SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12097-2020

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

SHAZIA ANJUM Respondent

Before:

Mr W Ellerton (in the chair)
Mrs C Evans
Dr A Richards

Date of Hearing:

15 to 17 September and 19 and 20 November 2020

Appearances

Nimi Bruce, counsel, of Capsticks Solicitors LLP of 1 St George's Road, London, SW19 4DR, for the Applicant

Susanna Heley, solicitor, of Radcliffes Le Brasseur, 85 Fleet Street, London, EC4Y 1AE, for the Respondent (on 15 to 17 September 2020)

The Respondent did not attend and was not represented on 19 and 20 November 2020

JUDGMENT

Allegations

1. The allegations made against the Respondent by the Applicant in a Rule 12 Statement dated 28 May 2020 were that whilst practising as a sole practitioner at Premium Law Solicitors Limited ("the Firm"):

1.1 She caused or allowed one or more improper transfers to be made from the Firm's client account, including ultimately some transfers into bank accounts used by her as personal accounts, which caused or contributed to shortages in the client account in respect of any or all of the following:

(a) Between 11 October 2016 and 2 February 2017, funds belonging to Client K;
(b) Between 3 February 2017 and 21 February 2017, funds belonging to Client H;
(c) Between 13 May 2017 and 18 May 2017, funds belonging to Clients M;

And in so doing, she breached Rules 1.2, 14.1 and 20.1 of the SRA Accounts Rules 2011 ("SAR 2011") and Principles 2, 4, 6 and 10 of the SRA Principles 2011 ("the Principles").

1.2 Between 2 February 2017 and 27 July 2017, she failed to return client funds due to Client R after he withdrew his instructions to the Firm; and in so doing, she breached Rule 14.3 of the SAR 2011 and Principles 2, 4 and 6.

1.3 Between 26 September 2017 and 28 September 2017, and contrary to the terms of the intervention into her practice and the Firm, which had been explained to her, she attempted to arrange for Client A to make a payment to her in any or all of the following ways:

(a) Into an account other than the Firm's client account or office account;
(b) In cash to her husband;
(c) Into her husband's bank account;

And in so doing, she breached Principles 2, 4, 6 and 7.

1.4 Between September 2017 and December 2017, she failed to deliver up all client files to the Intervention Agent in accordance with the terms of the intervention into her practice and the Firm, which had been explained to her; and in so doing, she breached Principles 4 and 7.

1.5 On or before 26 July 2017, she made representations on the Firm's website and/or on her business card that she was a barrister, without making it clear that she was not registered to practise as a barrister; and in so doing she failed to achieve Outcomes 8.1 and 8.4 of the SRA Code of Conduct 2011 ("the Code") and breached Principles 2 and 6.

1.6 On or before 26 July 2017, in respect of her management of the Firm, she failed to ensure compliance with any or all of the following:

(a) That accounting records were kept, in order to show accurately the position with regard to the money held for each client and trust;

(b) That client account reconciliations were undertaken at least once every 5 weeks;

And in so doing, she breached Rules 29.2, 29.9 and 29.12 of the SAR 2011 and Principles 6 and 8.

2. By reason of the facts and matters set out at paragraphs 1.1 and 1.3 above, or any part of any of them, it was alleged that the Respondent acted dishonestly; but dishonesty was submitted not to be a necessary ingredient to prove those allegations.

Documents

3. The Tribunal considered all of the documents in the case which comprised an electronic trial bundle containing:

Applicant

- The originating Application, Rule 12 Statement and exhibits
- A report dated 1 August 2018
- Witness statement of Mr JJ dated 22 August 2020
- Witness statement of Mr KA dated 15 August 2020
- Witness statement of Amy Spencer dated 29 May 2018
- Witness statement of Lyndsey Hufton dated 29 May 2018
- Witness statement of Marion Vesey dated 29 May 2018
- Witness statement of Lisa Bridges dated 24 March 2019
- Application to amend Rule 12 dated 10 September 2020
- Two Rule 28(2) Notices dated 5 June and 25 August 2020
- Statements of costs dated 28 May and 7 September 2020
- A 'relevant correspondence' bundle containing 10 pages
- A 'late submissions' bundle containing 54 pages
- Further correspondence between the parties added after the first three days comprising an additional 35 pages
- Extracts from the Bar Standards Board Handbook 2017

Respondent

- Answer dated 30 July 2020 with exhibits
- Witness statement dated 8 September 2020 with exhibits
- An extract from the NHS website entitled "Caesarean section – recovery"
- An article entitled "Is Pregnancy Brain Real?"
- Application for adjournment and related documents

Preliminary Matters

<u>Amendment to Rule 12 Statement</u>

4. The Applicant sought permission to amend one paragraph of the Rule 12 Statement. Ms Bruce, for the Applicant, stated that the substantive case was not affected and that the minor changes were proposed to better reflect the totality of the evidence available. In brief, since the Rule 12 Statement was drafted a letter from the Respondent and a

cheque had been found on the file of Client R. There was said to be no evidence that the letter and cheque had been sent. Ms Heley, for the Respondent, stated that the Respondent was neutral on the application to amend, and considered that the cheque had been sent and received. On the basis that the application was not opposed, the substantive allegations were unaffected, and the amendment reflected fuller information than had been available at the time the Rule 12 Statement was drafted, the Tribunal granted permission for the amendment to be made.

Application to adjourn proceedings (made at the beginning of day 4)

5. The hearing was held remotely via video-link. For the first three days of the hearing the Respondent attended and was represented by Ms Heley. The hearing had been listed for three days. By the end of day three, the Applicant's case had closed and the Respondent had completed her evidence, having given oral evidence for the entirety of the third day of the hearing. With the agreement of the parties it was directed on 17 September 2020 that closing oral submissions on behalf of the Respondent would be heard from Ms Heley on 19 November 2020 and that an additional day would also be listed for 20 November 2020 to guard against the risk of the case being part-heard again.

6. The hearing was due to begin at 10.00 a.m. on 19 November 2020 at which time the Respondent was not present. Correspondence had been added to the documents before the bundle which indicated that the Respondent was by this stage representing herself. The Applicant's solicitor and the Tribunal's clerk had both re-sent emails to the Respondent containing the link and instructions to join the remote hearing, at 9.22 a.m. and 10.00 a.m. respectively.

7. The hearing began at 10.36 a.m. by which time the Respondent was still not present. Ms Bruce stated that the Respondent had corresponded with the Applicant in the days leading up to the resumed hearing, specifically about additions to the hearing bundle. Ms Bruce stated that she would make efforts to contact the Respondent. The Tribunal decided to reconvene at 11.30 a.m.

8. At 11.30 a.m. Ms Bruce informed the Tribunal that the Respondent had stated that she was under the impression that the hearing would resume on 20 November rather than 19 November 2020. Ms Bruce said the Respondent had stated at 11.00 a.m. that she would be on-line at midday. The Tribunal decided to reconvene at midday.

9. At 12.21 p.m. the hearing resumed. The Respondent was not present. An email sent by the Respondent at 11.55 a.m. had been received which stated:

> *"Please note that I am unable to access the hearing through the link you have provided for todays submission hearing. I have also tried to ring on the number provided by my solicitor Susanna Heley, and speak to Mathew but no body picked up my call and this went unanswered. Being the respondent I am unable to hear the arguments or attend the hearing.*
>
> *Please assist me further to join this hearing and in the interest of justice to be participated in this hearing and make the relevant and fair application for an adjournment in case if I am left unrepresented at the hearing which will make a decision on my career."*

The Tribunal had made unsuccessful efforts to contact the Respondent before the resumption of the hearing. Ms Bruce informed the Tribunal that whilst updating the Tribunal on the Respondent's email of 11.55 a.m. (above) a further email had been received from the Respondent (sent at 12.21 p.m.) seeking an adjournment. The Tribunal decided to rise to review the further email. The Tribunal's clerk acknowledged the Respondent's application and informed her that the Tribunal would consider her application for an adjournment at 1 p.m. A further copy of the link to the remote hearing and joining instructions (by video-link or by phone) was provided.

10. The hearing resumed at 1.06 p.m. In her email sent at 12.21 p.m., the subject of which was "Application for an adjournment due to not having access to the Zoom hearing Link and withdrawal from my legal representation", the Respondent stated:

> *"I refer to my Solicitor Disciplinary Tribunal Hearing and dishonesty allegations against me. Today on 19 November 2020, the SRA fixed a hearing for submission. However my insurer had refused to pay my legal costs recently due to the delay in proceeding caused by the SRA for three years, and though having left me unrepresented at todays hearing. Therefore my solicitor Ms Heley from RLB had ceased to act for me due to non payment of their bill costs, just two days before the hearing.*
>
> *I did not have a look at the email and was unable to find any alternative legal representative who would have defended me in these serious allegations. I was also unable to afford £7,000 in such short period of time due to my low income situation in these days.*
>
> *The SRA and the Tribunal had not provided me any free legal representation to cover my serious allegations to my career. As a solicitor, my profession is my values and respect. Due to the act of the SRA, I was deprived from my insurance legal costs which would have covered my legal representation.*
>
> *In the interest of justice, I submit application for an adjournment for two months so that I can earn money and afford my bill costs for my lawyer to represent me on equal basis as the Solicitor Regulatory Authority had the benefit of legal representation and legal submission.*
>
> *This will mount to a discrimination and will not be in the interest of justice to make a decision, where the parties are not on equal footing to have the benefit of equal legal representation.*
>
> *I look forward to receiving a favourable decision on my application for an adjournment in the interest of justice, to protect my rights and profession."*

11. Ms Bruce stated that the Respondent had been aware since 16 November 2020 that she had no legal representation. The Tribunal Chairman noted that the Respondent had had the opportunity to appear by video-link or by phone in support of her application for an adjournment. The Tribunal decided that the hearing would reconvene at 1.45 p.m. to consider the Respondent's application for an adjournment. The Tribunal notified the Respondent of this by email sent at 1.17 p.m.

12. The hearing resumed at 1.55 p.m. The Respondent was not present and had not been in contact by phone or email. Her application for an adjournment was set out in the two emails reproduced above. For the Applicant, Ms Bruce opposed the application. This was on the basis that:

- The Respondent had been aware since 17 September 2020 that the hearing had been part-heard and would resume on 19 November 2020;
- The Respondent must have been aware that there was an issue with funding for her representation and had taken no, or no adequate, steps to deal with this situation ahead of the resumption of the hearing;
- The application had been made at lunchtime on the day the hearing was due to resume without any adequate explanation;
- It would be fair, economical and efficient to proceed with the hearing in the absence of a good reason not to do so;
- The Applicant had concerns about the Respondent practising in the interim given the serious allegations outstanding;
- It was submitted the public interest favoured proceedings with the hearing as listed;
- The Tribunal would be able to ensure the proceedings were fair, having heard all the evidence in the case;
- The Respondent would have the opportunity to make submissions; and
- The Respondent had voluntarily absented herself from the hearing.

Application to proceed in the Respondent's absence

13. Ms Bruce also made an application for the hearing to proceed in the Respondent's absence in the event that the Respondent's application for an adjournment was refused. She commended the case of GMC v Adeogba [2016] EWCA Civ 162 to the Tribunal and submitted that it would be fair, economical and efficient for the case to proceed in the absence of the Respondent on the basis she had voluntarily absented herself.

The Tribunal's Decision on both applications

14. The Respondent's application for an adjournment was based on her stated inability to join the remote hearing via video-link and the withdrawal of her legal representation. She submitted that as a result of these two factors the interests of justice favoured an adjournment so that the parties could be on an equal footing. The Respondent had sent to emails to the Tribunal on the morning of 19 November 2020, the day the hearing had been scheduled since 17 September 2020 to resume. There was no explanation provided of why the application was made so late. She had not otherwise made efforts to communicate or participate. The Tribunal was satisfied that multiple offers of assistance with joining the hearing by video-link or by phone had been made and the Respondent had not availed herself of this assistance. The Respondent had participated

remotely in the first three days of the hearing via video-link. The Tribunal considered that the Respondent had not made meaningful efforts to join the hearing or co-operate with the Tribunal and considered there was little force in her submission that the hearing should be adjourned on the basis of a purported inability to participate remotely.

