. It was clear that the Respondent's absence was voluntary and that she had closed her eyes to the proceedings. The Tribunal had applied the principles in R -v- Jones [2002] UKHL5 and Tait -v- the Royal College of Veterinary Surgeons [2003] UKPC34 and had been mindful of its discretion to proceed with the hearing, balancing fairness to the Respondent with the public interest in proceeding with cases as expeditiously as possible. The Tribunal had concluded that any adjournment would not result in obtaining a response from the Respondent or her attendance before the Tribunal; on balance it was right that the matter should proceed today.

#### **Factual Background**

11. The Respondent was born on the 17 January 1973 and was admitted as a solicitor on 1 July 1999. Her name remains upon the Roll of Solicitors.
12. The Respondent was a constituency member of The Law Society Council between September 2009 and December 2011.
13. The Respondent last held a practising certificate for the year 2008/2009, which certificate was terminated on 9 December 2009; during this time she was employed by a firm of solicitors. She was annually enrolled for the practice years 2010/2011 and 2011/2012.

#### The Rule 5 Statement

14. A Memorandum of an Entry in the Register of the Mid and South-East Northumberland Magistrates' Court dated 5 January 2012 recorded that:

“On 28 May 2011 at Northside, Shilbottle [the Respondent] assaulted Linda Boyd by beating her contrary to section 39 of the Criminal Justice Act 1988.”

15. The Respondent pleaded not guilty to the offence but was convicted on 9 December 2011 and sentenced to:
  - a) a 12 month Community Order with an unpaid work requirement of 100 hours ;
  - b) pay compensation of £100;
  - c) pay costs of £400 to the Crown Prosecution Service.
  
16. The Respondent’s conviction was reported in the Northumberland Gazette on 18 December 2011.
  
17. A Memorandum of Entry in the Register of the Mid and South-East Northumberland Magistrates’ Court dated 14 June 2012 recorded that:
 

“On Tuesday, 12 March 2012 at Shilbottle in the County of Northumberland without lawful excuse, [the Respondent] damaged Leylandii trees to the value of as yet unknown belonging to John Dixon Lee intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged contrary to sections 1(1) and 4 of the Criminal Damage Act 1971.”
  
18. The Respondent pleaded guilty to the offence and was sentenced to pay:
  - a) a fine of £75;
  - b) a fixed in surcharge of £15;
  - c) prosecution costs of £85.

#### The Rule 7 Statement

19. The Respondent was convicted of each of the offences numbered 1-12 in the Rule 7 Statement. She appealed against the sentences of imprisonment imposed for convictions numbered 2-9, which totalled six months imprisonment. Her appeal was heard at the Newcastle upon Tyne Crown Court on 22 November 2013. The appeal was allowed and it was ordered that the sentences of imprisonment be varied and replaced with a Community Sentence that she must attend as directed for 18 months and a Community Order for three years with the Probation Service as directed.
  
20. With the exception of the conviction for drink-driving on 7 February 2013, all of the additional convictions occurred after 26 April 2013, the date of issue of the Rule 5 proceedings.

#### Submissions of the Applicant

21. Mr Barnett took the Tribunal carefully through the period of the Respondent’s offending behaviour which began in March 2009. In his submission, all of the convictions were proved by the documents exhibited to the Rule 5 and Rule 7 statements, which included the memoranda of entries in the Register of the

Magistrates' Courts relating to each offence before the Magistrates' Court and certificates of conviction for the Crown Court matters. Whilst the memorandum for the offence of Criminal Damage on 12 March 2012 was not signed and certified as a true copy, in Mr Barnett's submission the Tribunal could safely rely upon it. Mr Barnett told the Tribunal that he had served the Respondent with a Notice to Admit these documents in the proceedings before the Tribunal but had received no reply.

22. The various assaults committed by the Respondent related to members of the public, the police and her elderly parents. Whilst all of the offences committed by the Respondent were serious, the fraud conviction related to theft from The Law Society whilst the Respondent had been a member of The Law Society Council and in the context of these proceedings was of the utmost seriousness.
23. Mr Barnett referred to the sentencing remarks of the Judge at Southwark Crown Court on the 22 April 2014 following the Respondent's conviction for that fraud and the two breaches of a non-molestation order. The Judge had said:

“a highly intelligent woman: 2:1 from your university, qualifying as a lawyer, solicitor/barrister; everything going for you and then it all collapses. 2012: battery, criminal damage, excess alcohol, assaulting a constable, assaulting a neighbour and then assaulting your parents.

Further, during that period you steal £22,847 when you were in a position of trust from the Law Society by persistent false claims between March 2009 and July 2011; false claims for accommodation, food, et cetera and welfare is and false claims that you had a carer for your parents and then despite the courts trying to protect your parents by granting orders that you should not contact them in any way, on two occasions on 27 December 2013 you write to them, you should not have done; 18 January 2014 you phone them up and that is on bail.

A sentence of custody is inevitable...”

24. In Mr Barnett's submission the Tribunal was entitled to rely upon the facts as found by the trial Judge.

### **Witnesses**

25. None.

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

26. The Tribunal had due regard to the Respondent's right 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.
27. The Applicant was required to prove the allegations beyond reasonable doubt.
28. The Tribunal treated each of the allegations as having been denied by the Respondent.

