

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12017-2019

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

CHARLES DAVID MYERS

Respondent

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Before:

Mr E. Nally (in the chair)

Mr P. Booth

Mrs C. Valentine

Date of Hearing: 5 February 2020

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**Appearances**

There were no appearances as the matter was dealt with on the papers.

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**JUDGMENT ON AN AGREED OUTCOME**

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## **Allegations**

1. The allegations against the Respondent made by the Solicitors Regulation Authority (“SRA”) were that:-
  - 1.1 on or around 13 November 2017, he backdated the signature of his client Mrs M on a Legal Help Form which that client had completed in furtherance of an application for Legal Aid. In doing so he breached Principles 2 and 6 of the SRA Principles 2011 (“the Principles”).
  - 1.2 on or around 13 November 2017, he backdated the signature of his client Mr M on a declaration confirming the truth of the contents of an application for Legal Aid made by that client. In doing so he breached Principles 2 and 6 of the Principles.
  - 1.3 on dates unknown in or around February 2018 he dealt with the declaration (which is the subject of allegation 1.2 above) in a manner which was apt to conceal that the signature of Mr M upon that document had been backdated and which he knew, or ought to have known, was apt to have that effect. In doing so he breached Principles 2 and 6 of the Principles.
  - 1.4 on or around 19 and 20 February 2018 he made statements to representatives of his employer which were untrue and apt to mislead them as to the existence of the document the subject of allegation 1.2 and which he knew, or ought to have known, were liable to have this effect at the time they were made. In doing so he breached Principles 2 and 6 of the Principles.
  - 1.5 Each of the above allegations was advanced on the basis that the Respondent’s conduct was dishonest. Dishonesty was alleged as an aggravating feature of the Respondent’s misconduct but was not an essential ingredient in proving the allegations.

## **Factual Background**

2. The Respondent was admitted to the Roll as a solicitor in August 2017. He did not hold a current Practising Certificate and last held one for the 2017/2018 practice year. The Respondent was employed by Mintons Solicitors as a paralegal from February 2014 to August 2015. He remained at the Firm as a trainee solicitor from August 2015 to July 2017. Thereafter he was employed as an assistant solicitor from 1 August 2017 to 16 March 2018.

## **Application for the matter to be resolved by way of Agreed Outcome**

3. On 4 February 2020, the parties invited the Tribunal to deal with the allegations against the Respondent in accordance with the Statement of Agreed Facts and Proposed Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.

**Findings of Fact and Law**

4. 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.
5. The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Respondent's admissions were properly made.
6. The Tribunal considered the Guidance Note on Sanction (November 2019). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Respondent had admitted that his conduct had been dishonest. He had backdated forms and had then sought to conceal his errors. Such conduct, the Tribunal determined, meant that it was untenable for the Respondent to remain in the Roll. The seriousness of the Respondent's misconduct meant that the protection of the public and the protection of the reputation of the profession demanded that the Respondent be struck off the Roll of Solicitors. The Tribunal considered that the agreed sanction was appropriate and proportionate to the seriousness of the Respondent's misconduct.

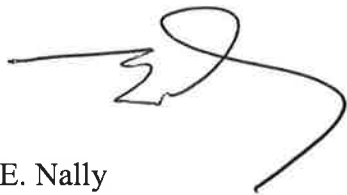
**Costs**

7. The parties agreed costs in the sum of £2,322.00. The Tribunal determined that the agreed costs were reasonable and appropriate and ordered that the Respondent pay costs in the agreed sum.

**Statement of Full Order**

8. The Tribunal Ordered that the Respondent, CHARLES DAVID MYERS , 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 agreed sum of £2,322.00.

Dated this 5<sup>th</sup> day of February 2020  
On behalf of the Tribunal



E. Nally  
Chairman

Judgment filed  
with the Law Society  
on 05 FEB 2020

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

CHARLES DAVID MYERS

Respondent

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STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

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1. By its application dated 18 October 2019, and the statement made pursuant to Rule 5(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 which accompanied that application, the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making four allegations of misconduct against Charles David Myers.

**The allegations**

2. The allegations against Mr Myers, made by the SRA within that statement were that: -
  - 2.1. on or around 13 November 2017, he backdated the signature of Client A on a Legal Help Form which that client had completed in furtherance of an application for Legal Aid. In doing so he breached Principles 2 and 6 of the SRA Principles 2011.