15. As to the lack of legal representation, the Tribunal had regard to its Guidance Note on Adjournments. The note states that the inability to secure representation for financial or other reasons will not generally be regarded as providing justification for an adjournment. The Tribunal had been informed that Ms Heley had notified the Tribunal by email on 16 November 2020 that she was no longer acting for the Respondent. The Tribunal considered that it was likely the Respondent was aware that this was a possibility for some time before this confirmation, but in any event she had taken no concerted steps to update the Tribunal herself until midway through the day on which the hearing was due to resume. The Respondent had submitted no documents to support her contentions about the reasons why insurance funding was withdrawn or the timing of this, about any efforts she had made to secure alternative representation or to support the contention that she was unable to do so. Rule 23 of the Solicitors (Disciplinary Proceedings) Rules 2019 ("the SDPR") requires that an application for an adjournment of a hearing must be supported by documentary evidence of the need for the adjournment. The Respondent had not done so and the Tribunal did not accept that the Respondent could not have done more to participate, or to provide more evidenced details of her inability to secure representation.

16. The Guidance Note on Adjournments states that there was a need to ensure that cases were heard with reasonable expedition so that the interests of the public as well as the profession can be protected. The Tribunal did not consider that the Respondent had raised issues such that the interests of justice would be best served by an adjournment. The Respondent had known the hearing would resume on 19 November 2020 since 17 September 2020. The Respondent had completed her evidence and was aware that the hearing was due to resume with submissions on her behalf after which the Tribunal would retire to deliberate. Given the stage that the proceedings had reached, the Tribunal considered that there was scope for the Respondent to participate to make submissions and that a fair hearing was possible. The Tribunal rejected the Respondent's application for an adjournment.

17. Turning to the Applicant's application for the hearing to proceed in the Respondent's absence, the Tribunal was satisfied that the Respondent had had notice of the hearing. Accordingly, the Tribunal had discretion under Rule 36 of the SDPR to proceed in her absence if that was fair in all the circumstances. The Tribunal considered the factors set out in R v Jones [2002] UKHL 5 in respect of what should be considered when deciding whether or not to exercise the discretion to proceed in the absence of the Respondent. The Tribunal also considered the case of Adeogba [2018] EWHC 3058 (Admin) which applied the case of Jones in a regulatory context.

18. With regard to the factors set out in paragraph 5 of Jones:

    (i) The Respondent had made a very late application for an adjournment, mid-way through the day on which the hearing was due to resume. She had shown an unwillingness to join the remote hearing and cooperate with the Tribunal. The Tribunal considered it was incumbent on her to ensure representation was

arranged, to make her own arrangements to participate or to make a timely, evidenced application if this was not possible. She had failed to do so and the Tribunal considered that the Respondent's conduct was deliberate and voluntary;

(ii) Whilst an adjournment may result in the Respondent securing the funds to arrange alternative representation the Tribunal did not consider this was guaranteed;

(iii) An adjournment to the end of January 2021, the next available dates, introduced a significant further delay. Given the serious nature of the allegations the Tribunal considered that such a delay should be avoided unless there was a good reason for it.

(iv) & (v) The Respondent had stated that she wished to participate and wished to instruct an alternative legal representative. The steps that the Respondent had taken towards this were unclear, but it was her stated intention.

(vi) The Tribunal had heard all of the evidence in the case. Whilst it would be desirable for the Respondent to make submissions closing her case, the Tribunal had heard her evidence and considered that the allegations could be fairly determined. The Tribunal would have fairness to the Respondent at the heart of its deliberations and was fully seized of her case. The additional documents which Ms Heley had sought to be adduced on the Respondent's behalf at the end of the first three days were now before the Tribunal.

(vii) As an experienced professional Tribunal that had heard all of the evidence in the case, including a full day of the Respondent's oral evidence, the risk of an improper conclusion being reached in the Respondent's absence was low.

(viii) The allegations were of serious misconduct including dishonesty and the Respondent was continuing to practise which weighed against an adjournment.

(ix) Given that the events occurred some four years ago there was a clear public interest in the proceedings being completed within a reasonable timeframe.

19. The Tribunal gave due weight to the judicial comment in Jones that it is only in rare and exceptional cases that the discretion to proceed in a Respondent's absence should be exercised. The Tribunal also had regard to the observations in Adeogba, that, in determining whether to continue with regulatory proceedings in the absence of the accused, whilst the principles outlined in Jones were the starting point, it was important that the analogy between a criminal prosecution and regulatory proceedings should not be taken too far. In a criminal prosecution steps could be taken to enforce attendance by a defendant; he or she could be arrested and brought to court. No such remedy was available to a regulator and in determining whether to continue with regulatory proceedings in the absence of the accused and that the following factors should be borne in mind by a disciplinary tribunal:

(i) the tribunal's decision must be guided by the context provided by the main statutory objective of the regulatory body, namely the protection of the public;

(ii) the fair, economical, expeditious and efficient disposal of allegations was of very real importance;

(iii) it would run entirely counter to the protection of the public if a respondent could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process; and

(iv) there was a burden on all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made against them. That is part of the responsibility to which they signed up when being admitted to the profession.

20. The Tribunal recognised that the Respondent had lost her legal representation in the days leading up to the resumed hearing, which was unfortunate. However, for the reasons set out above, (and in particular given that all the evidence in the case had been heard such that the Tribunal was fully seized of the Respondent's case), the public interest in resolution of the serious allegations within a reasonable timeframe and the determination that the Respondent had voluntarily absented herself from the final stage of the proceedings, the Tribunal determined that this was not a good reason not to proceed. The Tribunal was satisfied that in all the circumstances it was appropriate and in the public interest for the remainder of the hearing to proceed in the Respondent's absence.

21. The Tribunal announced this decision at 2.46 p.m. and informed the Respondent by email shortly thereafter. In an effort to give the Respondent one further, final opportunity to make closing submission the Tribunal decided that the hearing would resume at midday on the following day, 20 November 2020. It was also decided that the Respondent could submit written submissions before then or attend the hearing remotely by video-link or phone to do so orally. No further communication was received from the Respondent and the hearing resumed in her absence shortly after 12 p.m. on 20 November 2020.

Factual Background

22. The Respondent was admitted to the Roll on 15 July 2010. At the start of the period covered by these allegations, the Respondent practised as the sole director, COLP and COFA of the Firm. At the date of the Rule 12 Statement she held a current practising certificate which was subject to conditions.

23. The Applicant began an investigation of the Respondent's practice at the Firm on 25 July 2017, following a complaint by Client R and an inspection of the Firm's books of accounts by the Applicant. The Investigation Officer ("the FIO") interviewed the Respondent on 27 July 2017. A report was prepared by the FIO dated 15 August 2017.

24. On 24 September 2017, an Adjudication Panel of the Applicant exercised powers of intervention into the Respondent's practice and into the Firm. A solicitor was appointed as Intervention Agent and the intervention began on 26 September 2017. The Respondent subsequently appealed to the High Court against the decision to intervene into her practice. On 22 February 2018, the Respondent's challenge was dismissed and the intervention continued.

Witnesses

25. The written and oral evidence of 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 all witnesses. 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. The following witnesses gave oral evidence:

- JJ, former client of the Respondent;
- KA, former client of the Respondent;
- Lisa Bridges, FIO; and
- The Respondent.

The following witnesses were called by the Applicant and prepared written statements but were not required by the Respondent to attend for cross examination:

- Amy Spencer, Intervention Manager and IT Manager at Shacklocks LLP dated 29 May 2018;
- Lyndsey Hufton, Intervention Accounts Manager at Shacklocks LLP; and
- Marion Vesey, Partner at Shacklocks LLP.

Findings of Fact and Law

26. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (on the balance of probabilities the conduct and breaches alleged were more likely than not to have occurred). The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

27. **Allegation 1.1: The Respondent caused or allowed one or more improper transfers to be made from the Firm's client account, including ultimately some transfers into bank accounts used by her as personal accounts, which caused or contributed to shortages in the client account in respect of any or all of the following:**

(a) Between 11 October 2016 and 2 February 2017, funds belonging to Client K;
(b) Between 3 February 2017 and 21 February 2017, funds belonging to Client H;
(c) Between 13 May 2017 and 18 May 2017, funds belonging to Clients M;

And in so doing, she breached Rules 1.2, 14.1 and 20.1 of the SAR 2011 and Principles 2, 4, 6.

<u>The Applicant's Case</u>

27.1 The Applicant's case was that it was possible to link the shortages to a series of improper transfers out of the client account in relation to Clients K, H and M. Transfers

were described as improper if client money was used for another client's matter or withdrawn from the client account in circumstances not permitted by the SAR 2011. Furthermore, transfers may be improper if they are made without the knowledge or consent of the client. The Rule 12 Statement set out considerable detail about various transactions. By reference to the supporting bank statements, Ms Bruce outlined illustrative examples during the hearing which are summarised in outline below.

Client K's matter

27.2 Client K instructed the Firm on his property purchase for £160,000 during the summer of 2016. The Firm's client account received £30,000 on 5 October 2016 for the deposit. Prior to this transfer, the balance on the account was £400.88. Balance completion funds of £130,000 were paid into the client account on 27 January 2017.

27.3 On 11 October 2016 (six days after the deposit money had been received into the Firm's client account) a transfer of £1,500 was made to an account called "Premium Law Chambers". This transfer took the balance on the Firm's client account below the minimum £30,000 needed in order to hold Client K's deposit. Further withdrawals continued to reduce the balance on the account and the balance remained under £30,000 until 27 January 2017. Upon payment of the £130,000 completion funds into the Firm's client account, the balance was short of the £160,000 which ought to have been held for the purchase, and remained so until 2 February 2017.

27.4 The Applicant's case was that the payment of completion funds to the vendor's solicitors could only take place after a payment of £50,000 (received in respect of unrelated Client H's matter) was paid into the Firm's client account on 2 February 2017. In effect, the Respondent used part of Client H's money in order to complete Client K's transaction. Ms Bruce submitted that the money paid by Client K for the deposit and completion of the property purchase remained client money at all times and could not be used by the Respondent for another purpose.

27.5 The Applicant expanded on the transfer of £1,500 made to the account "Premium Law Chambers" account ("the Chambers Account") on 11 October 2016 mentioned above. The Respondent had stated to the FIO that this was an account for "my personal usage". This was said to be consistent with the fact that the account had transactions from, for example, Amazon UK Marketplace and Toys R Us. The transactions report for this account, obtained by the FIO, showed that prior to 11 October 2016 transfer, the balance on the account had fallen to £10.05. After the payment in of £1,500 from the Firm's client account, a payment out of £1,450 was made to "Premium Law Solicitors Ltd" (the Firm's office account) leaving a balance of £60.05 in the Chambers Account. Upon receipt of the £1,450 in the Firm's office account, a payment was made (again on 11 October 2016) of £1,300 with the description "Bill payment via faster payment to Asim Reference fee refund. Mandate No 60". It was submitted by the Applicant that it appeared that the money withdrawn from Client K's funds in the client account was (in effect) used to pay the "Asim" fee refund, having been "washed", as Ms Bruce described it, through the Respondent's personal Chambers Account.

27.6 The Applicant's case was that in the course of High Court proceedings concerning the contested intervention into her practice, the Respondent asserted that Client K had, in effect, borrowed money from her in order to travel to Austria without his wife's

knowledge. She produced an Attendance Sheet which purported to record a meeting between her and Client K on 10 October 2016, in which the sum of £3,500 was discussed. The Respondent's Attendance Sheet suggested that she gave Client K £1,500 on 10 October 2016. In her witness statement and oral evidence the Respondent stated that she gave Client K £1,500 in cash on 10 October 2016 from the Firm's petty cash. Her evidence was that by virtue of her relationship with Client K she trusted him to return the money before it would be needed.

