

The Applicant, Solicitors Regulation Authority, appealed the Tribunal's Order to the High Court (Administrative Court) by the Applicant, By consent the appeal was allowed and the Tribunal's order imposing a term of indefinite suspension on the Respondent has been set aside and substituted with an order striking the Respondent's name from the Roll of Solicitors.

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11748-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SANDIA KUMARI PAMMA

Respondent

Before:

Mr J. P. Davies (in the chair)

Mr J.A. Astle

Mr S. Howe

Date of Hearing: 7 November 2018

Appearances

Inderjit Singh Johal, barrister, of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant.

Chris Kirk-Blythe, exempt person pursuant to schedule 3 of the Legal Services Act 2007, of Dylan Nair Solicitors Ltd, 55 Garstang Road, Preston, PR1 1LB, for the Respondent.

JUDGMENT

Allegations

1. The allegations against the Respondent made by the Applicant were set out in a Rule 5 Statement dated 13 November 2017 and were that she:
 - (As numbered in the Rule 5 Statement)
 - 2.1 On or about 5 October 2016 falsified a General Practitioner's (GP) statement of fitness for work ("sick note") with the intention of sending it to the Immigration & Asylum Chamber in Birmingham ("IAC") to mislead them into believing that her minor client Mr A was ill and could not attend an appeal hearing on the 7 October 2016, in breach of Principles 2 and 6 of the SRA Principles 2011 ("the Principles");
 - 2.2 On 5 October 2016 sent an e-mail to Ms AA, a Director at the firm, informing her that her minor client Mr A had advised her that he was not well and had provided a note from a GP, when she knew that was not true as Mr A had not informed her that he was ill and she had falsified the sick note, in breach of Principles 2 and 6 of the Principles;
 - 2.3 On 5 and 6 October 2016 made a written application to the IAC to adjourn the appeal hearing listed on 7 October 2016, on the basis that her minor client Mr A was unwell and had received a sick note from a doctor when she knew that was not true as Mr A was not unwell and she had falsified the sick note, in breach of Principles 1, 2 and 6 of the Principles and Outcome 5.1 of the SRA Code of Practice 2011 ("the Code"); and
 - 2.4 In light of the IAC's refusal to adjourn the appeal hearing listed on 7 October 2016, instructed a solicitor, Mr MM, a consultant at the firm to attend the appeal hearing and renew the application to adjourn based upon Mr A's ill health and the sick note when she knew that Mr A was not ill and that the sick note was false, in breach of SRA Principles 1, 2 and 6 of the Principles and Outcome 5.1 of the Code.
3. Dishonesty was alleged against the Respondent in respect of all the allegations; however, proof of dishonesty was submitted not to be an essential ingredient for proof of the any of the allegations.

Documents

4. The Tribunal considered all of the documents in the case which included:

Applicant

- Application dated 14 November 2017 and Rule 5 Statement dated 13 November 2017 with exhibit 'IJ1'
- The Applicant's Schedule of Costs dated 1 November 2018

Respondent

- Respondent's Answer to the Rule 5 Statement dated 13 December 2017
- Letter from Dylan Nair solicitors to Dr NP dated 6 March 2018
- Psychiatric Report from Dr NP dated 29 March 2018
- Letter from Dylan Nair solicitors to Dr NP dated 26 April 2018
- Letter from Dr NP to Dylan Nair dated 3 May 2018

- Respondent's Mitigation Statement dated 7 November 2018
- Respondent's Personal Financial Statement dated 16 April 2018

Factual Background

5. The Respondent was born in 1976 and was admitted to the Roll of Solicitors on 3 December 2007. The Respondent was engaged by Duncan Lewis Solicitors Limited ("the Firm") as a non-practising consultant from June 2013 to October 2016.
6. The Respondent was a director of City Law Immigration Ltd, a specialist immigration law firm registered with Office of the Immigration Services Commissioner ("OISC"). City Law Immigration Ltd was on the register of regulated immigration advisers and the Respondent named as one of the advisers. At the date of the hearing she did not hold a current practising certificate.
7. On 14 October 2016 the SRA received a report from the Firm about the Respondent having acted dishonestly, fraudulently and having deliberately misled the Court whilst conducting an immigration appeal on behalf of the Firm leading up to and on the 7 October 2016. The Firm's report had been prompted by correspondence received from the Judicial Office concerning the events at an appeal hearing on the 7 October 2016 which took place at the Birmingham IAC.
8. The Firm reported that the Respondent represented a minor (Mr A) in his appeal against the Secretary of State for the Home Department's decision to refuse his asylum claim. The Respondent had applied for an adjournment to the Birmingham IAC on account of her client being unwell and unable to attend. The application was made on the basis that the client had attended a GP on 5 October 2016, had received a sick note and was prescribed medication and advised to rest.
9. The application for an adjournment was refused on 6 October 2016 on account of a lack of medical evidence in support of the application. On 7 October 2016 the Respondent instructed Mr MM, a consultant at the Firm to attend the appeal hearing and represent the client. The Tribunal Judge was provided with a copy of the sick note. Mr A attended the hearing and confirmed that he was not unwell and that the basis of the application, his sickness and the sick note, was fraudulent and misleading. Mr MM subsequently withdrew from the case as he was professionally embarrassed.
10. The Firm also attached to their report correspondence received from the Respondent between 9 and 14 October 2016 in which she admitted that although she made an application for an adjournment based on medical grounds, the reason for the adjournment was her not having prepared the file adequately for the hearing. She informed the Firm that it was likely that the client's Foster carer would complain about the services or lack of them received from her. The Respondent prepared a letter for the Firm to pass to the Tribunal in which she sought to explain her actions.
11. The SRA began an investigation on the 4 January 2017 and an FI Report ("FIR") dated 18 May 2017 was prepared which gave rise to the allegations set out above.

