

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11340-2015

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

HUGH ALEXANDER JACKSON

Respondent

Before:

Mr R. Nicholas (in the chair)

Mr S. Tinkler

Mrs L. McMahan-Hathway

Date of Hearing: 27 May 2015

Appearances

Mr Inderjit Johal, Counsel employed by the Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Applicant

The Respondent appeared

JUDGMENT

Allegations

1. The allegations against the Respondent were that by virtue of his conviction for (i) Possessing prohibited images of children; and (ii) Making indecent photographs or pseudo-photographs of a child (x9), he has:
 - 1.1 failed to uphold the rule of law and the proper administration of justice contrary to Principle 1 of the SRA Principles 2011; and/or
 - 1.2 failed to act with integrity contrary to Principle 2 of the SRA Principles 2011; and/or
 - 1.3 failed to behave in a way that maintains the trust the public places in him and in the provision of legal services contrary to Principle 6 of the SRA Code of Conduct 2011.

Documents

2. The Tribunal reviewed all the documents including:

Applicant

- Rule 5 Statement dated 2 February 2015 with exhibit JRL1
- Applicant's statement of costs dated 15 May 2015

Respondent

- Letter to the Clerk to the Tribunal dated 20 February 2015
- Letter to the Clerk to the Tribunal dated 5 March 2015 by way of Answer to the Rule 5 Statement
- Letter to the Applicant dated 23 April 2015 enclosing
- Personal Financial Statement of the Respondent dated 23 April 2015

Preliminary Issue

3. The Tribunal had read the papers including letters from the Respondent to the Tribunal dated 20 February 2015 and 5 March 2015 and to the Applicant dated 23 April 2015 and was unclear as to the extent of admissions by the Respondent. It was confirmed that the Respondent now unequivocally admitted all aspects of allegation 1.

Factual Background

4. The Respondent was born in 1982 and admitted as a solicitor in 2011. His name remained on the Roll.
5. Prior to resigning his position when the criminal investigation started, the Respondent had been practising as an employed assistant solicitor with Steel & Shamash in London.
6. On 1 April 2014, the Respondent was according to the certificate of conviction:

“upon his own confession convicted on an indictment

1. Possess prohibited images of children;
 2. Making indecent photograph or pseudo-photograph of child x9”
7. The Respondent was committed to Southwark Crown Court for sentencing. The Respondent was sentenced on 25 April 2014 to a term of 12 months’ imprisonment suspended for 12 months, together with additional orders including:
- Undertaking Sex Offender Specified Activity for 60 days
 - Being subject to a Sexual Offences Prevention Order for a period of five years until further order under sections 104 and 106 of the Sexual Offences Act 2003 (e.g. involving restrictions on contact with children and/or his use of the Internet).
 - To sign the Sex Offenders Register for five years.
 - To pay a victim surcharge of £100.
8. On 2 May 2014, the Respondent reported his sentencing to the Applicant by letter, stating that some 230 images were recovered by the police, accessed over a period of approximately five years.
9. On 20 June 2014, the Applicant wrote to the Respondent seeking his response to allegations that by virtue of his criminal conviction he had failed to comply with Principles 1, 2 and 6 of the SRA Principles 2011.
10. The Respondent replied by post in a letter dated 3 July 2014. He subsequently provided a further letter dated 4 November 2014.
11. The Respondent provided to the Applicant details of what he stated to be the background and history relating to his actions and conviction, together with subsequent steps he had taken.
12. In his letter dated 3 July 2014, the Respondent addressed the allegations raised. In this regard, the Respondent stated that he accepted that the Principles applied in relation to his activities outside practice.
13. In relation to Principle 1, the Respondent stated that he accepted that he acted in an unlawful way in accessing indecent images of children, and failed to uphold the law but that he believed that the rule of law was not compromised by his actions.
14. In relation to Principle 2, the Respondent admitted that his personal integrity failed in committing the offences. However, the Respondent stated that he did not accept that such failings in his personal integrity damaged his capability to act as a trusted advisor or compromised his professional dealings with clients, the court, other lawyers or the public.
15. In relation to Principle 6, the Respondent stated that he accepted that his personal conduct fell considerably short of the standard that the public generally was entitled to expect. However he did not accept that members of the public could not place their

trust in him or that he abused the trust placed in him by his clients. He also accepted that he “may have damaged the legal profession and... can only apologise for that”. However, he stated that he believed that the overall capability of the legal profession to serve the most vulnerable members of society would be lessened by excluding him from giving his skills to help such persons.