27.7 As stated above, the £1,500 transferred from the Firm's client account to the Respondent's personal Chambers Account on 11 October 2016, took the balance on the client account below £30,000. Correspondence from Client K's matter file (held by the Applicant further to the intervention into the Firm) showed that, on 11 October 2016, the Respondent wrote to Client K stating "We can confirm that we are holding the deposit of £30,000 for the purchase". On the same day, the Respondent wrote to solicitors acting for the vendor, again stating that the deposit for the purchase was held. On the same day the Respondent wrote to the mortgage provider again confirming that the deposit of £30,000 for the purchase was held. An email was also sent to the estate agents in similar terms. These representations – and especially the letter to Client K – conflicted with the Respondent's suggestion that she had (either properly or at all) given Client K £1,500 at his request from the deposit money.

27.8 It was submitted that it would have been improper for the Respondent to give Client K funds in the way she described, especially at the same time as representing to third parties that she was holding the deposit in full. The client account bank statements showed that the £30,000 originally came into the account from "Mrs [SK]" and so being asked by Client K to release some of the funds for the purposes suggested should have (at the very least) triggered further enquiries. If the money was given as a loan it was submitted that the Respondent would have been putting her interests (as creditor) at odds with third parties in the transaction and indeed Client K himself. With the exception of the "Attendance Sheet", the loan was undocumented and the rights and obligations of the parties were unclear. The Applicant's case was that if the funds were given as a loan in this manner, this would have been improper. The FIO's evidence was that throughout the course of her investigation she did not find any record of Client K requesting that the Respondent return a proportion of his deposit. It was submitted that the Respondent's Attendance Sheet should not be relied upon as an accurate and contemporaneous statement of the facts.

27.9 In respect of various transfers out of the client account the Respondent had asserted that: "... the money was transferred from client account into office account for different reasons which included the payment to client, disbursements, and fee payable to the Firm." Rule 14.1 of the SAR 2011 states that client money must be held in a client account. By not holding Client K's £30,000 (and later £160,000) in the Firm's client account, it was submitted that the Respondent breached Rule 14.1. Furthermore, Rule 20.1 states that client money can only be withdrawn from a client account in accordance with the circumstances covered by that Rule. There was submitted to be no discernible justification for the transfers which caused the shortage in respect of Client K's matter and therefore that the Respondent breached Rule 20.1.

27.10 The Rule 12 Statement included further details of various transfers. In summary, the bank statements were submitted to show a series of unexplained transfers between the three accounts (i.e. the Firm's client and office accounts and the Respondent's personal Chambers Account). Some of these transfers were submitted to have been plainly improper in that they moved money directly from the Firm's client account to the Respondent's personal account. The net effect of these transfers was said to be that, at a time when Client's K's funds were being moved out of the client account without his knowledge or consent, this money was being used by the Respondent for running the Firm from the office account and / or for making personal payments from her personal Chambers Account.

Client H

27.11 Without going into the same level of detail, the transactions relating to Client H focused on the Firm's client account falling below the level of the deposit which had been paid by this client. Some of the payments which took the balance below the level of the deposit were again said to be to the Respondent's personal account. The FIO reported finding no evidence on Client H's file of consent to the utilisation of their deposit for the completion of Client K's property purchased (as described above). The Applicant's case was that even on the Respondent's account, the use of Client H's funds to complete Client K's matter would be improper, because: (i) the use of one client's funds for another client's matter is contrary to Rule 1.2(c) of the SAR 2011; (ii) if a shortage on the client account was attributable to the actions of Client K the safer course would have been to warn this client that his mater could not proceed until the shortage had been made up; and (iii) borrowing money from one client and lending it to another client would create a high risk of conflict of interests between her clients or between herself and her clients.

Client M

27.12 In relation to Client M, the Applicant's case was in summary that over a few days in May 2017 in excess of £15,000 of Client M's funds went from the Firm's client account, to the Firm's office account, to the Respondent's personal account, and back again. It was submitted that no discernible justification for the transfers from the client account was apparent by reference to Rule 20.1 of the SAR 2011 (withdrawals from a client account). Furthermore, by transferring client money to the office account, from which payments were further made into a personal account, it was submitted that the Respondent failed to keep other people's money separate from her own (contrary to Rule 1.2(a) of the SAR 2011). It was also alleged that the Respondent had transferred some of Client M's money paid into the office account on 12 May 2017 onwards into her personal Chambers Account. The Tribunal was referred to bank statements showing payments totalling £17,100 from the office account to "Shazia Anjum", which were received in a Barclays account between 13 and 16 May 2017. The statement for the Barclays account included expenditure on food. The Tribunal was also referred to bank statements showing that the Respondent arranged for £17,000 to be transferred back from her personal Barclays account to the Firm's office account on 18 May 2017, and onwards to the client account on the same day. It was submitted that the Respondent was, in effect, treating monies in the Firm's client and office accounts and her personal account interchangeably. As the money in the client account did not belong to her it was submitted that she had no right to do this.

Breaches of the Principles in relation to all three clients

27.13 It was submitted that by causing or allowing improper transfers to be made, and thereby causing shortages to develop on the Firm's client account, the Respondent failed to respect the sacrosanct nature of client money. In this way, and by allowing those funds in effect to mix with expenditure on other clients' matters, and with her own personal and professional expenditure, it was submitted that the Respondent failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code. The Applicant relied on the case of Wingate v SRA [2018] EWCA Civ 366, in which it was said that integrity connotes adherence to the ethical standards of one's own profession. The Applicant submitted that acting with integrity would have required the Respondent to handle client money only in accordance with client instructions and in accordance with the SAR 2011 and that she had failed to do so in breach of Principle 2.

27.14 The conduct alleged was also submitted to amount to a breach of the requirement to behave in a way which maintains the trust placed by the public in the Respondent and in the provision of legal services. Members of the public place a high degree of trust in solicitors when they deposit funds into a client account. Public confidence was likely to be undermined by the Respondent not protecting client funds and it was submitted that the Respondent therefore breached Principle 6. By allowing shortages to develop on the Firm's client account for a period of time, even though these shortages were eventually made up, the Respondent was submitted to have failed to protect the money entrusted to her by Clients K, H and M, in breach of Principle 10. Furthermore, acting in the best interests of each client would have required the Respondent to hold their funds in the full amount, in accordance with the SAR 2011, to ensure that they were safe and ready for transfer in accordance with the client's instructions. By not ensuring this, the Respondent was submitted to have breached Principle 4.

Dishonesty alleged in relation to allegation 1.1

27.15 The Applicant relied upon the test for dishonesty in Ivey v Genting Casinos [2017] UKSC 67, being in summary whether the individual has acted dishonestly by the standards of ordinary and decent people. It was submitted that the Respondent would have known that the money in the Firm's client account did not belong to her. The £30,000 paid into that account in respect of the Client K matter was deposit money. Client H's £50,000 was purchase money. The £201,588 in respect of Client M was completion money. Prior to these deposits being made, in each case the balance on the client account was low or (in Client H's case) already insufficient to hold another client's funds. The Respondent had sole responsibility for the Firm's client account and the money held.

27.16 It was alleged that the shortages created in respect of Clients K, H and M could not be attributed to accident or oversight, as the transfers causing or contributing to those shortages were said to be too numerous and to have taken place over too long a period of time. Those transfers included some direct transfers from the Firm's client account to bank accounts used by the Respondent as personal accounts and other transfers from the Firm's client account to the Firm's office account.

27.17 As an experienced solicitor, it was submitted that the Respondent would have been aware of the importance of: (a) protecting client money in the Firm's client account; (b) not mixing client money and her own personal money; and (c) not using one client's funds for another client's matter. Despite this, in each case, it was alleged that the Respondent went on to make multiple transfers out of the client account, taking the balance below what was required. It was submitted that the Respondent must have known that by making the transfers she created a shortage in client monies which had been entrusted to her. It was further submitted that no good explanation had been given as to why these shortages occurred. Ultimately, some of the funds were put to the Respondent's own personal and professional uses (for example, paying office expenses, making cash withdrawals and buying personal items).

27.18 It was submitted that the Respondent had an incentive to move the money from one account to another when the balance on the destination account was low. The overall pattern of the transfers allegedly showed that the Respondent was at times using the funds in the client account, the office account, and her personal accounts interchangeably. As stated above, the Respondent was described as in effect "dipping into" money which did not belong to her, without good reason, in order to meet her needs on other accounts. By the standards of ordinary and decent people, the Respondent's actions were submitted to have been dishonest in that she failed to respect the property rights of her clients and transferred funds for her own and others' benefits, creating shortages in the money which had been entrusted to her.

The Respondent's Case

27.19 All alleged breaches were denied, with the exception of SAR 2011 breaches in relation to Client M only which were admitted as set out below.

27.20 The Respondent stated that her ability to defend her position was hampered by a lack of access to Firm records following the intervention by the Applicant in September 2017. Specifically, she stated that she had not been able to access the full bank statements for the Firm's client and office accounts nor for the Chambers Account. The Respondent's position at the hearing was that the Chambers Account was a business account and not a personal account as alleged. She considered that the Applicant had not exhibited all relevant pages of the various statements which she stated would have confirmed this.

27.21 She also considered that she was prejudiced by the fact that at the date of her investigatory interview with the FIO on 27 July 2017 she was approximately 34 weeks pregnant and suffering from pregnancy related illness. The Respondent's evidence was that she "took the FIO interview easy" and had been told that the likely outcome was the provision of advice on matters requiring attention. The FIO had been aware of her illness at the time, including mental health issues and pregnancy related memory loss. The Respondent acknowledged that she had not provided medical evidence to support these contentions but she considered that to some extent they were well known complications. The Respondent stated that some of her answers to the FIO during the investigatory interview were a result of her condition at the time, were not accurate and could not be relied upon.

27.22 The FIO's report was disclosed to the Respondent on 7 September 2017. The Respondent stated that she was admitted to hospital on 10 September 2017 and discharged eight days later. The intervention into the Respondent's practice took place eight days later. The Respondent stated that she was unwell for a significant period of time after her discharge from hospital following childbirth and invited the Tribunal to take this context into account.

27.23 The Respondent accepted the facts of the various payments as shown by the bank statements and summarised in the Rule 12 Statement before the Tribunal. In various places she submitted that the picture shown was incomplete or misleading. Her position generally was that all transfers were made with the prior consent of the client(s) and were believed to be proper transfers at the time that they were made. There was no loss to clients arising from the Respondent's dealing with client money.

Client K

27.24 The Respondent accepted that £30,000 was paid into the Firm's client account on 5 October 2016 as alleged and that payments were made from client account which reduced that balance below £30,000. She stated that all payments were made at the request of Client K. The Respondent submitted that as she was acting for the buyer and not the seller in the transaction there was no undertaking to hold the funds in client account. Her position was that if a client requested the return of deposit monies prior to exchange of contracts, it may prevent or delay the completion of a purchase but there was no rule of conduct or professional practice which prevented the return of client money. The Respondent's evidence was that in such circumstances she would be obliged to explain the risks associated with not being in funds but not to refuse to return the client money. There had been no exchange of contracts and no undertakings had been given at the time and the Respondent stated that she trusted Client K to return the funds when necessary to proceed with the purchase.

27.25 The Respondent's case was that, having already provided the £30,000 deposit funds, Client K visited her at the Firm's offices on 10 October 2016. He had requested £3,500 in order to travel to Austria. The Respondent described having been "persuaded" to pay him £1,500 which she had in the office on that date. Given that £1,500 had been paid to Client K in cash on 10 October 2016, the Respondent did not consider that the transfer of the same sum the following day amounted to a transfer of client money as she believed that the funds were then office money. In her witness statement the Respondent stated that the further £2,000 requested by Client K was paid to him on 20 October 2016. She relied on a file note recording that payment was made for personal reasons.

27.26 The Respondent's evidence was that Client K returned £1,500 (of the £3,500) to her on 5 January 2017 in the expectation of completion taking place within a few weeks. When the mortgage monies arrived on 27 January 2017 the Respondent called Client K to obtain the further funds needed to complete. She stated that he told her he was abroad and asked her to arrange completion on the basis that he would arrange for the funds to be sent later.