Witnesses

12. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence of the Respondent. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.
13. The Respondent gave evidence by way of mitigation. She stated that she could not fully recall or understand her actions giving rise to the allegations but accepted responsibility for them. She frequently and fairly admitted her misconduct and that her actions had been wrong. The Tribunal found her a credible witness who demonstrated both remorse and insight.

Findings of Fact and Law

14. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal gave due weight to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with regard to the Respondent's right to a fair trial and to respect for her private and family life under Articles 6 and 8 respectively of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
15. **Allegation 2.1: On or about the 5 October 2016 the Respondent falsified a GP sick note with the intention of sending it to the IAC Birmingham to mislead them into believing that her minor client Mr A was ill and could not attend an appeal hearing on the 7 October 2016, in breach of Principles 2 and 6 of the Principles.**

Allegation 2.3: On 5 and 6 October 2016 the Respondent made a written application to the IAC to adjourn the appeal hearing listed on 7 October 2016, on the basis that her minor client Mr A was unwell and had received a sick note from a doctor when she knew that was not true as Mr A was not unwell and she had falsified the sick note, in breach of Principles 1, 2 and 6 of the Principles and Outcome 5.1 of the Code.

The Applicant's Case

- 15.1 The Respondent had not adequately prepared for Mr A's appeal hearing on 7 October 2016 and consequently on or around 5 October 2016 she decided to falsify a sick note that she had obtained from another client file, with the intention of sending it to the IAC Birmingham in support of an application to adjourn the appeal hearing. The sick note records that Mr A was assessed by a doctor on 5 October 2016 because of a viral infection and was unable to attend an appointment on Friday (7 October 2016) due to diarrhoea, weakness and general malaise. The date of the sick note is recorded as 5 October 2016.
- 15.2 It was alleged, based on comparing the versions of the sick note available to the FIO with those versions found on the client file, that the Respondent:

- altered the dates on the sick note;
- altered the patient's name on the sick note; and
- altered the wording in the comments section of the sick note. It was alleged that she deleted the word 'tomorrow' and instead included 'Friday' and that she may have initialled the GP's name next to this alteration.

15.3 Following the appeal hearing on the 7 October 2016 Resident Judge Philip wrote to the Firm attaching a note made by Judge Anthony at the hearing. At paragraph 7 of the note he recorded that Ms B (Mr A's Foster carer) informed the Tribunal that the sick note dated 5 October 2016 was fraudulent. The following observation was made by the Tribunal about the sick note as recorded in Judge Anthony's note: "the dates appear to have been altered, as is the name of the patient".

15.4 The Respondent attempted to send the falsified sick note to the Birmingham IAC when she made a written application to adjourn the appeal hearing on the 5 October 2016. The letter in which she made the application to adjourn stated as follows:

"We refer to our recent correspondence and in relation to the Appellants appeal we respectfully request an adjournment for the hearing as listed to be heard on the 7th October due the Appellant being unwell.

The appellant has attended the doctors today and has received a sick note and prescription for a viral infection consisting of sickness and diarrhoea and he has been prescribed bed rest for the next 5 days, he will therefore not be fit to attend the hearing on Friday or to give evidence.

We therefore request that the hearing is adjourned to the next available date..."

15.5 The request for an adjournment was refused on 6 October 2016 on the basis that no medical evidence had been submitted. When the FIO sought clarification from the Respondent as to how the sick note was passed to the Tribunal given that the adjournment application being rejected because of the absence of medical evidence, the Respondent replied as follows:

"I think the fit note was faxed with the letter that I sent to the Tribunal requesting the adjournment request from Duncan Lewis case management system, I'm sorry I cannot remember exactly but I thought that I had attached it with the letter adjournment request. Perhaps the second page of the fax did not go through on the e-mail, hence the judges note to say that no evidence was attached....

At the point when I instructed Mr [MM] to attend the hearing on the 7th October 2017 I forwarded to him the adjournment request letter and the fit note."

15.6 Following the decision to refuse the adjournment request the Respondent sent another letter to the IAC Birmingham in which she again stated that Mr A was unwell and that a further request would be made for an adjournment at the hearing. The Respondent added that:

“the Appellant [Mr A] is attempting to obtain a further letter from his GP regarding his illness but had been too sick to attend on the GP today and they do not send such letters by e-mails...”

