SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974   Case No. 11822-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY   Applicant

and

GLEN BARTLETT   Respondent

Before:

Mr R. Hegarty (in the chair)
Mr P. Jones
Mrs N. Chavda

Date of Hearing: 18 September 2018

Appearances

Simon Griffiths, solicitor of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations made by the Applicant against the Respondent were set out in a Rule 5 Statement dated 14 May 2018. The allegations were that:

1.1. On 27 September 2017 he was convicted of ten counts of buggery (in relation to Person A) and 2 two counts of indecent assault on a male (in relation to Person B). He thereby breached Principles 2 and 6 of the SRA Principles 2011.

Documents

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

Applicant

- Application and Rule 5(2) Statement dated 14 May 2018 with exhibit "SG1"
- Applicant's Schedule of Costs dated 14 May 2018 and 11 September 2018

Respondent

- Letters from the Respondent to the Tribunal dated 27 June 2018; 8 July 2018; 16 and 27 August; 4 and 5 September 2018
- Letters from the Respondent to the Applicant dated 17 July 2018 and 6 September 2018
- Respondent's Answer dated 27 June 2018
- Financial Statement of the Respondent (undated)
- Four Character References
- Statement of Mr AG dated 3 September 2018
- Application for a video link and related documentation

Other documents

- Judgment in Tribunal Case Number 11777-2013 in relation to the Respondent (which the Division was unaware of until after it had reached its findings)

Preliminary Issues

Application to Proceed in the Absence of the Respondent

3. On 16 August 2018 the Respondent had applied to participate in the substantive hearing by video link. That application was granted on 23 August 2018 and the Tribunal made the necessary arrangements for the video link to take place.

4. On 17 September 2018 the Respondent contacted the Tribunal to discuss the arrangements for the video link. During the course of the conversation the Respondent was advised that the Tribunal had been in contact with the prison and that the prison could not facilitate a test link before the hearing. There was also the risk that if the Crown Court requested the production of a prisoner by video link this would take precedent over the Tribunal's request.

5. The Respondent stated that he was content for the hearing to proceed in his absence and he did not want the hearing to be adjourned. The Respondent was aware that the Tribunal had made arrangements for the hearing to proceed by video link despite the fact there would be no test link. Earlier on 17 September 2018 the Respondent had also been made aware that participation by telephone was an option if there were difficulties with the video link. The Respondent was aware of the consequences of not attending and stated his position was as set out in previous correspondence.

6. On 18 September 2018 the Respondent did not attend the hearing by video link or telephone and the Applicant submitted that the Tribunal should proceed in the Respondent's absence.

7. Given that the Respondent had been served with the proceedings and given the contents of his conversation with the Tribunal on 17 September 2018 Mr Griffiths applied to proceed in his absence. He submitted that under Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 ("the SDPR") the Tribunal had the power, if satisfied service had been effected, to hear and determine the application in the Respondent's absence.

8. The Respondent had acknowledged receipt of the papers in his letter to the Tribunal dated 8 July 2018. He had made a successful application to participate in the hearing by video link. He was clearly aware of the proceedings and of the hearing.

9. Mr Griffiths submitted that the Tribunal would have in mind the factors set out in R v Hayward, [2001] EWCA Crim 168 sub nomine on appeal R v Jones [2002] UKHL 5 in which it was stated in relation to the discretion to proceed in the absence of the Respondent:

> "4. That discretion must be exercised with great care and it is only in rare and exceptional cases that it should be exercised in favour of a trial taking place or continuing, particularly if the defendant is unrepresented.
>
> 5. In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case including, in particular:
>
> (i) the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;
> (ii) whether an adjournment might result in the defendant being caught or attending voluntarily and/or not disrupting the proceedings;
> (iii) the likely length of such an adjournment;
> (iv) whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;
> (v) whether an absent defendant's legal representatives are able to receive instructions from him during the trial and the extent to which they are able to present his defence;

(vi) the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;
(vii) the risk of the jury reaching an improper conclusion about the absence of the defendant;
(viii) the seriousness of the offence, which affects defendant, victim and public;
(ix) the general public interest and the particular interest of victim sand witnesses that a trial should take place within a reasonable time of the events to which it relates;
(x) the effect of delay on the memories of witnesses;
(xi) where there is more than one defendant and not all have absconded, the undesirability of separate trials, and the prospects of a fair trial for the defendants who are present"

10. Of those factors, points (i), (vi), (vii), (viii) and (ix) particularly applied in this case. The Respondent faced serious allegations and it was in the public interest for the hearing to proceed.