27.27 The Respondent's case was that she said she would see what could be done. In her oral evidence she described asking for and agreeing a loan from another client, Client H, and utilising some of these funds to complete the purchase for Client K. The purchase was completed and Client K subsequently repaid the balance of the funds.

27.28 During her oral evidence the Respondent stated that an employee of the Firm, SA, was the case-worker on Client K's purchase. The Respondent was the supervisor, but SA had conduct of the matter. Responding to questions about letters which were sent to various recipients stating that £30,000 was held by the Firm as deposit, the Respondent stated that she may have given the instruction to SA to send the letters before the money had been provided to Client K (at his request). Responding to the suggestion that she had never mentioned this before, in her FIO interview, Answer or witness statement, the Respondent stated that she had never been asked before.

27.29 As stated above, the Respondent's position at the hearing was that the Chambers Account was a business account and not a personal account as alleged. In her witness statement dated 8 September 2020 she had stated:

> *"I maintain and I believed at all times that any funds transferred from client account to the office account – or to chambers account were properly due to my firm (or to me personally in the case of transfers from the office account to the Chambers account)."*

During the hearing she stated that the various items of expenditure highlighted by Ms Bruce during cross examination could have been business expenses, she could not be sure given the time which had passed. She stated that in any event, even if the account also included some personal expenditure, it was primarily a business account.

27.30 The Respondent stated in both her witness statement and oral evidence that the picture included in the Rule 12 was incomplete. Whilst she accepted the specific payments included in the Rule 12 Statement when shown the corresponding bank statements, she maintained that other monies being moved from the Chambers Account to the office account were not shown. Such payments were made on many occasions.

27.31 The Respondent stated that if a transfer was made in error, she remedied it upon discovery. The Respondent accepted that certain mistakes had been made, both in her Answer and during her oral evidence. For example, during cross examination the Respondent stated that it had been a mistake to pay the £1,500 to the Chambers Account rather than to the Firm's office account. During her oral evidence the Respondent maintained that such office money could in any event be used for her own payments and that there was accordingly no breach of the SAR 2011 and no adverse consequences for anyone.

27.32 In summary, the Respondent's case was that all transfers were undertaken with client consent. She never took client money. The "Asim refund" specifically referred to by the Applicant was made from office money and was accordingly uncontroversial.

Client H

27.33 As set out above, the Respondent described Client H agreeing to lend her money from the deposit funds held by the Firm on his behalf. The Respondent's evidence was that Client H did not know Client K, and that the loan of £50,000 was made to her rather than to Client K directly. The Respondent then used some of this money in order to complete Client K's purchase.

27.34 The Respondent's position was that having agreed to this loan, Client H did not need to approve each and every item of expenditure she made from the funds. When referred to specific entries on the relevant bank statements, the Respondent stated that she could not now recall the specifics. She maintained, however, that Client H's money was treated at all times with his full knowledge, consent and in accordance with his instruction.

27.35 When asked about contemporaneous documents recording this loan arrangement the Respondent stated that the FIO may have missed such records on the client file. The Respondent considered that the FIO did not have time to collate and review documents properly and missed many things.

27.36 The Respondent stated Client H was very supportive of her actions and confirmed this by way of a witness statement filed in the intervention proceedings. She stated that she genuinely believed at the time that it would not have been breach of the SAR 2011 to use Client H's funds with his permission. At the time, she was trying to do the best she could for all clients.

Client M

27.37 During cross-examination, the Respondent agreed with Ms Bruce's characterisation of her position in relation to this client that her actions were a misguided attempt to comply with client instructions. She admitted that she had breached Rules 1.2(a), 14.1 and 20.1 of the SAR 2011. These relate to keeping other people's money separate from her own, paying client money into client account without delay (and holding it there), and withdrawing client money from a client account only when one of a number of specific conditions are met, respectively.

27.38 As in her Answer, during cross-examination the Respondent accepted that mistakes were made which amounted to these admitted breaches. She denied that any of the Principles had been breached.

27.39 The Firm was acting for Client M who was selling a property. Sale proceeds were received by the Firm, and when checking the file for compliance purposes the Respondent noticed that there were two buyers' details on the file. Not having day to day conduct of the matter she wished to confirm who the buyer had been before releasing funds. Before she was able to resolve this, the client came to the office and insisted that payment be made immediately as they were in need of money so that they could pay various overheads, bills and other living expenses.

27.40 In her witness statement the Respondent described transferring Client M's money from the client account into the office account following their request with the intention of paying them in cash. She stated she then she realised she was not thinking clearly and that the client payment should have not gone through any account other than the client account and she accordingly transferred the money back. The Respondent attributed this error to the pregnancy related issues mentioned above affecting her judgement and focus on a temporary basis. She stated that the mistake, and associated client account shortage, was promptly rectified of her own volition and that no loss was caused. This was a simple error and not, as alleged, illustrative of seeking to use client money interchangeably with her own or the Firm's.

27.41 In summary, in relation to all clients, the Respondent's position was that she acted in good faith, was transparent with her clients and acting in what she believed to be the interests of all clients at all times.

Response to allegation of dishonesty in relation to allegation 1.1

27.42 The Respondent denied acting dishonestly on the basis set out above. She acknowledged mistakes in the handling of Client M's money, as summarised above, but stated that it was telling that no client suffered any loss as a result of her actions and that all of the issues identified by the Applicant had been corrected by her long before the Applicant showed any interest in her firm. She genuinely believed at all times that she was acting in accordance with client instructions and with their full knowledge and consent.

27.43 Whatever the Firm's office account required she would pay in, anything which came back was not dishonest. In any event, the Chambers Account was a business account and she did not consider that there was anything improper about payments made to or from this account.

The Tribunal's Decision

27.44 The status of the Chambers Account was a significant issue between the parties requiring determination. The character of many of the transfers highlighted by the Applicant would be significantly affected by this issue. The Applicant contended that the account was a personal one. The Applicant relied on the Respondent's comments to the FIO during the investigatory interview in July 2017:

> "*Premium Law Chambers, is my personal accounts. I opened in 2010. Before I opened Premium Law Solicitors Limited account. And that was for my self-employment purposes, and for my personal usage. I do not use that for my Premium Law Solicitors purposes."*

27.45 During the hearing the Respondent's case was that she had treated this interview informally and, as was known to the FIO, was unwell during and around the time. The Respondent had invited the Tribunal to consider that context and submitted that the comments she made at that time should not be relied upon. In support of her contention she submitted an article entitled "Is Pregnancy Brain Real?" from a website called www.healthline.com. The article stated that it had been "medically reviewed". The Respondent submitted no medical evidence specific to her to support the contentions

she made about being impaired during the investigatory interview to the extent that her answers should not be relied upon. The general article she had provided was not persuasive.

27.46 In her witness statement dated 8 September 2020 the Respondent stated:

> *"I maintain and I believed at all times that any funds transferred from client account to the office account - or to chambers account were properly due to my firm (or to me personally in the case of transfers from the office account to the Chambers account)."*

By reference to the documents before it, the Tribunal was satisfied that the account to which the Respondent was referring was that defined and referred to in this judgment as the Chambers Account. The Respondent had made the same point in her statement some three years after the interview with the FIO: that the Chambers Account was used for funds which the Respondent considered were properly due to her "personally".

27.47 During the hearing the Respondent maintained that the Chambers Account was a business account of the Firm and not a personal account. Her evidence was that money had been transferred to the Firm's office account from this Chambers Account and that the Chambers Account had also been used for business related expenditure. When questioned, the Tribunal did not consider the Respondent had been able to point to examples in the exhibited bank statements of typical office type expenditure. During cross-examination she had maintained that the payments to Amazon Prime, Waterstones, Aqua Mastercard and Next may have been office related when questioned. The Tribunal did not consider that her contention that the payment for "Look Fantastic" may have been office related was plausible. The account appeared, at best, to be a mixed use account which was used for personal expenditure and from which the Respondent also made payments to the Firm's accounts. The Tribunal did not consider that making payments which related to Firm expenses or were otherwise for the benefit of the Firm from a personal account made the account in question a Firm office account.

27.48 Whilst the Respondent had stated that the Applicant had only exhibited selected pages from the statements, the Tribunal was satisfied on the balance of probabilities that the Chambers Account was the Respondent's personal account. This had been her own position in the FIO interview in July 2017 and in her witness statement of September 2020. She had provided no persuasive evidence to support her contention that her position in the FIO interview was the result of an impairment, and her change of position from then and her witness statement undermined the credibility of the account provided during the hearing. The Tribunal found that the nature of some of the payments made from the Chambers Account, such as to "Look Fantastic" was more likely than not to be personal rather than office related.

27.49 The Tribunal did not find the Respondent to be an impressive or credible witness generally. The oral evidence she gave was at odds with accounts she had provided previously in several areas, and in some cases with the account set out in her witness statement produced for these proceedings and dated 8 September 2020. Whilst she did provide direct and helpful answers in some instances, there were several areas where her answers were evasive, vague and unpersuasive.

Client K

27.50 The Tribunal had been referred to the Firm's client account statement showing receipt of £30,000 from Client K. The Respondent had accepted that this payment was made and that six days later £1,500 was transferred from the Firm's client account to the Chambers Account. The Respondent also accepted, as demonstrated by the statements to which the Tribunal was referred, that on the same day, 11 October 2016, a payment of £1,450 was made from Chambers Account to the Firm's office account.

27.51 The Respondent's case was that the £1,500 had become office money by virtue of the £1,500 she had provided to Client K in cash when he attended the Firm's office the day before the transfer (on 10 October 2016). The Tribunal did not find the Respondent's account to be credible. Firstly, £1,500 was a surprising amount of cash to hold in the office. More fundamentally, the attendance sheet that the Respondent relied upon was problematic in various respects. Whilst accepting that a client could of course request the return of their monies, as the Respondent had stated, it was again surprising that Client K, whose wife had paid £30,000 in deposit monies a matter of days before, should request £3,500 be returned to him without his wife's knowledge. The attendance sheet contained details that the Tribunal also found surprising such as the client having a private life there he wished to keep confidential from his wife which appeared to be an unnecessary level of detail for a file note. The FIO had not discovered the attendance sheet on her review of the Firm's files during her investigation. No other supporting evidence, such as a petty cash slip or receipt recording that £1,500 in cash had been given to Client K, was found.

27.52 The Tribunal considered the context of the attendance sheet. There were other payments made from the client account to the Chambers Account which were unexplained, and which took the balance of the client account further below the £30,000 deposit level. As stated above, having made the transfer of £1,500 from the client account to the Chambers Account on 11 October 2016, an onwards transfer of £1,450 to the Firm's office account was made on the same day. The balance of the office account prior to this transfer was £0.28, and had been £-64.05 in the preceding days. After this transfer of £1,450, a £1,300 refund payment was made from the office account. As a result of this apparent need for funds for the processing of a refund, the lack of any corroborating evidence of what was an inherently surprising request from Client K and action by the Respondent, the provision of £1,500 in cash just days after deposit funds had been paid, and the Respondent's lack of credibility generally, the Tribunal found that it was more likely than not that the attendance sheet was not authentic. The Tribunal found that the Respondent had made use of Client K's funds for the refund which had been paid by making the transfers described above. The Tribunal rejected the Respondent's account that Client K had requested the return of £3,500 and that this had been effected through two cash payments.

27.53 It followed from this finding that the £30,000 deposited by Client K remained client money, no client consent for any withdrawal having been given. The transfer of £1,500 from the client account on 11 October 2016 took the balance below £30,000. The statements to which the Tribunal was referred confirmed that further payments from client account took the balance further below £30,000.

