

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11584-2016

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

STEPHEN DONALD GILLINGS COLECLOUGH

Respondent

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Before:

Miss T. Cullen (in the chair)

Mr J. P. Davies

Dr S. Bown

Date of Hearing: 17 January 2017

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## **Appearances**

The application was considered on the papers and then the agreed outcome announced in open court so no appearances were necessary.

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**JUDGMENT**

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## **Allegations**

1. The allegations against the Respondent were that by virtue of his conviction on 25 February 2016 for offences of possession of extreme pornographic images, making indecent photographs or pseudo-photographs of a child (6 counts) and of distributing indecent photographs of children, he had failed to:
  - 1.1 Uphold the rule of law and the proper administration of justice in breach of Principle 1 of the SRA Principles 2011 (“the 2011 Principles”);
  - 1.2 Act with integrity in breach of Principle 2 of the 2011 Principles;
  - 1.3 Behave in a way that maintains the trust the public places in him and the provision of legal services, in breach of Principle 6 of the 2011 Principles.

## **Documents**

2. The Tribunal reviewed all the documents including:

### Applicant

- Rule 5 Statement dated 6 December 2016 with exhibit JL1
- Statement of Agreed Facts and Indicated Outcome
- Applicant’s statement of costs as at date of issue

### Respondent

- Email from Mr Robert Forman of Murdochs Solicitors dated 11 January 2016 to the Tribunal and the Applicant

## **Factual Background**

### **(taken from the Statement of Agreed Facts and Indicated Outcome)**

3. The following facts and matters were agreed between the Applicant and the Respondent:
4. The Respondent was born in 1962 and was admitted to the Roll of Solicitors in 1986. At the date of the Statement of Agreed Facts and Indicated Outcome, 21 January 2017, the Respondent remained upon the Roll of Solicitors and held a current practising certificate subject to the conditions that a) he may act as a solicitor only as an employee whose role has first been approved by the Applicant; and b) he shall immediately inform any actual or prospective employer of these conditions and the reasons for their imposition.
5. The Respondent was not currently working for an Applicant regulated entity, having previously worked as a specialist tax adviser for several firms over the course of his career.
6. The Respondent pleaded guilty at Northampton Crown Court on 25 February 2016 to eight offences and was thereby convicted on indictment of:

- (i) 1 count of possession of extreme pornographic images
  - (ii) 6 counts of making indecent photographs of a child
  - (iii) 1 count of distributing indecent photograph or pseudo-photograph of child.
7. The Respondent was sentenced on 27 April 2016. The sentencing judge stated several factors that led him to conclude that the Respondent's offending crossed the threshold for custody, including that there were a number of images of very young people and the offending took place over 14 months. However, he concluded that immediate custody would be counter-productive to the Respondent's efforts to understand his offending and prevent it happening again. The Respondent was sentenced to a term of 14 months' imprisonment suspended for 24 months, together with additional orders including:
- (i) A 10 year Sexual Harm Prevention Order;
  - (ii) For notification requirements to be in place for 10 years;
  - (iii) To undertake 100 days of rehabilitation activities and to participate in an accredited offender programme.

#### **Witnesses**

8. None.

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

9. 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.
10. **Allegation 1 - The allegations against the Respondent were that by virtue of his conviction on 25 February 2016 for offences of possession of extreme pornographic images, making indecent photographs or pseudo-photographs of a child (6 counts) and distributing indecent photographs of children, he has failed to:**
- 1.1 Uphold the rule of law and the proper administration of justice in breach of Principle 1 of the SRA Principles 2011 ("the 2011 Principles");**
  - 1.2 Act with integrity in breach of Principle 2 of the 2011 Principles;**
  - 1.3 Behave in a way that maintains the trust the public places in him and the provision of legal services, in breach of Principle 6 of the 2011 Principles.**
- 10.1 The Applicant relied upon the Statement of Agreed Facts and Indicated Outcome including the fact that the Respondent admitted all the allegations made against him in

the Rule 5 Statement. The Tribunal was also entitled to rely on Rule 15(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 which provided that:

“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.”

The Tribunal found the allegations proved to the required standard on the evidence indeed they were admitted.