16. The Respondent’s conviction attracted some publicity, with his profession and a summary by journalists of the underlying facts of the conviction being reported in the local London press.
17. The Applicant obtained a transcript of the Sentencing Hearing relating to the Respondent’s conviction. In the summary by Counsel of the facts relating to the case, it was stated that:
 - 24 of the images were of the most serious category (Category A)
 - the Respondent admitted to being in paedophile chat rooms where there would be indecent conversations with other like-minded individuals
 - The Respondent had indicated in interview that he had a sexual interest in girls from the age of 11 onwards (the interpretation of these words was disputed by the Respondent who asserted that the comment related to his own age at the time.)
 - The lowest age that could be identified from the images were children as young as two.

In response to a submission from the Respondent’s Counsel that he was “suggesting that it was the stress from the job that may have triggered this activity”, the Judge commented that:

“How can stress from a job or anywhere else lead you to paedophile information exchange websites and looking at this filth”

In his sentencing remarks, the Judge also stated that the Respondent had:

“let down not only yourself and your family but your friends and those that you work with both in your professional activities and in your community work”

18. On 11 November 2014, an Authorised Officer of the Applicant considered the relevant material and decided to refer the conduct of the Respondent to the Tribunal.

Witnesses

19. None.

Findings of Fact and Law

20. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 21. The allegations against the Respondent were that by virtue of his conviction for (i) Possessing prohibited images of children; and (ii) Making indecent photographs or pseudo-photographs of a child (x9), he has:**
- 1.1 failed to uphold the rule of law and the proper administration of justice contrary to Principle 1 of the SRA Principles 2011; and/or**
 - 1.2 failed to act with integrity contrary to Principle 2 of the SRA Principles 2011; and/or**
 - 1.3 failed to behave in a way that maintains the trust of the public places in him and in the provision of legal services contrary to Principle 6 of the SRA Code of Conduct 2011.**
- 21.1 For the Applicant, Mr Johal referred the Tribunal to the facts set out in the Rule 5 Statement and the certified copy of the certificate of conviction and submitted that the Respondent had admitted the offence. He also referred the Tribunal to the details of the sentence which had been provided. The Respondent had been convicted of accessing indecent images of children from about 2009. In October 2013, the police had searched both the Respondent's home and his office having received intelligence about a paedophile chat room. The Police seized various devices. The Respondent had accessed around 230 indecent images of children both at home and at work. Mr Johal submitted that it was clear from the transcript of the sentencing hearing and from his response to the allegations that the majority of the images were at the lowest level of seriousness and 196 of them were at what was formerly described as level 1 now part of the new category C; 10 were at the former level 3, the new category B; and 24 were in the former levels 4 and 5, the new category A. Mr Johal submitted that the latter 24 were in the most serious category and the lowest age of the children involved was a child two years old. The Respondent's advocate at his criminal hearing advanced mitigation including that the Respondent had been addicted to pornography since his teenage years but had only latterly accessed the illegal images referred to. References showed that the Respondent had attended the Lucy Faithfull Foundation, had undergone psycho therapeutic treatment in the NHS and cognitive behaviour therapy. Mr Johal submitted that the Respondent had only narrowly avoided a prison sentence because he was undertaking a rehabilitation programme which would not be available if he went to prison.
- 21.2 Mr Johal submitted that it appeared that the Respondent was doing what he could to treat the underlying problems that had given rise to the offence. He reminded the Tribunal of the purpose of sanctions; protection of the public and maintaining the reputation of the profession. The Respondent had been convicted of a very grave offence which damaged the reputation of the profession. He accepted in correspondence that he committed a serious offence which had been harmful to

society and contributed to the worldwide demand for the abuse of children. The charge and conviction of the Respondent attracted media attention and Mr Johal referred the Tribunal to photocopies of articles in the Evening Standard and Hackney Gazette. He also submitted that the Respondent's offences were at the most serious end of the spectrum of misconduct. In his letter of 23 April 2015, the Respondent had stated that he was willing to accept any sanctions including striking off although his view was that an indefinite suspension would be more appropriate.

21.3 The Respondent apologised for the confusion about whether or not he had accepted the allegations and stated that he had equivocated about accepting them but was now content to concede. The Respondent stated that he had completed his sentence and a treatment program with the Probation Service. He was in the course of psychotherapy and that would continue until September of this year. He wished to apologise for the harm which he had inflicted on the profession. He was very proud to have been a solicitor and of the work he had done. The Respondent submitted that this would not be the first time that such a matter had been before the Tribunal and that the solicitors' profession was by no means immune from people like himself. He had been in recovery for 18 months. The Respondent submitted that his recovery would be ongoing and that with the passage of time he would again be a person who could be trusted and so he considered that an indefinite suspension would be more appropriate than strike off but this was a matter for the Tribunal. The Respondent stated that he had no plans to practise. If he were indefinitely suspended it would be possible for him to retain some dignity and to feel that his efforts in the profession had not quite come to naught. He had very little personal mitigation to advance. He knew and understood the seriousness of the offence and he had always accepted it. He had complied completely with the efforts that the police and the Applicant had made in dealing with him. He had been open and frank. In his letter of 23 April 2015 he had said that he did not intend to practise in the future and if there had been a mechanism for voluntarily removing himself from the Roll he would have done so. The Tribunal enquired if it was his intention not to practise again and the Respondent stated that he did not seek to practise in the future. He confirmed that he was undergoing therapy on a weekly basis. He was now self-employed in a very different area of work and one not regulated by the Tribunal.