27.54 On the same day as the £1,500 transfer, and the day after the Respondent stated Client K visited the Firm and was given £1,500 in cash, correspondence from the Firm had been sent to Client K, solicitors acting for the vendor, the mortgage provider and the estate agent stating that the Firm held the deposit for the purchase. This was plainly not the case. In her oral evidence the Respondent stated that a caseworker had conduct of the file. The Tribunal did not consider it was likely that such a significant event, the provision of £1,500 in cash to the client, was not recorded on the file. No evidence had been produced from the caseworker. The Tribunal considered that the Respondent's evidence had lacked credibility. Nevertheless the Tribunal was not satisfied to the requisite standard that the Respondent had been the author of this correspondence.

27.55 In the Rule 12 Statement it was alleged that the Respondent breached Rules 14.1 and 20.1 of the SAR 2011 in relation to Client K. Rule 14.1 of the SAR 2011 states that client money must be held in a client account. As set out above, the Tribunal had found that the Respondent did not hold Client K's £30,000 deposit in the Firm's client account, and had allowed the client account to fall below that level and had used some of the funds to pay liabilities of the Firm and some for personal expenditure. The Tribunal found to the requisite standard that this amounted to a breach of Rule 14.1 of the SAR 2011.

27.56 Rule 20.1 of the SAR 2011 states that client money can only be withdrawn from a client account in accordance with the circumstances covered by that Rule. The Tribunal did not consider that any of the conditions or circumstances applied and rejected the Respondent's contention that client consent had been provided for the transfer of the £1,500 for the reasons set out above. As also set out above, there were further transfers from the client account which took the balance further below that required to hold Client K's deposit and where the funds were used for Firm or personal expenditure. The withdrawal of funds from the client account was a pattern of behaviour and the Respondent had not produced any evidence that any of the Rule 20.1 circumstances had been met for any of the fifteen transfers listed in paragraph [30] of the Rule 12 Statement. Whilst the Respondent maintained in her oral evidence that each and every transfer was made with client consent, no evidence of this was presented in any case, and the Tribunal noted that during the hearing she had resiled from the position set out in her Answer which acknowledged breaches of the SAR 2011. The Tribunal found to the requisite standard that the transfer of £1,500, and the further transfers, amounted to a breach of Rule 20.1 of the SAR 2011.

27.57 The Tribunal had found that Client K had not requested the return of £3,500 and that the Respondent had failed to keep Client K's deposit monies in client account in breach of the SARs. The Tribunal also found that this was self-evidently not in Client K's best interests as it exposed the deposit monies to avoidable risk and amounted to a breach of Principle 4. The Tribunal accepted that such unauthorised transfers of client monies, which were then utilised for Firm or personal expenditure was conduct which failed to uphold the trust placed by the public in the Respondent and in the provision of legal services. The public would rightly expect solicitors to treat client funds with the utmost care and be scrupulous in its protection. The Tribunal accordingly found on the balance of probabilities that the Respondent's conduct breached Principle 6. The Tribunal also found proved to the requisite standard that by placing client money at risk and circumventing the accounts rules designed to ensure its protection, the Respondent had breached Principle 10 which requires solicitors to protect client money.

27.58 The Tribunal had regard to the test for conduct lacking integrity in the case of Wingate. In paragraph [101] Rupert Jackson LJ set out a non-exhaustive list of examples of conduct lacking integrity. The list of six examples included making improper payments out of the client account and subordinating the interests of the clients to the solicitors' own financial interests. The Tribunal had found as set out above that the Respondent had done both. Her conduct amounted to a clear failure to adhere to the ethical standards of the profession. The Tribunal found the breach of Principle 2 proved to the requisite standard. The Tribunal's determination of the aggravating allegation of dishonesty is recorded below for Clients K, H and M.

Client H

27.59 The Respondent did not dispute the Applicant's contention that part of the £50,000 paid to the Firm by Client H on 2 February 2017 for the purchase of a share of a property was used by the Respondent to complete Client K's own purchase. She also did not deny that further transfers were made which took the balance on client account further below the £50,000 and that the funds involved were used for the Firm's and her own purposes. Her case was that she had Client H's consent and that he had agreed to loan her the funds until they were required for his purchase. All Client H's monies were returned, on the Respondent's case in accordance with their agreement, before they were required for completion. In the meantime, her case was that she was entitled to use the money as she saw fit.

27.60 The FIO had found no evidence of any such loan agreement. The Tribunal considered that such an agreement, if it existed, would have been thoroughly improper without Client H having received independent legal advice on account of the obvious risk of conflict of interests. The Tribunal accepted the submission made by the Applicant that it was implausible that any such arrangement would not have been reduced to writing. The client-care letter dated 27 January 2017 acknowledging and summarising Client H's instructions made reference to a purchase price of £50,000, legal fees of £900 but did not make any reference to any loan. No evidence from Client H himself had been produced. The Tribunal considered the context of the alleged agreement. The pattern of transfers and the very low balances on the Firm's accounts as recorded above suggested that the Firm was struggling financially. The Tribunal considered that taking these factors and the evidence summarised above into account, the most likely explanation was that Client H had not authorised a loan to the Respondent. The Tribunal considered that the bank statements to which it had been referred supported this conclusion and that they supported the Applicant's contention that the Respondent was "dipping into" client funds in order to meet the Firm's obligations. The Tribunal found that there had been no loan agreement with Client H.

27.61 In the absence of an agreement with Client H, the withdrawals from client account which took the balance below the £50,000 paid in by Client H were not made in accordance with any of the circumstances or conditions set out in Rule 20.1 of the SAR 2011. The Tribunal found the breach of this rule proved to the requisite standard. Failing to maintain the £50,000 in the client account means that the Respondent had failed to comply with Rule 14.1 of the SAR 2011 which requires client money to be kept in a client account. The Tribunal found the alleged breach of this rule proved to the requisite standard. By using what remained client money, in the absence of any loan agreement with Client H, for the completion of another client's matter, the Tribunal

found proved to the requisite standard that the Respondent had breached Rule 1.2(c) of the SAR 2011 which prevents precisely this.

27.62 For the reasons summarised in relation to Client K, the Tribunal found proved that the Respondent had breached Principles 2, 4, 6 and 10 by her unauthorised use of and failure to protect Client H's money.

Client M

27.63 The Tribunal had been referred to the bank statements showing the transfers in May 2017 of over £15,000 from the Firm's client account, to the Firm's office account, and back again. That the transfers of over £15,000 made between 13 and 15 May 2017 involved Client M's funds was demonstrated by the client account balance having been £0.60 shortly before £201,588 was paid in by Client M on 12 May 2017.

27.64 In her Answer and her evidence during the hearing the Respondent had accepted the fact of these transfers and that they amounted to a breach of Rules 14.1 and 20.1 of the SARs. She described the transfers as a mistake which was promptly corrected. Given that it was not suggested there was any legitimate reason why Client M's money was removed from client account, and given that the transfers took the amount held in the account below that deposited by Clients M, the Tribunal found that the Respondent's admission was properly made. The alleged breach of Rules 14.1 and 20.1 of the SARs was proved to the requisite standard.

27.65 The Respondent had denied any breach of the Principles and of Rules 1.2(a) and (c) of the SAR 2011 (which require her to keep other people's money separate from her own and to use each client's money for their matters only respectively).

27.66 It had been alleged that the Respondent had transferred some of Client M's money paid into the office account on 12 May 2017 onwards into her personal Chambers Account. The Tribunal was referred to bank statements showing payments totalling £17,100 from the office account to "Shazia Anjum", which were received in a Barclays account between 13 and 16 May 2017. The statement for the Barclays account included expenditure on food. The Tribunal accepted that it was more likely than not that this was a personal account belonging to the Respondent and into which she had received money originating from Client M. That the payments from the office account to the Barclays account included Client M's money was demonstrated by the office account balance having been well below the sum transferred to "Sharia Anjum" before the first of the payments from client account to office account (which together totalled over £15,000) were made on 15 May 2017. The Tribunal accepted, as was demonstrated by the statements to which it was referred, that the Respondent arranged for £17,000 to be transferred back from her personal Barclays account to the Firm's office account on 18 May 2017, and onwards to the client account on the same day, and that Client M did not lose any money and was not prevented from completing their matter. However, given the findings summarised above, the Tribunal found proved on the balance of probabilities that the Respondent had failed to keep other people's money separate from her own in breach of Rule 1.2(a) of the SAR 2011.

27.67 In light of the above findings, the Tribunal accepted the Applicant's contention that the Respondent was, in effect, treating monies in the client account, office account and her personal account interchangeably. As with the two previous clients, and for the same reasons, the Tribunal found proved to the requisite standard, that the Respondent had thereby breached Principles 2, 4, 6 and 10 by her unauthorised use and failure to protect Client M's money.

The Tribunal's findings on Dishonesty

27.68 Dishonesty had been alleged in respect of the conduct in relation to all three clients. The Tribunal accepted the summary of the test for dishonesty provided by the Applicant. When considering the allegation of dishonesty, the Tribunal applied the test in Ivey and accordingly the Tribunal adopted the following approach:

- firstly, the Tribunal established the actual state of the Respondent's knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held;

- secondly, once that was established, the Tribunal then considered whether this conduct would be thought to have been dishonest by the standards of ordinary decent people.

27.69 The Tribunal had found that the Chambers Account was the Respondent's personal account and that client monies had been improperly moved from client account to office account and on to this personal account. The Tribunal accepted, and the Respondent had not disputed, that the Respondent had responsibility for the Firm's client account and the money held. The Tribunal had found that the attendance sheet on which she relied to explain transfers of Client K's money was not genuine, and that the loan she claimed to have had from Client H was invented. That the Respondent had felt the need to seek to explain and cover her actions in this way suggested that she was aware that she was not entitled to treat client money in the way she did.

27.70 The Tribunal accepted the Respondent's evidence, and the Applicant did not dispute, that no clients lost any money and their various completions were not affected. The Tribunal accepted that the Respondent genuinely considered that she could remedy the SAR 2011 breaches in such a way that no-one lost out and that she could "square the circle". The Respondent had no intention to deprive any client of money or put any money at risk. However, applying the first limb of the Ivey test, the Tribunal found that she knew moving client money in the way she did was wrong, she knew the money in question was client money, she knew that some of it was transferred to her personal account as set out above, that some had been used for her own and professional purposes, that she had fabricated an attendance sheet to provide a justification for her actions in relation to Client K and had invented a loan agreement to provide a justification for her actions in relation to Client H. Applying the second limb of the Ivey test, the Tribunal had no doubt that ordinary decent people would regard such conduct as dishonest. The Tribunal found the aggravating allegation of dishonesty proved to the requisite standard.

28. **Allegation 1.2: Between 2 February 2017 and 27 July 2017, the Respondent failed to return client funds due to Client R after he withdrew his instructions to the Firm; and in so doing, she breached Rule 14.3 of the SAR 2011 and Principles 2, 4 and 6.**

The Applicant's Case

28.1 The Respondent was instructed by Client R in an immigration matter and Client R paid £1,950 to the Firm on 11 January 2017. The FIO stated that very minimal work had been completed on the matter. By 1 February 2017, Client R had indicated to the Respondent that he did not wish the Firm to continue to represent him and he sought a full refund. The Respondent replied on 1 February 2017 stating "Your fee will be refunded back to you in due course after assessing your file".

28.2 Client R instructed new solicitors who wrote to the Firm on 7 March 2017 noting (amongst other things) that the £1,950 had not been returned. In reply, on 28 April 2017, the Respondent stated that Client R had agreed £1,100 towards professional fees and that this work had been completed by the Firm. The Respondent's letter concluded: "He never transferred the balance towards his Home Office Fee. It means that we owed him £850 ... Please advise him to forward us his account details so that we can transfer the balance to him". The Respondent wrote to Client R in similar terms. The Applicant's case was that the Respondent had accordingly accepted that the Firm still held not less than £850 of Client R's funds in respect of the immigration matter.

28.3 On 12 June 2017, Client R made a complaint about the Respondent to the Applicant. According to the complaint, Client R had been given a cheque for £1,236 dated 10 February 2017 signed by the Respondent on the Firm's client account. When Client R attempted to cash this cheque, he was told by his bank that the cheque was credited to his account but then returned unpaid by the bank on which it was drawn. The reason why the cheque was unpaid was given as "Payment Stopped - Theft Reported".