We would be grateful if the matter can be adjourned as the Appellant does wish to attend to give evidence at this hearing”.

- 15.7 The Applicant submitted that the Respondent had failed to properly prepare for her client’s asylum appeal and decided that she would make an application to adjourn the hearing on the false basis that her client was ill. She falsified a sick note that she obtained from another client file with the intention of sending it in support of her application to adjourn. The Respondent made a written application to adjourn on the 5 October 2016 (received the following day) on the false basis that her client was ill. Although it appears that she attempted to send the sick note to the IAC in support of the application, it was never sent as the IAC rejected the application for lack of medical evidence. When the application was rejected she wrote again to the IAC maintaining that the client was ill and falsely informed them that he had attempted to obtain a further letter from his GP regarding his illness.
- 15.8 The Applicant submitted that a solicitor acting with integrity and finding themselves in the same situation as the Respondent would not falsify a sick note and attempt to send that to the Court in support of an application to adjourn. It was further submitted that the Respondent acted without integrity in making a written application to the IAC for an adjournment on the false basis that her client was ill.
- 15.9 The Applicant submitted that the trust that Mr A placed in the Respondent and the trust that the public places in solicitors was undermined by the Respondent’s actions in breach of Principle 6 of the Principles. The reputation of the profession is severely damaged when a solicitor falsifies documents and makes a false application to the Court. By making an application to the IAC on a false basis, it was also submitted that the Respondent failed to uphold the rule of law and the administration of justice in breach of Principle 1 of the Principles. The Respondent’s actions resulted in her client Mr A, a minor, being unrepresented at his appeal hearing and consequently his appeal hearing being adjourned. The Applicant also submitted that the Respondent breached Outcome 5.1 of the Code as she had knowingly misled the Court that her client was ill.

The Respondent’s Case

- 15.10 The Respondent admitted the allegations including the breach of Principles 1, 2 and 6 of the Principles and the failure to achieve Outcome 5.1 of the Code. The underlying facts were also accepted and agreed by the Respondent with one exception. The exception was to two of the alleged amendments made to the sick note. During her oral evidence the Respondent stated that whilst she admitted falsifying the sick note she did not believe she had made the amendment in the comments section by replacing the word ‘tomorrow’ with ‘Friday’. She also stated that she did not believe she had initialled this amendment with the GP’s initials. All underlying facts were otherwise admitted. Mr Kirk-Blythe, for the Respondent, confirmed that the Respondent would submit that exceptional circumstances and compelling personal mitigation existed which she would invite the Tribunal to consider when determining sanction, but that all elements of the allegation were accepted.

The Tribunal's Decision

- 15.11 Allegations 2.1 and 2.3 were both admitted. The Tribunal concluded that the admissions were properly made and found the allegations proved beyond reasonable doubt. The Respondent admitted that she falsified the sick note. In doing so she had not acted with integrity or behaved in a way which maintained the trust placed by the public in her and in the provision of legal services in breach of Principles 2 and 6 of the Principles. She also admitted that she made an application to the IAC Birmingham on a false basis. In doing so she had not, upheld the rule of law and proper administration of justice, acted with integrity or behaved in a way which maintained the trust placed by the public in her and in the provision of legal services in breach of Principles 1, 2 and 6 of the Principles. She had also failed to achieve Outcome 5.1 of the Code by knowingly misleading the Court.
16. **Allegation 2.2: On 5 October 2016 the Respondent sent an e-mail to Ms AA, a Director at the Firm, informing her that her minor client Mr A had advised her that he was not well and had provided a note from a GP, when she knew that was not true as Mr A had not informed her that he was ill and she had falsified the sick note, in breach of Principles 2 and 6 of the Principles.**

The Applicant's Case

- 16.1 This allegation followed the events described under allegations 2.1 and 2.3 above. On 5 October 2016, Ms AA, a director of the Firm for which the Respondent was conducting Mr A's case, sent an email to the Respondent timed at 15:59 in which she queried whether the Respondent had the Mr A file and whether she had prepared for the hearing. The Respondent replied by email at 16:10 on the same day. The Respondent wrote "I have requested an adjournment, client has advised he is not well and provided note from GP to confirm. I'm awaiting to hear back from court".
- 16.2 The email from the Respondent was misleading as the client had not told her that he was unwell and neither had he provided her with a note from his GP. It was submitted that if the Respondent was acting with integrity, she would have been open and honest with her colleague but instead she continued the pretence that the client was ill as she had made an application for an adjournment to the IAC on the basis that the client was ill. By failing to do so and to act with integrity it was submitted that she had breached Principle 2 of the Principles. It was further submitted that public trust in the profession and the Respondent has been undermined by her misleading her colleague in breach of Principle 6 of the Principles.

The Respondent's Case

- 16.3 The Respondent admitted the allegation including the breach of Principles 2 and 6 of the Principles. The underlying facts were also accepted and agreed by the Respondent. As above, Mr Kirk-Blythe, confirmed that the Respondent would submit that exceptional circumstances and compelling personal mitigation existed which he would invite the Tribunal to consider when determining sanction, but that all elements of the allegation were accepted.