- 2.2. on or around 13 November 2017, he backdated the signature of Client B on a declaration confirming the truth of the contents of an application for Legal Aid made by that client. In doing so he breached Principles 2 and 6 of the SRA Principles 2011.
- 2.3. on dates unknown in or around February 2018 he dealt with the declaration (which is the subject of allegation 1.2 above) in a manner which was apt to conceal that the signature of Client B upon that document had been backdated and which he knew, or ought to have known, was apt to have that effect. In doing so he breached Principles 2 and 6 of the SRA Principles 2011.
- 2.4. on or around 19 and 20 February 2018 he made statements to representatives of his employer which were untrue and apt to mislead them as to the existence of the document the subject of allegation 1.2 and which he knew, or ought to have known, were liable to have this effect at the time they were made. In doing so he breached Principles 2 and 6 of the SRA Principles 2011.
3. In addition, dishonesty was alleged as an aggravating factor with respect to each of these allegations.
4. Mr Myers admits each of these allegations. He also admits that his conduct in acting as alleged was dishonest.

### **Agreed Facts**

5. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and Mr Myers.

6. Mr Myers was admitted to the Roll as a solicitor on 1 August 2017. Mr Myers does not currently hold a Practising Certificate and last held one for the 2017/2018 practice year.
  
7. Mr Myers was:
  - 7.1. from February 2014 to August 2015, a paralegal at Mintons Solicitors Limited (t/a Minton Morrill Solicitors, hereafter “Mintons”), 26/27 Park Square West, Leeds, West Yorkshire, LS1 2PL;
  
  - 7.2. from August 2015 to July 2017, a trainee solicitor at Mintons;
  
  - 7.3. from 1 August 2017 to 16 March 2018, an assistant solicitor at Mintons.
  
8. Mintons were instructed by Client A and Client B in relation to an inquest. The matter was dealt with on the basis that they would receive public funding for their representation by way of legal aid. Eligibility for Legal Aid is means tested and applicants are therefore required to sign a declaration (the Client’s Declaration) confirming the truth of the financial information which they have provided.
  
9. In order to apply for legal aid, Mr Myers met with Client B on 17 November 2016 and assisted in the completion of a Legal Help Form (Form CW1). Client B signed the Client’s Certification and dated it 17 November 2016. The Form CW1 required Client A to sign as Client B’s partner. Client A did not attend the meeting and did not sign the Form CW1 at that time.
  
10. Mr Myers submitted the application for Legal Aid on behalf of Client A and Client B, via the Legal Aid Online Portal, on 22 December 2016 (the Application).

11. An issue with the Legal Aid Agency online portal meant that the Application could not be completed properly. CCMS Technical Support advised Mr Myers that, as an alternative, he should print the documentation and have Client B sign the Client's Declaration within the Application. Mr Myers was advised to do this as soon as possible.
  
12. Mr Myers failed to send the Application to Client B. Client B therefore did not sign the Client's Declaration at the time it was made.
  
13. The application was granted on 2 February 2017 and a legal aid certificate issued, effective from 22 December 2016.
  
14. Mr Myers attended the inquest on 13 November 2017. In advance of this, Mr Myers identified that the Client's Declaration and the Form CW1 were not signed. Mr Myers did not tell anybody that neither the Client's Declaration nor the Form CW1 were signed.
  
15. At the inquest, Mr Myers asked Client B to sign the Client's Declaration and Client A to sign the Form CW1. Mr Myers then backdated Client B's signature to the Client's Declaration within the Application to 23 December 2016. He backdated Client A's signature on the Form CW1 to 19 November 2016. Mr Myers chose those dates as he calculated:
  - 15.1. 23 December 2016 as the first date when it would have been possible for Client B to have signed the Application
  
  - 15.2. 19 November 2016 on the basis that Client B had taken the Form CW1 away, had it signed by Client A and returned it.

16. In March 2018 Mintons were due to undergo an audit by the Legal Aid Agency. On 9 February 2018 Mr Myers, in preparing for the audit, identified that the date of Client B's signature on the Application was one day after the date of submission to the Legal Aid Agency. As declarations would normally be on file before the application was submitted, this meant that the Application was likely to be declared invalid. Mr Myers attempted to change the date of the Client Declaration to 20 November 2016.
  