28.4 Ms Bruce submitted that a hallmark of the truth was that it was consistent, and that inconsistency was relevant to credibility. It was alleged that the Respondent had provided differing explanations in her discussions with the FIO about why the cheque was cancelled.

- The FIO recorded that on 27 July 2017 the Respondent had initially stated that after writing the cheque she realised that Client R had agreed to pay a fixed fee of £1,100 and that work had been completed on the matter. The Respondent had accepted the FIO's suggestion that a minimum of £850 was payable to Client R on the basis that £1,950 had been paid (and a full refund of the Nationality Fee would be due).

- Later on the same day, the Respondent told the FIO that on the date the cheque was written (10 February 2017) Client R had instructed the Firm on another matter for which the quoted fee was £1,750. She stated that this was why she cancelled the cheque (she stated that she had not reported the theft to her bank).

28.5 By the time of the Respondent's interview with the FIO, these monies had still not been refunded to Client R. On 26 June 2017, there was not enough money in the Firm's client account to cover the sum which the Respondent ought to have been holding for Client R in respect of his Nationality Fee. This Nationality Fee (minus any contractual payment for work undertaken and properly invoiced in accordance with the SAR 2011) was submitted to be client money belonging to Client R. The Applicant submitted that in accordance with Rule 14.3 of the SAR 2011, it ought to have been returned to him promptly after the cancellation of his instructions to the Firm, as there was no longer any proper reason for the Respondent to retain those funds.

28.6 The amended paragraph of the Rule 12 Statement stated that the client file included a letter to Client R dated 4 August 2017 which referred to the enclosure of a cheque for £1,236 (a copy of the cheque also appears on the client file). The Applicant's position was that it was not known whether this letter and cheque were sent to Client R. The Applicant had no record of Client R confirming he received the cheque from the Respondent. Client R had informed the Applicant's representatives by telephone on 23 May 2018 that the money owed to him by the Respondent had been "reimbursed by the bank".

Breaches of the Principles

28.7 By not returning money belonging to a client, it was alleged that the Respondent failed to act with integrity (in breach of Principle 2). In this case, it was submitted that acting with integrity would have required the Respondent to return client money when instructions were withdrawn, and not to cancel a cheque given to Client R without at least informing him and promptly returning the money by another method. The Respondent's conduct was also submitted to amount to a breach of the requirement to behave in a way which maintained the trust placed by the public in her and in the provision of legal services (Principle 6). This was on the basis that public confidence in the Respondent and in the provision of legal services was likely to be undermined by solicitors not returning client money upon withdrawal of instructions once there was no longer any proper reason for retaining it. In addition, holding on to the money was not in accordance with the client's wishes or his best interests, as confirmed by the letters sent from his new solicitors and by not returning the money it was submitted that the Respondent thereby breached Principle 4.

<u>The Respondent's Case</u>

28.8 The allegation was denied.

28.9 In her Answer, the Respondent stated that she believed that the allegation was based on a false premise. She maintained that Client R instructed the Firm on a different matter and that funds were retained for the purposes of carrying out work on that matter.

28.10 In her witness statement the Respondent accepted that she cancelled a cheque which had initially been issued to Client R in February 2017. She stated that she did so at the request of the caseworker on the file because Client R had withdrawn instructions for his own matter but had given instructions relating to family members. She denied having reported that the relevant chequebook had been stolen and stated that she had reported it lost.

28.11 The Respondent agreed that Client R instructed new solicitors in March 2017 and that she wrote to them in March 2017 asking for account details to refund the balance of his fees. Her evidence in her witness statement was that she did not believe she ever received a reply and that she had mentioned this to the FIO at the time.

28.12 The Respondent accepted in her oral evidence that the FIO had said that £850 was owed to Client R when he withdrew his instructions, and she agreed that this was accurate at that stage. The Respondent maintained in her oral evidence that this had been superseded by his instruction of the Firm on another matter. The Respondent said that she had not provided this explanation about the instruction on the separate matter to the FIO at the time of their interview due to the condition she was in. She was suffering from memory loss and mental health issues and did not have a clear recollection of events. The Respondent denied providing an inconsistent account. Her account to the FIO was inaccurate for the reasons already given, but she stated that her answers were provided in good faith at all times.

28.13 The Respondent stated that she returned the funds to Client R by cheque in August 2017. She considered that the cheque which was on the client file, which had led to the amendment to the Rule 12 Statement, supported this position. The Respondent's oral evidence was that there was nothing in Client R's complaint, the money having been returned to him, and he was seeking money to which he was not entitled. She also said during cross examination that the caseworker had progressed the complaint.

28.14 The Respondent maintained that she acted on the basis of the best information available to her at the time, received from the case worker who confirmed that work had been done and that the Firm had been asked to undertake further work on behalf of this client.

<u>The Tribunal's Decision</u>

28.15 The Tribunal reviewed the documentary and witness evidence about the money in this matter. The Tribunal was referred to all of the letters and supporting bank statements referred to below.

- Client R paid £1,950 into the Firm's office account on 11 January 2017.

- Client R withdrew his instructions by a letter dated 18 January 2018. The letter was in the client file held by the Applicant and was amongst the papers before the Tribunal.

- The Respondent accepted in her evidence that a cheque dated 10 February 2017 in the sum of £1,236 had been provided to Client R and subsequently cancelled. She stated that this was because Client R had instructed the Firm on another matter.

- Client R's new solicitors wrote to the firm on 7 March 2017 noting that the sum sought, £1,950, had not been returned. Again, the Tribunal was referred to a copy of this letter.

- By letter dated 28 April 2017 the Respondent replied stating that work had been completed by the Firm for which the agreed fee was £1,100 and that accordingly

£800 was due. The Respondent requested his account details so that £850 could be refunded.

- By letter dated 12 June 2017 Client R made a complaint about the Respondent. The complaint stated a post-dated cheque for £1,236 had been received from the Firm but had not been honoured. It was contended in the complaint that the Firm had been asked if any work had been completed and if so for this to be evidenced. The Respondent had denied receiving such correspondence in her evidence.

- The client file included a letter to Client R dated 4 August 2017 which referred to the enclosure of a cheque for £1,236 (a copy of the cheque also appears on the client file). The Respondent's evidence was that the cheque had been sent whereas the Applicant's case was that Client R had stated that the money owed to him had been reimbursed by the bank.

28.16 The Tribunal considered there was some inherent implausibility in Client R withdrawing one set of instructions from the Firm, agreeing another set of instructions for the Firm, then pursuing a complaint against the Firm for the return of the money paid in respect of the first instructions. No evidence was before the Tribunal of the alleged second instructions on which the Respondent relied. No evidence was before the Tribunal from the caseworker who the Respondent maintained gave her the instruction to cancel the cheque of 10 February 2017. The burden of proof was on the Applicant, and the Respondent did not have to prove anything, but the Tribunal would have expected to see some evidence of the second instructions and the arrangement to use the money which would otherwise be refunded for new instructions (particularly when a cheque had by then been issued to effect a refund for the first instructions).

28.17 The Respondent did not raise in her letter to Client R's new solicitors of 28 April 2017 the fact that new instructions had been received and this was why no refund had been provided. The letter, in the Respondent's name, stated that the work for which fees of £1,100 had been agreed had been completed, Client R had not cancelled his instructions within seven days and on that basis he remained liable for the agreed fee. The Respondent's evidence was that the caseworker had conducted the response to the complaint rather than her. The Tribunal considered that it was very surprising that whoever had composed this letter had not mentioned the new instructions being the basis for the lack of a refund rather than setting out a completely different rationale.

28.18 The Respondent's position was that she was unwell during the FIO interview of 27 July 2017 and that her account was incomplete, unreliable and should be disregarded. As set out above in relation to allegation 1.1, no meaningful medical evidence had been provided by the Respondent to support these assertions. The FIOs file-note indicated that the Respondent had initially stated that Client R had agreed to pay £1,100 and agreed that a refund of £850 could be paid on the day. Later on the same day the Respondent had stated that after having written a cheque for Client R in February 2017 this had been cancelled on the basis of instructions on another matter.

28.19 As noted in relation to allegation 1.1, the Tribunal had found the Respondent to be a witness who lacked credibility. The Tribunal found her account in relation to allegation 1.2 to be inconsistent, unsupported and implausible. The Tribunal considered it much more likely than not that the Respondent had fabricated the second instruction as a

means of seeking to explain the extended delay in refunding Client R. This was based on the improbability of Client R pursuing a complaint in June 2017 if he had agreed by February 2017 at the latest that the funds could be used for payment of a second instruction; the absence of any evidence of this second instruction; the fact that the Firm's letter of 28 April 2017 made no mention of the second instruction or use of the initial funds for this work and advanced a different basis for no refund being due; the fact that the Respondent provided two different explanations to the FIO on 27 July 2017; the financial position of the Firm at the time as set out in the findings in relation to allegation 1.1 and the vagueness and lack of credibility of the Respondent's account.

28.20 Rule 14.3 of the SAR requires that client money must be returned to the client promptly when there is no proper reason to retain it. Client R had withdrawn his instructions in January 2017, there was no reason to retain client money after that point. A failure to pay until after the FIO interview on 27 July 2017 is self-evidently a failure to return money promptly. The Tribunal found to the requisite standard that the Respondent had breached Rule 14.3 of the SAR.

28.21 Failing to return client money on request, without good reason, was also self-evidently not in that client's best interests. In light of the findings set out above, there being no good reason to retain the money, the Tribunal found proved on the balance of probabilities that the Respondent had failed to act in the best interests of Client R in breach of Principle 4. The Tribunal accepted the submission from the Applicant that acting with integrity required that client money be returned on request, in the absence of any reason to retain the money, and considered that complete probity with client money is a fundamental prerequisite of acting with integrity. Client R's complaint indicated that the Respondent had not informed him that the cheque he attempted to draw on had been cancelled. Failing to return client money without good cause and providing a cheque which was subsequently cancelled amounted to a failure to adhere to the ethical standards of the profession. The Tribunal found proved to the requisite standard that the Respondent had acted without integrity in breach of Principle 2. For the same reasons, the Tribunal considered that public trust and confidence in the Respondent and in the provision of legal services would be undermined by such conduct and found on the balance of probabilities that the Respondent had also thereby breached Principle 6.

29. **Allegation 1.3: Between 26 September 2017 and 28 September 2017, and contrary to the terms of the intervention into her practice and the Firm, which had been explained to her, the Respondent attempted to arrange for Client A to make a payment to her in any or all of the following ways:**

(a) Into an account other than the Firm's client account or office account;
(b) In cash to her husband;
(c) Into her husband's bank account;

And in so doing, she breached Principles 2, 4, 6 and 7.

The Applicant's Case

29.1 On the morning of 26 September 2017, the Applicant's Intervention Officer, the Intervention Agent, and members of staff from Shacklocks LLP (Ms Spencer and Ms Vesey) attended the Firm to begin the Applicant's intervention. The Respondent was present with her husband and the effect of intervention was explained to her. In particular, the Applicant alleged that the Respondent was informed that:

- As a result of the intervention all monies, office and client, vested in the Applicant. A notice had been served on the Firm's bank, Santander, and accounts had been frozen. All monies would be remitted to the Applicant.

- If monies were identified to be office monies those monies would go to offset any shortfall in the client account, and then to offset the cost of the intervention.

29.2 In June 2017, Client A (Mr KA who gave written and oral evidence during the hearing) had instructed the Respondent to act in a purchase of the lease of a restaurant property. Mr KA's business partner was Mr JJ. They paid £35,000 into the Firm's client account between 29 August 2017 and 5 September 2017. Mr KA's evidence was that the Respondent initially requested £500 in fees but then continually asked Client A for more money. Although dissatisfied with the representation, Mr KA's evidence was that he felt that he had to continue to instruct the Respondent because she had his and Mr JJ's money. Mr KA stated that during late September 2017, the Respondent blocked calls from Client A's mobile phone.