The Tribunal's Decision

- 16.4 Allegation 2.2 was admitted. The Tribunal concluded that the admission was properly made and found the allegation proved beyond reasonable doubt. The Respondent admitted that she provided false information to her colleague, a Director of the Firm. In doing so she had not acted with integrity or behaved in a way which maintained the trust placed by the public in her and in the provision of legal services in breach of Principles 2 and 6 of the Principles.
17. **Allegation 2.4: In light of the IAC's refusal to adjourn the appeal hearing listed on 7 October 2016, the Respondent instructed a solicitor, Mr MM, a consultant at the firm to attend the appeal hearing and renew the application to adjourn based upon Mr A's ill health and the sick note when she knew that Mr A was not ill and that the sick note was false, in breach of SRA Principles 1, 2 and 6 of the Principles and Outcome 5.1 of the Code.**

The Applicant's Case

- 17.1 This allegation followed the events described under allegations 2.1 and 2.3 above, specifically the allegation that having failed to secure an adjournment through her written application she instructed a colleague Mr MM to attend to renew the application orally. It was alleged that having provisionally booked Mr MM to attend the hearing on 5 October 2016, the Respondent contacted him on 6 October 2016. She asked him to cover the appeal hearing and to renew the application for an adjournment on the basis that the client was sick and would not attend the hearing. The Respondent instructed Mr MM to continue with the hearing if the application for an adjournment was refused. The Respondent provided Mr MM with a copy of the allegedly fraudulent sick note in support of the application.
- 17.2 Mr MM confirmed the following to the FIO:
- On the morning of 7 October 2016, having considered the papers, he told the Respondent that he would be withdrawing from the hearing if the adjournment was not granted as he had concerns about the proper presentation of the case due to the deficiency of the arguments presented;
 - On attending the Tribunal, to his surprise, Mr A was in attendance. Mr A informed Mr MM that he was not unwell and had not informed the Respondent that he was unwell;
 - Mr MM had handed the sick note to Mr A and his foster carer. They confirmed that it was not genuine. Mr A had unsuccessfully tried to contact the Respondent and the firm to book an appointment to prepare for the case;
 - Mr MM had contacted the Respondent and was informed by her that she made the application for an adjournment because she had not prepared the necessary paperwork for the substantive hearing and the client did not communicate with her;
 - Mr MM had consequently informed the Immigration Judge that he was withdrawing from the case as he was professionally embarrassed; and

- Mr A's foster carer addressed the Judge and told him that she was not aware of any adjournment request and was dissatisfied with the way the Respondent and the Firm had handled the case. She had also provided the Judge with a copy of the sick note.
- 17.3 Mr MM also informed the FIO that the first time he saw the sick note was the evening of 6 October 2016 and he believed it had already been presented by the Respondent in advance of the adjournment application. Mr A's appeal hearing was adjourned after Mr MM withdrew from representing him. It was relisted on 7 November 2016 to allow Mr A to seek alternative legal representation.
- 17.4 The Applicant submitted that the Respondent acted without integrity in breach of Principle 2 of the Principles in instructing Mr MM to make a renewed application on a false basis and with a falsified sick note. It was further submitted that the trust Mr A placed in the Respondent and the trust that the public places in solicitors was undermined by the Respondent's actions in breach of Principle 6 of the Principles. The reputation of the profession is severely damaged when a solicitor falsifies documents and instructs others to make a misleading application to the Court on a false basis.
- 17.5 The Applicant also submitted that by instructing Mr MM to make a renewed application for an adjournment on a false basis, the Respondent failed to uphold the rule of law and the administration of justice in breach of Principle 1 of the Principles. Through instructing Mr MM to make a renewed application on a false basis it was submitted that the Respondent attempted to mislead the Court and that consequently she breached Outcome 5.1 of the Code.

The Respondent's Case

- 17.6 The Respondent admitted the allegation including the breach of Principles 2 and 6 of the Principles. The underlying facts were also accepted and agreed by the Respondent. As above, Mr Kirk-Blythe, confirmed that the Respondent would submit that exceptional circumstances and compelling personal mitigation existed which he would invite the Tribunal to consider when determining sanction, but that all elements of the allegation were accepted.

The Tribunal's Decision

- 17.7 Allegation 2.4 was admitted. The Tribunal concluded that the admission was properly made and found the allegation proved beyond reasonable doubt. The Respondent admitted that she instructed a colleague to appear in Court and renew the application on a false basis. In doing so she had not upheld the rule of law and proper administration of justice, acted with integrity or behaved in a way which maintained the trust placed by the public in her and in the provision of legal services in breach of Principles 1, 2 and 6 of the Principles. She had also failed to achieve Outcome 5.1 of the Code by knowingly misleading the Court.

Dishonesty

18. **Allegation 3: Dishonesty was alleged against the Respondent in respect of all the above allegations; however, proof of dishonesty was submitted not to be an essential ingredient for proof of any of the allegations.**

The Applicant's Case

18.1 The Respondent's actions were submitted to be dishonest in accordance with the test laid down in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 on the basis that the conduct alleged was dishonest by the standards of ordinary decent people.