21.4 The Tribunal considered the evidence, the submissions for the Applicant and the submissions of the Respondent. Rule 15(2) of the Solicitors (Disciplinary Proceedings) Regulations 2007 provided:

“A conviction for a criminal offence may be proved by the production of a certified copy of the certificate of conviction relating to the offence and 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.”

21.5 The Tribunal was satisfied that it could rely upon the certificate of conviction. The Tribunal found all aspects of allegation 1 proved to the required standard indeed it had been admitted.

Previous Disciplinary Matters

22. None.

Mitigation

(See above under the Respondent's submissions)

Sanction

23. The Tribunal had regard to its Guidance Notes on Sanction and the mitigation advanced by the Respondent in his letters to the Tribunal and in person. The Tribunal assessed the seriousness of the Respondent's misconduct. The Respondent agreed that his actions had caused serious harm to society and contributed to the worldwide abuse of children. There was also serious harm to the reputation of the solicitors' profession arising from his charge and conviction. There were several aggravating features; his misconduct had involved the commission of a criminal offence and one which had been referred by the Magistrates' Court to the Crown Court for sentencing on the basis of seriousness; it was deliberate and repeated and continued over a period of years. Very concerning was that it involved taking advantage of vulnerable people, children, one of whom had been assessed as being aged as young as two years. The Respondent certainly knew or ought reasonably to have known that his conduct was in material breach of his obligations to protect the public and the reputation of the legal profession. While his conduct was reprehensible wherever it had been perpetrated, he had viewed the images both at home and at work and had concealed his wrongdoing. In terms of general mitigation, he had accepted his guilt at an early stage in the proceedings in the magistrates' court but there had been some equivocation in his approach to the allegations in the run-up to the Tribunal hearing. He had voluntarily notified the Applicant of what had occurred. The Respondent had shown some insight by seeking and undertaking therapy independently before he came to trial. The Judge with some reluctance had not sent the Respondent to prison and it appeared that he had avoided that mainly because he had started treatment prior to conviction of his own volition which could not be completed if he was in prison. The Tribunal considered that his misconduct had been at the high end of the spectrum and was extremely serious involving exploitation of vulnerable people and significant reputational consequences for the profession beyond that of most criminal offences. The Guidance Notes stated that striking off could be appropriate in the absence of dishonesty where, amongst other things; the seriousness of the misconduct was by itself very high; and the departure by the Respondent from the required standards of integrity, probity and trustworthiness was very serious. The Notes continued that in such cases, the Tribunal would have regard to the overall facts of the misconduct, and in particular the effect that allowing the Respondent to remain on the Roll would have upon the public's confidence in the reputation of the legal profession. The Tribunal considered whether there was any personal mitigation which might justify reducing sanction from strike off to indefinite suspension. The Tribunal noted the Respondent's personal mitigation that he had by his work helped poor, vulnerable and disadvantaged people rather than seeking large financial remuneration for himself but felt that it was not a valid consideration that to strike him off would prevent him from continuing that work, because if strike off was ordered it would be the result of his own actions. The Respondent had been described as having been addicted to

pornography from a young age but he had not provided any medical evidence in support of that assertion and he had not seen fit to provide a report from his therapist. The Tribunal did not consider that there was any significant personal mitigation in this case. The Respondent had asked not to be struck off in order that he might retain some dignity and as an acknowledgement of his efforts as a solicitor but it had been stated in the case of Bolton v The Law Society [1994] 1 WLR 512 in respect of personal mitigation that the reputation of the profession was more important than the fortunes of any individual member and the Respondent had sullied the reputation of the profession by the serious crime he had committed. The damage he had inflicted on society and vulnerable children also had to be taken into account. The Tribunal considered that strike off would be the proportionate and appropriate sanction. The Tribunal therefore ordered that the Respondent be struck off.

Costs

24. For the Applicant, Mr Johal applied for costs in the amount of £2,425.22, to which the Respondent raised no objection. The Tribunal considered those costs to be reasonable and made an order against the Respondent in the amount claimed.

Statement of Full Order

25. The Tribunal Ordered that the Respondent, Hugh Alexander Jackson, solicitor, be struck off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,425.22.

Dated this 30th day of June 2015
On behalf of the Tribunal

R. Nicholas
Chairman