29.3 It was alleged that on 26 September 2017, the day of the intervention, the Respondent telephoned Mr KA and asked him to transfer £1,860 to a different client account, claiming that the client account was broken, but he did not do so. On 28 September 2017, Mr KA and Mr JJ telephoned the Respondent and implied that they had the money she requested ready to pay to her. In his evidence Mr KA acknowledged that this was untrue, but said they felt it was the only way to get the Respondent to discuss their matter. In reply, the Respondent arranged for Mr KA and Mr JJ to meet her husband outside a shop and asked them to give her husband money in cash. Mr KA and Mr JJ's account was that they duly met the Respondent's husband and Mr KA spoke to the Respondent on the phone. Mr KA's evidence was that he told the Respondent that the money was in his account and that the Respondent asked him to transfer the money to her husband's bank account using online banking. He did not do so.

29.4 Both Mr KA and Mr JJ gave evidence during the hearing and were cross examined by Ms Heley. Mr KA and Mr JJ both stated during their evidence that they were sure that a handwritten summary document sent to the Applicant with their complaint about the Respondent had been written by their wife. Mr KA's evidence was that having found the Respondent's office closed, and spoken to the Respondent by phone, they were given a postcode and he and Mr JJ went together to the address to meet the Respondent's husband. In contrast, Mr JJ described having travelled to the meeting from home in Preston and stated that the unsuccessful visit to the Respondent's was a separate occasion. Mr KA's evidence was that the Respondent's husband wore traditional Asian dress and had poor English whereas Mr JJ did not recall anything about his dress or presentation.

29.5 Mr KA's account was that the Respondent's husband phoned the Respondent who then passed the phone to Mr KA who then spoke directly to the Respondent. Mr JJ also gave evidence that he spoke directly to the Respondent during the alleged meeting with her husband. Mr KA's evidence was that the Respondent said over the phone to pay money into husband's bank account. He stated that he had no motive to lie and had already recovered his money. Mr KA acknowledged he did not mention this meeting in his original complaint to the Applicant but said during his oral evidence that he had mentioned it by telephone to the Applicant. During cross-examination Mr JJ accepted there was a mistake in the calculation provided to the Applicant of how much money they were asked for by the Respondent.

29.6 It was alleged that the Respondent's approach to Mr KA, at or about the same time as the intervention had been explained to her, was improper in that she must have known that any money properly owing to the Firm or otherwise needed for carrying out the client's instruction ought to have been passed to the Intervention Agent. The methods used by the Respondent to obtain the money were said to be irregular (for example meeting in the street). Having had her Firm's assets frozen, it was alleged that the Respondent must have seen Mr KA and Mr JJ as a possible source of money, and was attempting to obtain money from her client in contravention of the intervention arrangements. It was submitted that acting with integrity would have required the Respondent to comply fully with the terms of the intervention and not to seek money from clients by covert and irregular means. By not doing so, it was submitted that the Respondent had acted without integrity in breach of Principle 2.

29.7 The Respondent was also alleged to have breached the requirement to behave in a way which maintains the trust placed by the public in her and in the provision of legal services (Principle 6). It was submitted that public confidence in the Respondent, in solicitors and in the provision of legal services was likely to be undermined by the prospect of a solicitor trying to obtain money from a client contrary to the requirement on her to put financial matters into the hands of those acting on behalf of her regulator, and on the pretext that the client account was broken. It was also alleged that the Respondent actively failed to co-operate with her regulator, and in effect frustrating the intervention into her practice, in breach of Principle 7. Whether the money sought would be office money or client money, it ought to have been accounted to the Intervention Agents, as explained to the Respondent on the morning of 26 September 2017. The Respondent was said to have had no proper basis for asking Mr KA and MR JJ to transfer money by other means. It was submitted not to be in their best interests to do so, and that the Respondent thereby also breached Principle 4.

Dishonesty alleged in relation to allegation 1.3

29.8 The Applicant again relied on the test for dishonesty from Ivey as summarised under allegation 1.1. Applying that test, the Applicant's case was that on the morning of the intervention, it had been explained to the Respondent that all client and Firm monies were to be accounted to the Intervention Agent. The Respondent was informed that her Firm's accounts had been frozen. On the same day she allegedly approached Mr KA requesting money in connection with his client matter. She subsequently sought money from him by irregular means (arranging for him and Mr JJ to meet her husband in the street). It was submitted that if the money was required by the Firm, the Respondent could have directed her clients to the Intervention Agent but she did not do so. By

asking for the money to be paid into a different account, the Respondent was alleged to be circumventing the fact that her Firm accounts had been frozen, and concealing the money from the Intervention Agent for her own benefit, contrary to her regulatory duties. It was submitted that ordinary decent people would consider these actions to be dishonest.

The Respondent's Case

29.9 The allegation was denied in its entirety. The Respondent's case was that the entire incident was invented and did not happen. The Respondent denied having asked Client A for any additional funds as alleged or at all.

29.10 In her witness statement the Respondent referred to Client A not including any of the detail of the alleged meeting in his witness statement in his original report to the SRA. During cross examination she suggested that her clients may have invented the incident in order to obtain money via the Applicant.

29.11 The Respondent stated that the email evidence before the Tribunal demonstrated that prior to being admitted to hospital she sought to make progress on Client A's matter. The Respondent particularly objected to what she described as the vague allegation that she "blocked calls" from Client A's mobile phone during late September 2017. The Respondent accepted that her ability to receive calls in September 2017 may have been impacted by her stay in hospital.

Response to allegation of dishonesty in relation to allegation 1.3

29.12 The Respondent's position was that the entire meeting had been fabricated and did not happen. The accounts of Mr JJ and Mr KA were unreliable and inconsistent.

The Tribunal's Decision

29.13 The allegation rested on the evidence provided by Mr JJ and Mr KA. There were inconsistencies in the accounts of the alleged meeting with the Respondent's husband provided by Mr JJ and Mr KA. For example, there were differing accounts of the events before the alleged meeting. The account of the chronology of the various phone calls with the Respondent during the alleged meeting was not entirely clear and consistent. The Tribunal noted that the original complaint submitted to the Applicant omitted the alleged meeting with the Respondent's husband. Given this was such an unconventional incident, this was surprising. It was also clear that the wives of both clients could not both have written the single handwritten note which was supplied to the Applicant.

29.14 The Tribunal nevertheless found both witnesses reasonably persuasive and credible. Despite the inconsistencies above, the omission of the meeting from the original complaint and the lack of clarity over the amount claimed by the Respondent, Tribunal considered that the central elements of the accounts provided by both witnesses were of a type and consistent. Both witnesses were categorical that the Respondent had requested additional money to complete the work on the lease purchase.

29.15 The background to the allegation was that Mr KA and Mr JJ had instructed the Respondent in June and by September 2017 were increasingly frustrated by the lack of progress. Their account was that the Respondent repeatedly requested further money for the legal work. Whilst the Tribunal had found the essential element of the account provided by Mr KA and Mr JJ to be credible, in contrast, and as noted above, the Tribunal considered the Respondent to be a generally unreliable witness. The Tribunal found that it was more likely than not that the central element of the allegation, that on 26 September 2017 the Respondent had requested an additional tranche of money be paid in a different account in order to complete their legal work was more likely than not to have happened. This much was consistent throughout the account of both witnesses, the report to the Applicant and the handwritten note summarising the basis for the complaint.

29.16 The handwritten note submitted to the Applicant also made reference to it having been 26 September 2017, the date of the intervention into the Firm, when the Respondent asked for additional money to be paid into another account. The evidence of Ms Spencer was that the Respondent attended a meeting from 10.30 a.m. on the morning of 26 September 2017 and the terms of the intervention were explained to her. The Tribunal found that it was more likely than not that the Respondent had made the request for her clients to pay the further sum into another account in order to circumvent the intervention. These findings related to allegation 1.3(a).

29.17 Applying the test in Wingate, as described above, the Tribunal found that arranging payment into an account in order to circumvent the controls imposed by an intervention into her firm was a clear failure to adhere to the ethical standards of the profession. The Tribunal also found that arrangements that her clients pay money otherwise than into the Firm's accounts was not in their best interests. The Tribunal found that seeking to circumvent the terms of an intervention, which is part of the regulatory machinery designed to protect clients and the public, was conduct which would not uphold the trust placed in the Respondent and the provision of legal services. The Tribunal also found it was also conduct which amounted to a direct failure to cooperate with her regulator. The Tribunal accordingly found to the requisite standard that the Respondent had breached Principles 2, 4, 6 and 7 respectively.

29.18 Parts (b) and (c) of the allegation related to the Respondent allegedly attempting to arrange for her clients to make a payment in cash to her husband and to make a transfer into her husband's bank account respectively. The Tribunal was concerned by the quality of the Applicant's evidence on these parts of the allegation. There was greater divergence between the accounts provided by Mr KA and Mr JJ than on the request for further money itself, and there was not the same degree of corroboration from the handwritten summary of the complaint submitted to the Applicant which made no reference to any such meeting with the Respondent's husband. The burden of proof was on the Applicant. The Tribunal was not satisfied that the Applicant had discharged this burden and it found allegation 1.3(b) and 1.3(c) had not been proved.

The Tribunal's findings on Dishonesty

29.19 Parts (b) and (c) of allegation 1.3 had been found not proved and so the aggravating allegation of dishonesty also failed.

29.20 In respect of allegation 1.3(a), and the finding that contrary to the terms of the intervention into the Firm the Respondent had attempted to arrange a payment into an account other than the Firm's client or office accounts, the Tribunal again applied the two stage Ivey test outlined above.

29.21 The Tribunal was satisfied from the evidence presented that the Respondent was aware of the terms of the intervention. Witness and documentary evidence had been presented confirming that the Respondent had been informed on 26 September 2017 that the Firm's accounts had been frozen. The Tribunal had found as set out above that on that date the Respondent had requested that Client A make a payment for further work into a different account. The Tribunal found that the Respondent was aware of the terms of the intervention, and the fact that client monies vested in the Applicant. The Tribunal found to the requisite standard that she was aware that she was not permitted to arrange for fees to be paid into an alternative account and that she nevertheless did so. Applying the second limb of the Ivey test, the Tribunal found that ordinary decent people would regard such conduct as dishonest. The Tribunal found the allegation of dishonesty proved to the requisite standard in relation to allegation 1.3(a).

30. **Allegation 1.4: Between September 2017 and December 2017, the Respondent failed to deliver up all client files to the Intervention Agent in accordance with the terms of the intervention into her practice and the Firm, which had been explained to her; and in so doing, she breached Principles 4 and 7.**

The Applicant's Case

30.1 On the day of the intervention, the Intervention Officer served the Respondent with a notice requiring her to deliver up all client files and practice papers to the Intervention Agent. Following the intervention, the Intervention Agent's team identified a number of active matters being dealt with by the Firm for which they were unable to locate files. A list of missing files was sent to the Respondent by email on 19 October 2017 and by letter on 20 October 2017 together with a request for her to explain whether she or another person appointed by her was holding the materials. Having initially received no response and then the Intervention Agent having made further enquiries, two or three boxes of files were collected from the Respondent on behalf of the Applicant on 20 November 2017.

30.2 The Intervention Agent's team subsequently identified further missing files and contacted the Respondent again. On 18 December 2017, the Respondent replied by email stating:

> *"In relation to the files Clients contacted me to collect files from me as some of them were finding it hard to make request for file copies. [...] But due to my poor health I could not meet them to handover their files so some of them are still with me but some clients took the files due to the urgency in their matters."*

This was submitted to be contrary to the terms of the intervention and contrary to requests made of the Respondent by the Intervention Agent and her team. By way of example, in December 2017 the Intervention Agent's team learned that the client file of Client Km had been passed to another solicitor at another firm. The Respondent had

asked them to keep this item on or around 23 November 2017, and for it to be handed over to Client Km on 27 November 2017. This was two months after the intervention.