Allegation 2.1 and 2.3

18.2 At the time of the misconduct the Respondent was a solicitor of almost 10 years' experience. It was alleged that she made a deliberate decision to falsify the sick note as she had failed to properly prepare for the appeal hearing and wanted it to be adjourned. The Applicant alleged that she had extracted a sick note from another client file and then made alterations to it including changing the name of the patient, the date of the assessment by the GP and, it appeared, comments made by the GP about the day on which the patient was unable to attend. It was alleged that it appeared that the Respondent had initialled the change in the comments section by copying the GP's signature.

18.3 The Applicant alleged that the Respondent then tried to unsuccessfully to send the sick note with the application for an adjournment to the Birmingham IAC. The Respondent repeated the false details regarding Mr A's illness in the letter she sent to the IAC in which she made the application for an adjournment. When the IAC refused the adjournment, the Respondent sent another letter, dated 6 October 2016 in which she falsely told the Court that Mr A was attempting to obtain another letter from his GP concerning his illness but he was too ill to attend the GP on that day.

18.4 The Respondent's actions amounted to a course of conduct over two days. They were not momentary aberrations or isolated events. It was alleged that the Respondent knew what she had done was wrong and that this was demonstrated by her apologies to the Court and to the firm.

Allegation 2.2

18.5 It was alleged that the Respondent also knew that that it was wrong to mislead her colleague into believing that Mr A was unwell. The Respondent had made the application for an adjournment to the Birmingham IAC on the false basis that Mr A was unwell and her e-mail to her colleague Ms AA was a continuation of the pretence that the client was unwell. In her e-mail to Ms AA, informing her of what she had done, the Respondent apologised for being less than frank in her earlier e-mail exchanges with her. She said the following "I am aware you e-mailed me on Wednesday (5 October 2016) to see if the appeal was prepared and I advised I was dealing with it. I apologise as I should have been more direct with you and told you that I had not managed to prepare as I should have..."

Allegation 2.4

18.6 It was alleged that the Respondent kept up her pretence that Mr A was ill and could not attend the appeal hearing by instructing Mr MM to make a renewed application to adjourn the appeal hearing. She gave Mr MM the falsified sick note and concealed from him the fact that she had falsified the sick note, that the application to adjourn that

she had already made was on a false basis as was the renewed application that she had instructed him to make. It was alleged that the Respondent knew, as a solicitor of some 10 years' experience, that it was wrong to instruct another solicitor to make an application to adjourn on a false basis and to provide him with a falsified sick note.

- 18.7 The Applicant submitted that in the event that the Tribunal accepted that the Respondent was suffering from moderate depression, in accordance with the medical evidence she had provided to the FIO, that that condition does not raise a reasonable doubt that her overtly dishonest conduct was dishonest according to the standards of ordinary decent people.

The Respondent's Case

- 18.8 The Respondent admitted dishonesty in respect of all of the allegations. At the hearing the Respondent stated that at the time of these events in November 2016 she did not know what she was doing and that there was no logic to her actions. She could not recall the events clearly. She referred to various factors influencing her at the time by way of mitigation but accepted that her actions, including falsifying a document which would be submitted to Court, were dishonest.

The Tribunal's Decision

- 18.9 The Respondent admitted that she had acted dishonestly in respect of the matters set out in allegations 2.1, 2.2, 2.3 and 2.4. The Tribunal was sure that it was dishonest to create a false document and to provide it to colleagues and the Court in support of an application based on a false premise. The available medical evidence did not alter this and the Respondent did not seek to argue that it should. The Respondent's admission was properly made and the Tribunal found dishonesty proved beyond reasonable doubt in respect of all allegations.

Previous Disciplinary Matters

19. None.

Mitigation

20. The Respondent began her legal career as an office junior when she was twenty years old. She began studying law part time and worked to support herself through her studies. After her legal studies she worked as a paralegal initially in Birmingham and Harrogate and qualified as a solicitor in 2007. After working initially in property law after qualification she began working in immigration law in 2008. By the end of 2009 she was a fully accredited level 2 immigration adviser. She passed her Supervisor exams in 2011 and developed a private practice following qualification to complement the firm's publicly-funded practice.
21. The Respondent provided detail of extremely upsetting and difficult experiences associated with her first pregnancy in 2011. Without recording the personal details, in her evidence looking back she identified these experiences and the fact that she did not adequately deal with them emotionally at the time as the first of a succession of traumatic events which ultimately contributed to her acting in a way she considered

completely out of character in November 2016. In January 2013 the Respondent's first child was born, again in very difficult circumstances, involving both her and her daughter spending time in intensive care. In retrospect the Respondent does not consider that she took enough care of herself after the trauma of these events which again contributed to her subsequent actions.