29. **The allegation against the Respondent, Frances Louise Brough, made in a Rule 5 statement dated 24 April 2013, on behalf of the SRA, is that contrary to both, alternatively either of Principles 1 and 6 of the SRA Principles 2011 she has been convicted of the following two offences:**

- 1.1 **Assault by beating contrary to section 39 of the Criminal Justice Act 1988;**
- 1.2 **Criminal damage contrary to sections 1(1) and 4 of the Criminal Damage Act 1971.**

**The further allegation against the Respondent, made in a Rule 7 statement dated 12 August 2014, on behalf of the SRA, is that she has acted contrary to all or any of Principles 1, 2 and/or 6 of the SRA Principles 2011 by virtue of the 12 convictions particularised in that Statement.**

29.1 The Tribunal noted that under Rule 15(2) of the Solicitors (Disciplinary Proceedings) Rules 2007:

“... proof of a conviction shall constitute evidence that the person in question was guilty of the offence. The findings of fact upon which that conviction was based shall be admissible as conclusive proof of those facts save in exceptional circumstances.”

29.2 The Tribunal was satisfied that the Respondent had committed each of the criminal offences for which she had been convicted. The Tribunal found that there were no exceptional circumstances in this case and that there was conclusive proof of the findings of fact upon which the convictions were based.

29.3 The facts before the Tribunal spoke for themselves; the Respondent had been convicted of a litany of offences, including that of fraud. The extent and speed of the Respondent’s offending behaviour was extraordinary.

29.4 The Tribunal noted Principles 1, 2 and 6 of the SRA Principles 2011 SRA and was certain that in behaving as she had the Respondent had breached each of these Principles. The Tribunal therefore found each of the allegations against the Respondent to have been proved beyond reasonable doubt.

### **Previous Disciplinary Matters**

30. None.

### **Mitigation**

31. None.

### **Sanction**

32. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.



33. The Tribunal had found each of the allegations against the Respondent to have been proved beyond reasonable doubt and these allegations reflected very serious offending behaviour by the Respondent; indeed, the Respondent had admitted an offence of fraud which had involved a breach of trust.
34. This was a sad case where a previously reputable solicitor had rapidly descended into criminal behaviour. The Tribunal noted the remarks of the Judge at Southwark Crown Court on 22 April 2014 where he had described “a tragic case” with alcohol abuse as a contributory cause.
35. However, there were many aggravating factors in this case and the Respondent had shown no contrition whatsoever for her behaviour; indeed, there were no mitigating factors. The Tribunal had considered the principle in SRA v Sharma [2010] EWHC 2022 (Admin), that is where a solicitor had been found to have been dishonest, unless exceptional circumstances could be shown, then the normal consequence should be for that solicitor to be struck off. The Tribunal found that there were no exceptional circumstances in this case.
36. The Tribunal also noted the words of Sir Thomas Bingham MR in Bolton v The Law Society [1994] 2 All ER 486:

“...the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness.”
37. The Respondent had brought the profession into disrepute. In order to protect the public and maintain confidence in the profession, the only appropriate sanction was that of strike off.

### **Costs**

38. The Tribunal had before it the Applicant’s schedule of costs in the sum of £8,020.16, which had been sent to the Respondent under cover of a letter dated 6 January 2015. Mr Barnett told the Tribunal that the Respondent had made no response on the question of her means, despite being reminded of the Tribunal’s direction to do so if she wished those means to be taken into account when the Tribunal assessed costs.
39. Mr Barnett said that it could be seen from the copy of his letter dated 13 January 2015, that his letter of 6 January 2015 had been returned by the Royal Mail marked as having been refused. His letter dated 13 January 2015 had also included a copy of the costs schedule. In Mr Barnett’s submission, the costs schedule had been filed and served in accordance with the Tribunal’s directions and he therefore made application for costs in the sum of £8,020.16.
40. Mr Barnett noted that the costs schedule showed a figure that was somewhat higher than would normally be expected for a case based upon convictions. However, in his submission, any additional costs had been generated by the Respondent’s behaviour and her lack of engagement. He therefore said that the costs were justified and reasonable in all the circumstances and asked that the Tribunal summarily assess costs. Since there was no information before the Tribunal concerning the

Respondent's means Mr Barnett asked that there be no restriction upon any costs order.

41. The Tribunal had paid careful attention to the items listed on the costs schedule and concluded that the costs requested by the Applicant were justified and reasonable in all the circumstances. It noted that the hearing had been somewhat shorter than anticipated in the costs schedule and would make a small deduction in respect of that item. The Tribunal summarily assessed costs in the sum of £7,370.16. There was no evidence before the Tribunal concerning the Respondent's financial means and following the principle in SRA v Davis and McGlinchey [2011] EWHC 232 (Admin), the Tribunal ordered that the Respondent pay the costs in the sum of £7,370.16.

#### **Statement of Full Order**

42. The Tribunal Ordered that the Respondent, Frances Louise Brough, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,370.16.

Dated this 12<sup>th</sup> day of February 2015  
On behalf of the Tribunal

D Green  
Chairman