### **Mitigation**

11. As set out in the Statement of Agreed Facts and Indicated Outcome, in response to the Applicant’s investigation, the Respondent provided admissions to the allegations and background information relating to his family, professional and medical background. The Respondent did not want his family and medical information to be considered in public and did not seek to excuse his criminal behaviour and convictions, which he accepted amounted to a very serious breach of the criminal law. In relation to general mitigation, the Respondent pleaded guilty voluntarily and informed the Applicant of both his charge and conviction. He also made admissions to the Applicant at an early stage of these proceedings.

### **Sanction**

12. In considering its decision as to whether to approve the agreed outcome, the Tribunal had regard to its Guidance Note on Sanctions and what was said about the proposed outcome in the Statement of Agreed Facts and Indicated Outcome as follows. Having considered the Tribunal’s Guidance Note on Sanctions, the Respondent accepted that the level of culpability and harm from his misconduct were high, with harm to both society and to the reputation of the profession. Several aggravating factors applied to the Respondent’s misconduct, including that:
  - (i) it involved the commission of serious criminal offences;
  - (ii) the breaches of the law took place over 14 months and involved photographs of vulnerable people (i.e. children)
  - (iii) it was misconduct that the Respondent knew or ought reasonably to have known was in material breach of obligations to protect the public and the reputation of the legal profession.

Under the circumstances, the Respondent and the Applicant submitted to the Tribunal that the seriousness of the Respondent’s misconduct was such that the Tribunal should order that he be struck off the Roll of Solicitors. The Respondent accepted and acknowledged that any such decision to strike his name off the Roll of Solicitors would be a disciplinary sanction made with the full force of a Tribunal judgment, as if a hearing of the matter had taken place, including that sections 41 and 42 of the

Solicitors Act 1974 (as amended) would apply to him. However the Respondent wished to agree the outcome as he did not wish to increase costs further. Accordingly having regard to the Respondent's convictions and admissions to the misconduct charges, the Applicant and the Respondent invited the Tribunal to make an order that the Respondent be struck off the Roll of Solicitors. In all the circumstances, the Tribunal agreed that a proportionate and appropriate sanction was that the Respondent should be struck off the Roll of Solicitors and it so ordered.

### **Costs**

13. The Respondent agreed to pay the Applicant's costs of the application fixed in the sum of £1,488.76. The Tribunal having been provided with a schedule of the Applicant's costs up to the date of issue of the Rule 5 Statement considered the costs to be reasonable.

### **Application for an order that the letter from Murdochs Solicitors to the Applicant dated 11 May 2016 not be disclosed**

14. By an e-mail dated 11 January 2017, Mr Robert Forman of Murdochs Solicitors acting for the Respondent wrote to the Tribunal office confirming as had been indicated by Mr Jonathan Leigh of the Applicant that the Respondent sought an additional order of the Tribunal that Murdochs Solicitors' letter to the Applicant dated 11 May 2016 which was contained in exhibit JL1 to the Rule 5 Statement should remain confidential to the parties and the Tribunal and not be disclosed to any third party save upon the order of the Tribunal or the Court. The Applicant did not oppose the application. Mr Forman submitted that the request for the order was made to protect the Respondent's family as well as for his own welfare containing as it did highly sensitive information which could cause harm to the individuals concerned. The letter in question had been before the Tribunal when it arrived at its decision to approve the agreed outcome. It was not the Tribunal's practice to disclose to a third party the documents in any application but the Tribunal recognised that the parties and others also held the document in question. In the particular circumstances, the Tribunal considered that it would be just and proper to grant the application as a justified safeguard against exceptional hardship or exceptional prejudice to the Respondent and to persons affected by the case and agreed to make the order.

### **Statement of Full Order**

15. The Tribunal Ordered that the Respondent Stephen Donald Gillings Coleclough, 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 £1,488.76.
16. The Tribunal further Ordered that the letter from Murdochs Solicitors to the Applicant dated 11 May 2016 (pages 17-23 of exhibit JL1) not be disclosed to any third party save if disclosure is ordered by the Tribunal or is required to comply with a Court Order made in any other proceedings.

Dated this 30<sup>th</sup> day of January 2017  
On behalf of the Tribunal

T. Cullen  
Chairman