22. The firm she had been employed by closed whilst she was in hospital. The Respondent set up her own immigration practice, City Law Immigration Limited, in an attempt to generate much needed income and also provide some balance between her professional and family roles. Her company was OISC authorised (Level 3) with offices in Slough and Birmingham. From June 2013, to prop up her business, the Respondent started to accept consultancy instructions from the Firm under which she was paid a proportion of the fee income generated. She was a non-practising solicitor at this time working as an OISC registered immigration adviser. She typically had between 30 and 40 cases. This was an extremely busy time for the Respondent who was building up her business, looking after her daughter and managing the caseload from the Firm.
23. In December 2014 the Respondent had what she described as the worst experience of her life as a result of which she miscarried. Again without recording the details which the Respondent provided she described a distressing experience and also a failure, with hindsight, to care for herself at the time or to take steps which may have helped to prevent future problems.
24. Her very busy personal and professional life continued throughout 2015 and she became pregnant in December 2015. After further scares and distressing medical episodes her son was born in July 2016. Despite the positive outcome the Respondent found the experience even more worrying as a result of her previous experiences.
25. Whilst she was off work following the birth of her son she had an arrangement under which a friend attended to her caseload. The Respondent was due to attend a hearing on a matter for the Firm on 6 August 2016 but missed it as she was in hospital. This prompted a review of the files she had for the Firm and most were ultimately returned to the Firm as a result. Mr A's matter was not returned to the Firm as she considered that she owed it to the client to see the retainer through. She believed at the time she was well enough to retain this case and see it to its conclusion.
26. The Respondent described a further particularly difficult period following this during which her son was poorly with the result that she felt her life became a blur which was more exhausting and time consuming than anything she had experienced before. She continued to struggle to make sure she kept attending to work matters whenever she could. With hindsight she stated that she was in no fit state to be at work at this time.
27. The Respondent felt keenly that she did not want to let the client or the Firm down and having said she would see the matter through she felt obliged to do so. She described feeling angry with herself for not recognising she was not coping and remorseful for what followed.
28. She stated that considering it now, she simply could not understand what happened next. She described feeling devastated by it and said her actions made no sense. She described the falsification of the sick note as preposterous and having no prospect of

succeeding, particularly as she did not ensure that her client did not attend Court. She also stated that in retrospect she could not understand why she did not simply attend Court, which as an experienced adviser she would have been capable of doing. She also said that the Immigration Tribunal would be likely to have dealt with an honest application for adjournment compassionately. Alternatively she could have simply handed the file back to the Firm, something which would have been somewhat discourteous but far preferable to the approach she took. Looking back she could not understand her actions. She did not deny that they were dishonest however. She apologised without reservation for her actions.

29. She went to her GP on 20 October 2016 and was signed off work with post-natal depression. The Respondent instructed a consultant psychiatrist who produced a report in March 2018 for use in the Tribunal proceedings. The consultant psychiatrist diagnosed a moderate depressive episode at the time of the events giving rise to the allegations. The consultant psychiatrist's opinion was that the Respondent was not fit for work at the time of the events. Mr Kirk-Blythe submitted that the common symptoms listed by the consultant psychiatrist, including reduced concentration and attention, reduced self-esteem and self-confidence and in some cases anxiety and distress, amongst others, are consistent with diminished personal autonomy such that someone so suffering may well act 'out of character'. It was on this basis that the Respondent maintained that she did not really know what she was doing whilst also fully accepting that she was always aware that misleading a court, for example, was wrong. The consultant psychiatrist's opinion was that when she accessed support from October 2016 the Respondent's condition was likely to have improved gradually and that she had completely recovered by mid-2017.
30. Mr Kirk-Blythe submitted that cumulatively the factors described by the Respondent amounted to exceptional circumstances of the type envisaged in SRA v Sharma [2010] EWHC 2022 (Admin). Sharma was authority that there was a small residual category of cases where strike off, which would almost invariably be appropriate for dishonest misconduct, would not be appropriate. He submitted that paragraph [29] of SRA v Imran [2015] EWHC 2572 was authority for the proposition that a very significant factor for the Tribunal to consider when assessing whether surrounding circumstances were exceptional was the extent of the dishonesty and also the impact of the dishonesty on the public's perception of the profession. This perception was something he submitted had changed in recent years. He submitted that when considering the effect of a decision not to strike off the Respondent on public confidence in the legal profession, the Tribunal was entitled to have regard to twenty first century sensitivities to and awareness and understanding of mental illness.
31. Mr Kirk-Blythe referred the Tribunal to paragraph [13] of Sharma and the factors to be considered by the Tribunal when assessing if a particular case falls within the exceptional circumstances category such that strike off for dishonesty was not appropriate. The factors include the nature, scope and extent of the dishonesty itself. He submitted that the misconduct was one isolated episode, and was entirely out of character for an individual who had been advising for over 15 years in total. She had a previously unblemished record. At the time she was suffering from a recognised mental health condition, such that her autonomy was reduced in a way which had a direct bearing on the dishonest conduct. He acknowledged that moderate depression and stress cannot be said to be exceptional in themselves, but cumulatively the particularly

difficult factors recounted by the Respondent with which she had been faced coupled with the recognised condition could be so described. He described the series of historic difficulties, loss, anxieties and illness finally catching up with her. Eventually trying just to carry on through these issues took its toll on her. He submitted that the public would not be completely unsympathetic to her conduct given this full context.