17. Mr Myers's attempts to amend the date of the Client Declaration rendered the form unusable as his attempted amendment was obvious.
  
18. During the week commencing 12 February 2018 Mr Myers decided to destroy the Application with a view to informing the Legal Aid Agency that it had been lost and seeking to complete a retrospective assessment. Mr Myers placed the Application in the shredding bag on the landing outside his office.
  
19. On 19 February 2018 Mr Myers informed Gemma Vine, his supervisor (and Head of the Firm's Social Welfare Practice), that there was no signed document on file and that the Firm did not have another copy. Mr Myers proposed informing the Legal Aid Agency that the Application had been lost, however Miss Vine advised him that he could not do so as it had not been sent to Client B and had not been signed.
  
20. Mr Myers repeated his position to Julia Morrill (a principal of the Firm) on 20 February 2018, namely that the Application had never been signed and that the Firm did not have a copy.



21. A meeting was scheduled, for 22 February 2016, for Mr Myers to meet with Miss Vine and Miss Morrill to discuss the current position of Client A and Client B's matter. In advance of the meeting, on 21 February 2016, Mr Myers admitted his conduct to Simon Minton (a principal of the Firm).

### **Non-Agreed Mitigation**

22. The following mitigation, which is not agreed by the SRA, is put forward by Mr Myers:

22.1. he was placed under an untenable level of pressure by the Firm, undertaking approximately half of his training contract whilst Miss Vine (his supervisor) was on maternity leave, and that during this time, Mr Myers was expected to progress a caseload of inquests and associated litigation, whilst also being expected to prepare wills and LPA's, attend Court for the Social Housing duty rota and the police station for the crime department.

22.2. that he was effectively the senior inquest lawyer at the Firm during Miss Vine's maternity leave, with no day-to-day supervision available, and was left to supervise another (more junior) trainee and to train and supervise a paralegal in the department.

22.3. the actions that led to his misconduct were borne out of an extended period of unsustainable levels of responsibility, pressure and stress, commencing in late 2016.

22.4. he has demonstrated candour, remorse and insight, admitted his conduct to the Firm and has co-operated with the SRA.

22.5. that at no point was he directly enriched by his actions, which he felt he was primarily taking, albeit misguidedly, to protect his employer.

22.6. that he ultimately came forward of his own volition and revealed the full extent of his wrongdoing to his superiors.

23. However, Mr Myers does not contend that the mitigation set out above amounts to exceptional circumstances which would justify the Tribunal in making any order other than that he be struck off the Roll.

### **Penalty proposed**

24. It is therefore proposed that Charles Myers should be struck off the Roll of Solicitors.

25. With respect to costs, it is further agreed that Charles Myers should pay the SRA's costs of this matter agreed in the sum of £2,322.00.

### **Explanation as to why such an order would be in accordance with the Tribunal's sanctions guidance**

26. Charles Myers has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, states that: "*The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).*"

27. In **Sharma [2010] EWHC 2022 (Admin) at [13]** Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

*“(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...*

*(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...*

*(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others...”*

28. Mr Myers:

28.1. backdated the Client Declaration and the Form CW1, knowing and believing the dates he was stating the documents were signed on were untrue, that the documents were documents completed in connection with his practice for the purposes of securing payments from the Legal Aid Agency and that, if either document was dated on the date it had actually been signed, it was likely the Legal Aid Agency would refuse to make a payment.

28.2. sought to further amend the date on the Application and subsequently destroy knowing that the effect of those actions would be to prevent the principals of the Firm and/or the Legal Aid Agency discovering that he had backdated that document.

28.3. made statements to Miss Vine and/or Miss Morrill knowing or believing that they were trusting him to be truthful and accurate, that they would rely on his statements and that the practical effect would be to conceal his previous dishonest acts and avoid the sanction that would follow.

29. Ultimately the Firm did not make a claim against the Legal Aid Agency in relation to the matter of Client A and Client B and returned their contribution of £4,423.60 to them.

30. These were serious acts of dishonesty committed over an extended period which were to the detriment of the Firm. The case plainly does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for Charles David Myers to be struck off the Roll of Solicitors.

Simon Griffiths, Legal Adviser upon behalf of the SRA

Charles David Myers