

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12042-2019

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

WILLIAM HERBERT BLACK

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 allegation made against the Respondent by the Solicitors Regulation Authority (“SRA”) was that:
  - 1.1 On 7 November 2018, at the Sussex (Eastern) Magistrates’ Court, he was convicted of the offence of sexual assault contrary to Section 3 of the Sexual Offences Act 2003 and sentenced to a Community Order comprising of a rehabilitation activity requirement of up to 25 days, an unpaid work requirement of 100 hours within 12 months, and the payment of compensation of £100.00, a victim surcharge of £85.00 and costs of £85.00. He was also ordered to register with the Police in accordance with the Sexual Offences Act 2003 for a period of 5 years. The Respondent’s conduct was in breach of Principles 2 and 6 of the SRA Principles 2011.

## **Factual Background**

2. The Respondent was born in 1953 and admitted to the Roll in April 1981. He did not hold a current Practising Certificate, and last held a Practising Certificate for the practising year 2015/16.
3. On 7 November 2018 the Respondent was convicted and sentenced for the offence detailed in paragraph 1.1 above.

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

4. 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**

5. The Applicant was required to prove the allegations on the balance of probabilities. 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.
6. The Tribunal reviewed all the material before it and was satisfied that the Respondent’s admissions were properly made.
7. 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’s conviction was as a result of his inappropriate behaviour with a minor. The Tribunal considered the age of the victim to be a substantial aggravating factor of his misconduct. Public confidence in the profession and the reputation of the profession required no lesser sanction than that the Respondent be removed from the Roll. The Tribunal found that the proposed sanction of striking the Respondent from the Roll was appropriate and proportionate in all the circumstances.

**Costs**

8. The parties agreed that the Respondent should pay costs in the sum of £1,275.00. The Tribunal determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

**Statement of Full Order**

9. The Tribunal Ordered that the Respondent, WILLIAM HERBERT BLACK, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,275.00.

Dated this 28<sup>th</sup> day of February 2020  
On behalf of the Tribunal



E. Nally  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**28 FEB 2020**

**IN THE MATTER OF THE SOLICITORS ACT 1974**

**SOLICITORS REGULATION AUTHORITY**

**Applicant**

**WILLIAM HERBERT BLACK**

**Respondent**

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**STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME**

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1. By its application dated 19 December 2019, and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making 1 allegation of misconduct against William Herbert Black.

**The allegations**

2. The allegation against William Herbert Black, made by the SRA within that statement was that: -
  - 2.1. On 7 November 2018, at the Sussex (Eastern) Magistrates' Court, he was convicted of the offence of sexual assault contrary to Section 3 of the Sexual Offences Act 2003 and sentenced to a Community Order comprising of a rehabilitation activity requirement of up to 25 days, an unpaid work requirement of 100 hours within 12 months, and the payment of compensation of £100.00, a victim surcharge of £85.00

and costs of £85.00. He was also ordered to register with the Police in accordance with the Sexual Offences Act 2003 for a period of 5 years. The Respondent's conduct was in breach of Principles 2 and 6 of the SRA Principles 2011.

3. Mr Black admits the allegation.

#### **Agreed Facts**

4. The following facts and matters, which are relied upon by the SRA in support of the allegation set out within paragraph 2.1 of this statement, are agreed between the SRA and Mr Black.
5. Mr Black was born July 1953 and was admitted to the Roll of Solicitors on 15 April 1981. Mr Black does not have a current Practising Certificate for the practising year 2019/20 and his last Practising Certificate was for practising year 2015/16.
6. The victim of the sexual assault was a 15-year old girl and the assault occurred on 28 December 2017 in a public house when Mr Black attempted to kiss her. In the Sussex (Eastern) Magistrates' Court on 7 November 2018, Mr Black pleaded guilty to the offence of sexual assault contrary to Section 3 of the Sexual Offences Act 2003 and was convicted.
7. Mr Black has breached Principle 2 and Principle 6 of the SRA Principles 2011. Whilst Mr Black was not practising as a solicitor at the material time, Principles 2 and 6 of the SRA Principles 2011 apply to solicitors at all times and in all contexts.

#### **Principle 2 – Act with Integrity**

8. The offence was aggravated by the fact that the victim was a 15-year old girl and so was vulnerable. By virtue of the facts which Mr Black has admitted by virtue of his guilty plea and was convicted of a criminal offence of sexual assault, particularly where that assault

was aggravated by the fact that the victim was young and vulnerable and has resulted in a sentence including a statutory 5 year notification requirement (i.e. "inclusion on the sex offenders register"), he failed to act with integrity.

Principle 6 – behave in a way that maintains trust that the public places in you and in the provision of legal services

9. Although the conduct which led to the conviction did not relate to professional activities, the conviction itself (which involves sexual misconduct) was more than capable of damaging public confidence in the legal profession. A member of the public would expect a solicitor not to commit such an offence and would also consider the commission of such an offence to evidence a failure by a solicitor to maintain the trust the public placed in him and the provision of legal services.

**Non-Agreed Mitigation**

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

- 10.1. He self-reported his conviction to the SRA on 13 November 2018.
- 10.2. He felt remorse for the victim and sorrow that he had failed to uphold the integrity of the profession and has since received counselling concerning his mental health.
- 10.3. He apologised for the behaviour.
- 10.4. He touched the victim on the chin and tried to kiss her but no kiss occurred and he did not know her age.
- 10.5. His drinking of alcohol had been an aggravating circumstance but he ceased to drink immediately after the offence for a period.

**Penalty proposed**

11. It is therefore proposed that Mr Black should be struck from the Roll of Solicitors.

12. With respect to costs, it is further agreed that Mr Black should pay the SRA's costs of this matter agreed in the sum of £1,275.00.

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

13. Mr Black has been convicted of a criminal offence of sexual assault which involved a lack of integrity on his part and damages public confidence in the legal profession. While initially denying the offence in Police interview, Mr Black subsequently admitted the offence by virtue of his guilty plea. While Mr Black had consumed alcohol, he was still directly responsible for the circumstances which led to his offending behaviour. Mr Black's culpability for his actions was high. Mr Black had been responsible for a thoroughly unpleasant incident involving an attempt to kiss a 15-year old girl in a public house.

14. The principal factors that aggravate the seriousness of Mr Black's misconduct are that it involved the commission of a criminal offence and the adverse impact which the offence would have had on the 15-year old girl who was therefore vulnerable. The sentence imposed following the conviction includes a statutory 5-year notification requirement (i.e. "inclusion on the sex offenders register") as the victim was under 18 years and Mr Black was made the subject of a community order of at least 12 months. The notification requirement ends on 7 November 2023.

15. The principal factors that mitigate the seriousness of Mr Black's misconduct are that he self-reported the matter to the SRA, he has had a previously unblemished regulatory history, he is demonstrating insight as reflected in his apology, he entered an early guilty plea and he has co-operated with the SRA's investigation.

16. Mr Black does not hold a current Practising Certificate for practising year 2019/20 and his last Practising Certificate was for practising year 2015/16. Mr Black has indicated that he has been retired from practice since October 2016 (prior to the offence) and does not intend to practise in the future.

17. The seriousness of the misconduct committed by Mr Black is so high that it would be appropriate to strike him from the Roll of Solicitors. There is a need to protect the reputation of the legal profession and maintain public confidence and public trust in the solicitors' profession.

18. In all the circumstances of the case, it is therefore proportionate and in the public interest that Mr Black should be struck from the Roll of Solicitors.

**Shaun O'Malley, Senior Legal Adviser upon behalf of the SRA**

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**William Herbert Black**