32. Mr Kirk-Blythe submitted that the misconduct had no financial motivation, the Respondent did not profit from it, and indeed it was difficult to discern any motive and the Respondent's evidence was that she was not clear why she acted as she did. He submitted that the Applicant's contention that the motivation was to avoid a hearing for which she was not prepared did not really make sense as her actions had no chance of succeeding given that she did not ensure her client did not attend the hearing.
33. He submitted that whilst there were four allegations, they were all essentially a continuation of one moral wrong. All the events underlying the allegations happened within three days demonstrating that the misconduct was not prolonged or extended. He submitted that whilst the actions were intended, they were not calculated. The falsified note was unconvincing and the letters drafted at the time were described as shoddy. He submitted this was consistent with an individual who didn't really know what she was doing at the time. He also noted that once challenged the Respondent did not seek to cover up what she had done. She made a full and frank admission when first challenged. She had also demonstrated significant remorse and insight. Whilst the impact on Mr A was not known, Mr Kirk-Blythe submitted it was likely to have been relatively minor as the likelihood was that his case would have been relisted and substantively unaffected.
34. The Respondent had continued her work as a non-practising solicitor advising on immigration law under her OISC registration. The OISC was aware of the Tribunal proceedings but whilst reserving the right to change their mind had indicated to the Respondent that she could continue to advise whatever the outcome of the Tribunal proceedings. Accordingly, the need to protect the public was submitted to be a less significant factor for the Tribunal than would otherwise be the case. The Respondent was fully recovered and working in a well-regarded and successful practice. The 'toxic combination' of circumstances no longer existed and it was submitted that there was no risk of any re-offending.
35. The Respondent had also submitted various character references which were included within the hearing bundle. The references stressed the Respondent's professionalism, integrity, hard work and commitment to her clients.

Applicant's Response to the Respondent's Mitigation

36. Mr Johal accepted that following Imran and Sharma all of the factors listed by the Respondent could be taken into account. He submitted that the factor to which the greatest weight should be given is the extent, nature and scope of the dishonesty. This would involve considering whether the dishonesty was momentary or extended over time. He submitted that the Respondent's dishonest misconduct was self-evidently not momentary as it extended over three days and involved a series of acts. He also submitted that dishonesty involving misleading a Court was one of the most serious acts for a solicitor to commit.

Sanction

37. The Tribunal referred to its Guidance Note on Sanctions (Fifth Edition) when considering sanction.
38. The Tribunal assessed the seriousness of the Respondent's misconduct. Clearly, any act of dishonesty was extremely serious. Creating a document to mislead a tribunal was close to the top end of the scale of seriousness for a solicitor. With regard to the Respondent's culpability, whilst she may have panicked and created the false sick note in a momentary lapse, she followed this up with further dishonest acts over three days. Whilst the misconduct was not lengthy, it could not fairly be described as momentary. The Tribunal accepted that to some degree, potentially a significant degree, the Respondent's judgement was impaired at the time as a result of the medical condition from which she was suffering and the cumulative effect of the extremely difficult experiences she had described. At the time of the misconduct she had not yet sought medical help. Her actions were a breach of trust, owed to her client, to the Court and to the Firm. She was an experienced practitioner which increased her culpability. The Respondent had direct control, subject to the effect of her illness which impaired her judgement and functioning, and responsibility for the circumstances giving rise to the misconduct.
39. The impact of the Respondent's misconduct was harm to the public perception of the profession and the reputation of the profession. Some limited harm was also caused to Mr A in that his hearing was postponed, although harm to his substantive case was unlikely. The Tribunal accepted that whilst deliberate the Respondent's misconduct was not calculated or rigorously executed. Whilst the Respondent may not have intended any harm, it was clearly foreseeable that harm to the reputation of the profession would be caused by her misconduct.
40. There were aggravating factors. Dishonesty had been alleged, admitted and proved. The misconduct was deliberate and extended over three days. It involved various acts intended to mislead. Whilst the diagnosis of the medical expert may imply some degree of diminished autonomy and control, the Respondent accepted that she acted dishonestly and she ought reasonably to have known that her conduct was a material breach of her obligations as a solicitor to protect the public and the reputation of the legal profession. The misconduct had had a significant impact on the Respondent herself and also potentially on the Firm's reputation, notwithstanding the fact that the Tribunal accepted that public understanding of and sympathy towards mental illness had increased in recent years.
41. The Tribunal considered that the Respondent had genuine insight. It was apparent from her oral testimony that she had genuine and deep remorse. Whilst unable to recall the detail of the events, and submitting that the medical condition from which she was suffering contributed to her actions, the Respondent accepted that her actions were wrong. The circumstances leading up to the events and her illness were significant mitigating factors. The full and frank cooperation she had demonstrated from the first point of challenge was also a mitigating factor as was the fact that she had an otherwise unblemished career. The Tribunal found the Respondent to be an honest witness who gave straightforward and credible evidence. The Tribunal accepted the medical

evidence provided by her which showed that she had been suffering from a medical condition at the time of the events and was not fit for work.