11. Mr Griffiths also referred the Tribunal to the case of General Medical Council v Adeogba [2016] EWCA Civ 162 which applied the case of Jones in a regulatory context. Fairness to both the Applicant and Respondent should be considered. It was fair to the Applicant to proceed and in the interests of the public.

12. Mr Griffiths submitted that the Respondent had voluntarily waived his right to appear. It was not in the public interest for the hearing to be adjourned and there was no suggestion that a delay would secure the Respondent's attendance.

13. Mr Griffiths reminded the Tribunal that Rule 19 of the SDPR provided for a re-hearing where the Respondent neither appeared nor was represented and the Tribunal determined the application in his absence.

The Tribunal's Decision

14. The Tribunal was satisfied that the Respondent had been served with notice of the hearing. The Respondent had invited the Tribunal to proceed in his absence in his conversation dated 17 September 2018. The Tribunal decided that it should exercise its power under Rule 16(2) to hear and determine the application in the Respondent's absence. The Tribunal concluded that the Respondent had voluntarily absented himself from the hearing and was unlikely to attend a future hearing if the matter were to be adjourned. In all the circumstances, the Tribunal was satisfied that it was appropriate and in the public interest for the hearing to proceed in the Respondent's absence.

Factual Background

15. The Respondent was born in April 1957 and was admitted to the Roll as a solicitor on 15 May 1981. At the time of the hearing he was in prison and did not hold a Practising Certificate.

16. At the times material to the convictions relating to Person A, the Respondent was either a trainee solicitor or a solicitor. At the times material to the convictions relating to Person B, the Respondent practised as a solicitor. He specialised in criminal and motoring offences as well as civil litigation and conveyancing. At the times material to the convictions against Person B, the Respondent also practised in Mental Health Act and Mental Capacity Act matters.

17. On 27 September 2017, at the Crown Court at Norwich, the Respondent was convicted of the offences referred to at paragraph 1.1 above. On 15 December 2017, also at the Crown Court at Norwich, the Respondent was sentenced to twenty one years imprisonment, being a custodial sentence of twenty years and an extended license period of one year; ordered to be placed on the Barring List by the Disclosure and Barring Service; and ordered to sign the Sex Offenders Register indefinitely. The trial Judge was Her Honour Judge Moore.

Witnesses

18. The written evidence 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. The Tribunal did not hear any oral evidence. 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.

Findings of Fact and Law

19. 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.

20. **Allegation 1.1 - On 27 September 2017 he was convicted of ten counts of buggery (in relation to Person A) and 2 two counts of indecent assault on a male (in relation to Person B). He thereby breached Principles 2 and 6 of the SRA Principles 2011.**

The Applicant's Case

20.1 In relation to Person A, the Court found that the Respondent had sexually abused Person A and Person B when they were younger than 16. The Respondent buggered Person A at least 12 times a year when he was aged 11, 12, 13, 14 and 15 at least 60 occasions in total. In the trial Judge's judgment Person A could properly have said to have been particularly vulnerable due to his youth and personal circumstances. He was 10 when the Respondent began to abuse him sexually, and by the time he was 11 the Respondent was buggering him. The Respondent was then 23 or thereabouts. The Court also found that the Respondent had caused additional degradation to Person A.

20.2 The Judge found that Person A had been profoundly adversely affected by the Respondent's behaviour and that the effects began when Person A was a young boy and persisted at the date of sentencing. The Judge could not conclude that all the

personal, emotional and behavioural difficulties Person A had endured were wholly and exclusively attributable to the Respondent's actions, but she had no doubt that the Respondent bore significant responsibility for very many of them. The Respondent had cynically groomed Person A. The Respondent's campaign of abuse was carefully planned and in breach of the trust reposed in the Respondent charged with Person A's care when babysitting, and when he was to clean the Respondent's car or play squash with him.

20.3 The Judge found that because the Respondent was well thought of within the family and training to become a solicitor, other adults within the family did not question the time he spent with Person A. The Judge also found that the Respondent rendered Person A fearful of the consequences of speaking out through threats and emotional manipulation, and this was an aggravating feature. The Respondent caused Person A to think that no one would believe him, that he would have no place in the family and that he would lose his place in the Army. As time passed the Respondent reminded Person A of the Respondent's status as a solicitor, leaving him with the enduring impression that the Respondent's word would be accepted over his, both within the family and beyond.