42. The overall seriousness of the misconduct was inevitably high given that the dishonesty included the creation of a falsified document to mislead a Court. As the Respondent had been found to have been dishonest, the Tribunal firstly considered the judgment in Sharma.
43. In order to assess the various circumstances that the Respondent submitted were cumulatively exceptional, the Tribunal considered as per [13] of Sharma the nature, scope and extent of the misconduct and also whether it was momentary, extended over a lengthy period of time, was of benefit to the Respondent and had an adverse effect on others. The nature and scope of the dishonesty was the creation of a false sick note, the communication of that falsified document to colleagues, and thereby the Court, and the pursuing of an application to Court based on a false premise. Whilst the medical evidence and the cumulative effect of the events described by the Respondent may undermine the degree of personal agency involved at the time, the Respondent accepted that she knew the conduct was wrong and the nature and scope of the dishonesty remains broad and serious. The misconduct extended over three days and so cannot be described as momentary, although neither did it extend over a lengthy period of time. The Tribunal considered that avoiding a hearing for which the Respondent was not prepared was the immediate anticipated benefit to the Respondent, whilst recognising that that aim was not systematically or competently pursued which was consistent with the medical evidence presented. There were adverse effects on the colleagues affected, the client and the Firm as well as the wasted Court time.
44. Following this assessment the Tribunal did not find that the Respondent's misconduct fell within the 'exceptional circumstances' category of dishonesty cases. One single 'moment of madness' may potentially have done so, but the fact that the misconduct extended over three days and involved multiple actions intended to mislead, in the context of serious dishonesty intended to mislead a Court, meant that the Tribunal was not persuaded that exceptional circumstances as envisaged by Sharma existed given the nature, scope and extent of the misconduct. The Tribunal accepted that the Respondent did not make the two amendments to the comments section of the sick note, however the falsifications which remained were still very significant.
45. Accordingly, in the absence of exceptional circumstances, and following Sharma, the finding of dishonesty inevitably meant that the appropriate sanction was striking off the Roll. The Tribunal considered then the personal mitigation raised by the Respondent. As noted above, the medical evidence and the Respondent's evidence about its impact on her was accepted. The Tribunal accepted that the medical condition, the effect of the events she recounted in her evidence and the other pressures of circumstances caused the Respondent to act in a way which was out of character. The Tribunal accepted that as a result of these factors the pressure on the Respondent was exceptional, even though given the nature, extent and scope of the dishonesty they could not be said to satisfy the test set out in Sharma. The Tribunal found that she displayed genuine insight and remorse and noted that she had continued to work without incident since the misconduct. The Tribunal was satisfied that there was no realistic chance of such conduct being repeated and that the combination of circumstances which gave rise to it was a one-off.

46. The Tribunal had regard to [54] of the Guidance Note on Sanctions which states that personal mitigation may serve to reduce the nature of the sanction and/or its severity. Medical evidence that at the time of the misconduct the Respondent was affected by physical and or mental ill-health that affected her ability to conduct herself to the standards of the reasonable solicitor may be relevant personal mitigation. Prompt admission and cooperation with the regulator is also listed as a potential personal mitigation.
47. Accordingly, the Tribunal also had regard to the Guidance Note on Sanctions at [43] on Indefinite Suspension:
- “...the Tribunal will have formed the view that:
- the seriousness of the misconduct is so high that striking off is the most appropriate sanction; **but**
 - the presence of truly compelling and exceptional personal mitigation makes that course of action unjust; **and/or**
 - there is a realistic prospect that the respondent will recover from, for example, illness, addiction, a relevant medical condition etc. or respond to retraining so that they no longer represent a material risk of harm to the public or to the reputation of the profession.”
48. The Tribunal was satisfied that the Respondent had presented truly compelling and exceptional personal mitigation as summarised above. The Tribunal was satisfied, based on the medical evidence presented, that the Respondent would not find herself in the circumstances which had given rise to the misconduct again and that she did not present a material risk of harm to the public or the reputation of the profession. The Tribunal considered that Indefinite Suspension from the Roll, effective immediately, was the appropriate and just sanction and struck the appropriate balance between an appropriate punishment, a recognition that the Respondent’s actions had harmed the profession and the need to take into account her particular compelling and exceptional personal mitigation. Whilst conscious that it could not bind any future Tribunal which considered any application for the suspension to be terminated, the Tribunal did not consider that any such application would be appropriate within five years and any application should be accompanied by evidence that the Respondent was fully fit to work and that there had been no relevant conduct issues in the intervening period.

Costs

49. The total costs claimed in the Applicant’s Schedule of Costs was £7,361.20. The parties had reached agreement that the costs as per the schedule be paid by the Respondent. The Tribunal assessed the costs for the hearing and considered the costs claimed and the agreement between the parties to be reasonable. The Respondent was ordered to pay the costs of and incidental to this application and enquiry fixed in the sum of £7,361.20.

Statement of Full Order

50. The Tribunal ORDERED that the Respondent, SANDIA KUMARI PAMMA, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the

7 November 2018 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,361.20.

Dated this 14th day of December 2018
On behalf of the Tribunal

J. P. Davies
Chairman