Person B

20.4 In relation to Person B the Court found that the Respondent had indecently assaulted Person B on an occasion when Person B was aged 14 or 15 and that he had indecently assaulted Person B on an occasion when Person B was obliged to share a room with the Respondent on a holiday.

20.5 The Judge also found that Person B's victim personal statement attributed difficulties in his life to the Respondent's behaviour towards him, again in the absence of expert evidence the Judge treated this cautiously, but it was perfectly clear that the Respondent's behaviour had an adverse effect upon Person B.

20.6 It was the Applicant's case that the Respondent had failed to meet the higher standards that society expects from the profession and that the profession expects from its members. As a result he lacked integrity. Mr Griffiths referred the Tribunal to Wingate and Evans v Solicitors Regulation Authority [2018] EWCA Civ 366 in which the Court of Appeal stated:

> "97. In professional codes of conduct, the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. See the judgment of Sir Brian Leveson P in *Williams* at [130]. The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.
>
> 100. Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty. To take one example, a solicitor conducting negotiations or a barrister making submissions to a judge or arbitrator will take particular care not to mislead. Such a professional

> person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse.
>
> 102. Obviously, neither courts nor professional tribunals must set unrealistically high standards, as was observed during argument. The duty of integrity does not require professional people to be paragons of virtue. In every instance, professional integrity is linked to the manner in which that particular profession professes to serve the public. Having accepted that principle, it is not necessary for this court to reach a view on whether *Howd* was correctly decided."

20.7 This was an objective test. The Code of Conduct set out the standards that society expected of the profession and the Respondent had been expected to live up to the standards of his own profession. The Respondent should have abided by those standards and abided by the law.

20.8 It was also the Applicant's case that the Respondent failed to maintain the trust that the public placed in both him and the provision of legal services because he was convicted of buggering a boy between the ages of 11 and 15 on ten occasions and of indecently assaulting a boy under the age of 16 on two occasions. The Respondent's conduct was sustained and repetitive. In relation to Person A, this was preceded by additional degrading acts and the Judge had found that the abuse of Person A was carefully planned and in breach of the trust reposed in the Respondent. The Judge had made findings as to the adverse effect that the Respondent's behaviour had had on both Person A and Person B. She had also found that the Respondent had used his position as a trainee solicitor, and subsequently as a solicitor, to both hide his actions and to prevent Person A from speaking out.

The Respondent's Position

20.9 The Respondent pleaded not guilty at Court to the allegations subsequently found proved against him.

20.10 In a letter dated 19 February 2018 to the Applicant the Respondent accepted that he was not in a position to dispute the allegations before this Tribunal. However he maintained that he was not guilty of the criminal offences of which he had been convicted. The Respondent stated that he was endeavouring to mount possible grounds of appeal against the conviction but that these were at an early stage and could take some considerable time. The Respondent did not state what the grounds would be. The Respondent indicated that, if his appeal was successful, he would be anticipating a re-trial which may then give him grounds to dispute the allegations made by the SRA. The Respondent accepted that, if the SRA was not prepared to await the outcome of any appeal or retrial, his name would need to be struck off the Roll. The Respondent reserved the right to apply to have his name restored if any appeal or retrial was successful.

20.11 The Respondent maintained this position in his subsequent correspondence including his Answer dated 27 June 2018 which had been filed in the proceedings. In that document he stated that the allegations were currently admitted but repeated his assertions as set out in his letter dated 19 February 2018.

The Tribunal's Findings

20.12 Rule 15 of the SDPR states:

> "15.—(1) In any proceedings before the Tribunal which relate to the decision of another court or tribunal, the following rules shall apply if it is proved that the decision relates to the relevant party to the application.
>
> (2) 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."

20.13 The Tribunal had before it the Certificate of Conviction showing that the Respondent had been tried and convicted of ten counts of buggery (in relation to Person A) and two counts of indecent assault on a male (in relation to Person B). The Respondent accepted that he had been convicted of these offences, subject to any appeal he may pursue.

20.14 The factual basis of allegation 1.1 was proved. The Tribunal had to determine whether this conduct breached Principles 2 and 6 of the SRA Principles 2011. The Tribunal found that the Respondent's behaviour was an absolute and clear breach of Principle 2. No solicitor of integrity would have behaved in this way. Quite clearly the Respondent had also breached Principle 6. He had not behaved in a way that maintained the trust the public placed in him and in the provision of legal services. Allegation 1.1 was proved in full, beyond reasonable doubt.

Previous Disciplinary Matters

21. There was one previous appearance before the Tribunal (Case No. 11177-2013) for unrelated matters.

Mitigation

22. The Respondent had submitted a number of character references. The Tribunal read these carefully. The Respondent had also submitted a financial statement and some supporting documentation which the Tribunal took into account.

Sanction

23. The Tribunal referred to its Guidance Note on Sanctions (5th Edition) when considering sanction.

24. The Tribunal assessed the seriousness of the misconduct. The Respondent's motivation for the misconduct was unexplained by him. He had been convicted of very serious criminal offences and in respect of Person A the misconduct had been pre-planned. The Respondent had been in a position of trust and had clearly breached this. He had used his status as a solicitor to both persuade Person A that they would

not be believed and because of his professional standing the time he spent with Person A was not questioned. This was set out in the Judge's sentencing remarks. There was less information in respect of Person B. The Respondent had had direct control of and responsibility for the circumstances giving rise to the misconduct. He had committed the offences. His level of experience varied over the number of years during which the offences took place. The Respondent had not misled the Applicant.

25. It was clear from the Judge's sentencing remarks that the Respondent had caused significant harm to Person A and Person B. The impact of his behaviour on those directly affected by the misconduct could not be underestimated. The harm to how the public perceived solicitors and the reputation of the profession was both inevitable and substantial. It was irrelevant whether the harm was intended; it might reasonably have been foreseen.

26. The Respondent had been convicted of criminal offences, his misconduct was deliberate, calculated and repeated. It had continued over a period of time and he had taken advantage of two vulnerable people. He had concealed his wrong doing. The Respondent knew or might reasonably to have known that the conduct complained of was in material breach of his obligations to protect the public and the reputation of the legal profession. The extent of the impact of the harm on Persons A and B was substantial and had been identified by the trial Judge. These were all aggravating factors. The Tribunal did not consider the existence of the previous disciplinary proceedings an aggravating factor in this particular case.

27. The only mitigating factor was that the Respondent had co-operated with the investigating body.

28. The Tribunal assessed the seriousness as at the highest level. It then considered which sanction to impose commencing with No Order.

29. Given the Respondent's criminal convictions the Tribunal decided that No Order, a Reprimand, a Fine and a Restriction Order were inappropriate and insufficient. A suspension whether for a fixed term or an indefinite period was not fair and proportionate given the underlying offences that had resulted in the criminal conviction.

30. Strike-Off was the appropriate penalty if the Tribunal determined that the seriousness of the misconduct was at the highest level such that a lesser sanction was inappropriate and the protection of the public and/or the reputation of the legal profession required it. There was no other possible sanction in this case and the Tribunal decided that the appropriate sanction was for the Respondent's name to be removed from the Roll of Solicitors.

Costs

31. The Applicant applied for its costs in the sum of £3,132.35 as set out in a costs schedule dated 11 September 2018. The Respondent had considerable assets of £983,665 and limited liabilities of £78,328. His outgoings exceeded his income. He continued to maintain a property. There was no information before the Tribunal as to

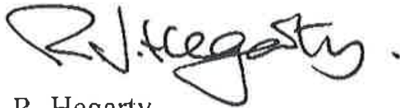
whether or not the Respondent was supporting anyone else. The Applicant submitted that the Respondent would be able to meet any costs order that the Tribunal made.

32. The Tribunal had heard the case and was best placed to determine the question of costs. The Tribunal decided that the Respondent should pay the Applicant's costs and proceeded to summarily assess the Applicant's costs. Having considered the costs schedule the Tribunal concluded that the Applicant's costs were reasonable and should be paid in full. The question of how the costs should be enforced was a matter for the Applicant's discretion but given the Respondent's assets it was not appropriate to order that costs should not be enforced without leave of the Tribunal. Accordingly the Tribunal ordered that the Respondent do pay the costs of and incidental to this application and enquiry fixed in the sum of £3,132.35.

Statement of Full Order

33. The Tribunal Ordered that the Respondent, GLEN BARTLETT, 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 £3,132.35.

Dated this 24th day of October 2018
On behalf of the Tribunal



R. Hegarty
Chairman

Judgment filed
with the Law Society
on 24 OCT 2018