Breach of the Principles

30.3 By holding on to client files, and by not ensuring their prompt return, it was alleged that the Respondent's actions risked undermining a smooth handover to the Intervention Agent's team. This was submitted not to have been in her clients' best interests, and accordingly in breach of Principle 4. The Respondent also had a duty to co-operate in a timely manner with her regulator through the offices of the Intervention Agent. The purpose and terms of the intervention had been explained to her. It was alleged that there could have been no reasonable doubt that client files were required to be delivered up to the Intervention Agent's team. By not doing, or not doing so promptly, it was submitted that the Respondent failed to co-operate with her regulator, and thereby breached Principle 7.

<u>The Respondent's Case</u>

30.4 This allegation was denied in the Respondent's Answer on the basis that she was submitted not to have been in practice for the relevant period. This was on the basis that her practising certificate had been suspended as a result of the intervention and also because she considered herself to be on maternity leave. It was submitted that Principles 4 and 7 expressly did not apply to conduct outside of practice by virtue of paragraph 5.1 of the SRA Principles 2011.

30.5 Without prejudice to the above, the Respondent accepted that some files were returned directly to clients rather than passed to the Intervention Agent. The Respondent's position was that she believed at the time that she was acting properly and in the best interests of the clients because they were entitled to their files in any event.

30.6 In her witness statement the Respondent stated that she was very depressed following the traumatic birth experience and the intervention into the Firm immediately afterwards. She was not checking emails regularly, and did not consider there was a need to; as far as she knew, nobody had any urgent reasons to be contacting her. She stated that she did not interfere with the Applicant's removal of files from the office and did not know that any files were said to be missing.

30.7 In her oral evidence the Respondent stated that the Firm had four offices and that it was not her fault that the Applicant had left behind one filing cabinet. She had not obstructed the collection of any files.

30.8 The Respondent stated that when she finally saw the Applicant's emails and was able to deal with them, she realised that she had no access to the office and that files must be in the possession of the landlord. She issued an application on 27 October 2017 for delivery up of all personal possessions held by the landlord. She stated that she duly received some files and was informed that some records may have been disposed of. The Respondent stated that she arranged for the records delivered up and otherwise located after a search to be passed to the Intervention Agent.

The Tribunal's Decision

30.9 Whilst the Respondent did not have a practising certificate at the relevant time, she remained on the Roll of Solicitors. The Tribunal had regard to paragraph 5.1 of the SRA Principles 2011 and did not consider that the effect was to dis-apply Principles 4 and 7 as submitted on the Respondent's behalf. Whilst those Principles did not apply outside "practice", the Tribunal considered that they did apply to activities undertaken by a solicitor in their capacity as a solicitor. The obligation to comply with an intervention was a fundamental one applying to all affected solicitors. It could not be frustrated by the suspension of a practising certificate or by maternity leave.

30.10 The Respondent's evidence was that a filing cabinet of documents was missed and that this was not her fault. Clearly such an oversight on the part of the Applicant's Intervention Agent would not indicate any culpability on the Respondent's part. The action she described to recover the files was reasonable. However, from that point, in October 2017, the Respondent was aware that the Applicant was seeking recovery of the remaining client files which had been missing up to that point. The Respondent accepted that she passed some files directly to clients rather than to the Intervention Agent. On her own case, therefore, the Respondent admitted the alleged conduct but denied that it amounted to a breach of Principles 4 and 7.

30.11 The context of the Respondent's provision of files directly to clients was the intervention by the Applicant into her firm. The effect of this had been explained to the Respondent. The notice with which the Respondent was served by the Intervention Agent stated that all client files and practice papers must be delivered up to the Intervention Agent. The Respondent had failed to comply. The Tribunal considered that it would always be in any client's interest to comply in full with the terms of an intervention. It was not open to the solicitor to make an assessment as to the need to comply or the method of compliance. The Respondent had done exactly that having received a clear explanation of the requirements of the intervention. The Tribunal found proved to the requisite standard that the Respondent had thereby failed to act in her client's best interests in breach of Principle 4 and had failed to cooperate with her regulator in breach of Principle 7.

31. **Allegation 1.5: On or before 26 July 2017, the Respondent made representations on the Firm's website and / or on her business card that she was a barrister, without making it clear that she was not registered to practise as a barrister; and in so doing she failed to achieve Outcomes 8.1 and 8.4 of the Code and breached Principles 2 and 6.**

The Applicant's Case

31.1 The Firm had a website which included a welcome page stating: "Award Winning Solicitor Ms Anjum is not only a qualified Solicitor but also a Barrister at Lincoln's Inn". The Respondent's business card included as its main title in bold type "Barrister Shazia Anjum". One of the additional lines below was "Bar at Law -Lincoln's Inn".

31.2 The Respondent told the FIO on 26 July 2017 that she did not hold a current practising certificate. She was therefore an "unregistered barrister". Bar Standards Board Guidance for unregistered barristers states at section 4 that:

> *"The restriction on 'holding out' prevents barristers who do not have a practising certificate but who are supplying or offering to supply legal services from using the title 'barrister' or otherwise conveying the impression that they are practising as barristers."*

The guidance provides a non-exhaustive list of examples of what is prohibited. The rationale for such a rule was said to be that potential clients were not aware of different categories of barrister and will tend to assume that the same regulatory requirements and protections apply to all barristers.

31.3 The Rule 12 Statement include details of a complaint from March 2017 about the Respondent portraying herself as a barrister. Among other things, the client stated:

> *"I am very upset and feel very mislead as to who you really are. Telling us that you are a barrister but upon some research we found that you are not."*

The Respondent replied on 19 May 2017 confirming that she was a barrister and that the information was true.

31.4 By reason of Outcome 8.1 of the Code, the Respondent was under a duty to ensure that her publicity was accurate and not misleading, and that it was not likely to diminish public trust in her and in the provision of legal services. Outcome 8.4 requires that clients and members of the public have appropriate information about solicitors and how they are regulated. It was alleged that the Respondent failed to achieve either of these Outcomes as the information provided was misleading. The client complaint was said to illustrate how the Respondent's conduct was liable to undermine public trust in the provision of legal services.

Breaches of the Principles

31.5 By advertising herself as a barrister, the Applicant's case was the Respondent was creating a misleading impression, because she was not in a position to provide legal services as a barrister. It was submitted that accordingly the Respondent failed to act with integrity (in breach of Principle 2). It was submitted that acting with integrity would have required the Respondent to have made clear to her clients the qualifications and regulatory framework within which she was offering to act. In addition, the conduct alleged also amounted to a breach by the Respondent of the requirement to behave in a way which maintained the trust placed by the public in her and in the provision of legal services (Principle 6). It was submitted that public confidence in the Respondent, in solicitors and in the provision of legal services was likely to be undermined if members of the public were confused about whether an individual lawyer was practising as a solicitor or as a barrister, the skills and qualifications they have (e.g. specialist advocacy), and the regulatory regime governing their conduct.

<u>The Respondent's Case</u>

31.6 The allegation was denied. The Respondent's case was that having been called to the Bar at Lincoln's Inn in 2012 she was entitled to call herself a barrister save in certain circumstances. It was submitted that it could not be misleading to include in your descriptors a professional qualification which you in fact possess.

31.7 In her Answer the Respondent stated that she considered that it was made clear to her clients that her services were provided as a solicitor and not as a barrister. She stated that she had never asserted that she held a practising certificate enabling her to practise as a barrister. It was noted that there was no complaint in the Rule 12 Statement about letterhead, email footers or client care letters. The allegations of misleading were submitted to be solely directed at material which was specifically descriptive of the Respondent.

31.8 It was submitted that the Applicant was not the custodian of the term barrister and does not define the circumstances in which it may be used. The Bar Standards Board was said to have updated its guidance on the use of the term in 2019 following several years of confusion – including an incident in 2017 in which the Bar Standards Board was itself said to have wrongly stated that there were no restrictions on the use of the term barrister by unqualified persons.

31.9 The Respondent highlighted paragraph [6] of the current Bar Standards Board guidance on unregistered barristers which includes the public policy reasons for imposing restrictions on their use of the title as follows:

> *"The risk that needs to be managed is that most potential clients are not aware of the different categories of barrister and will tend to assume that the same regulatory requirements and protections apply to all barristers. Barristers with practising certificates are subject to important requirements, such as having insurance and keeping their professional knowledge up-to-date, which do not apply to unregistered barristers. Some of their clients also have the right to complain to the Legal Ombudsman. These are important safeguards for clients, who may assume that they will apply whenever they seek legal services from someone they know or believe to be a barrister."*

It was submitted to be apparent that such risks do not apply where an individual is regulated by a regulator which requires equivalent protections such as the Applicant.

31.10 In her oral evidence the Respondent stated that she had been informed by a tutor that she would be entitled to use the title barrister in advertising.

<u>The Tribunal's Decision</u>

31.11 This issue arose out of a complaint from a client stating they understood the Respondent to be a barrister. In her Answer the Respondent had stated that she had never asserted that she held a practising certificate enabling her to practise as a barrister. The focus of the Applicant's case was that the Respondent had not done enough to make it clear that she was not registered to practise as a barrister. The Tribunal accepted that this was the appropriate question to be determined.

31.12 The Tribunal accepted the submission of the Applicant that it should have regard to the Bar Standards Board guidance which stated:

> *"The restriction on 'holding out' prevents barristers who do not have a practising certificate but who are supplying or offering to supply legal services from using the title 'barrister' or otherwise conveying the impression that they are practising as barristers."*

Whilst accepting the submission of the Respondent that the Tribunal was not the custodian of the term barrister and its use, the Tribunal did consider it had jurisdiction to adjudicate on an allegation that a solicitor had misused the title.

31.13 The Respondent was a barrister, by virtue of having been called to the bar. The Tribunal did not consider that the use of that descriptor in itself, provided the impression was not given that she was practising as one, would be problematic. The Tribunal reviewed the evidence presented in support of the contention that the Respondent had used the term barrister or "otherwise given the impression" she was practising as a barrister.

31.14 The Tribunal was referred to a business card for the Firm. The card featured the Respondent's name in bold, and also the word "barrister" in bold. The word barrister appeared before the Respondent's name. In smaller, non-bold, type underneath the Respondent's position was stated to be "Director/Principal Solicitor". The card also included, inevitably, the name of the Firm, Premium Solicitors Limited. The Tribunal considered that the most prominent aspect of the card was the word "barrister". The Tribunal was referred to a photograph which appeared on the Firm's website which showed the Respondent wearing a court wig. The Tribunal accepted the submission made by the Applicant that this photograph would reinforce the impression that clients using the Firm and instructing the Respondent would be utilising the services of a barrister. On that basis the Tribunal found to the requisite standard that the Respondent had failed to achieve Outcome 8.1 of the Code which requires publicity to be accurate and not misleading and Outcome 8.4 which requires that clients have appropriate information about how the solicitor is regulated.

31.15 The Tribunal considered that it was inevitable that by holding themselves out as working in a capacity in which they were not entitled to work, a solicitor would undermine public trust in themselves and in the provision of legal services. The Tribunal found proved on the balance of probabilities that the Respondent had thereby breached Principle 6.

31.16 However, whilst the business card in particular, and the photograph to a lesser extent were misleading, the Tribunal was not satisfied to the requisite standard that this reached the threshold such that the Respondent's conduct could be said to lack integrity. The website and the business card both included details of the Respondent's status as a solicitor and the Tribunal was not satisfied on the balance of probabilities that the failure to be clearer and the misleading impression created amounted to a failure to adhere to the ethical standards of the profession. The alleged breach of Principle 2 was accordingly found not proved.

32. **Allegation 1.6: On or before 26 July 2017, in respect of her management of the Firm, the Respondent failed to ensure compliance with any or all of the following:**

(a) That accounting records were kept, in order to show accurately the position with regard to the money held for each client and trust;

(b) That client account reconciliations were undertaken at least once every 5 weeks;

And in so doing, she breached Rules 29.2, 29.9 and 29.12 of the SAR 2011 and Principles 6 and 8.

The Applicant's Case

32.1 The SAR 2011 require that all dealings with client money must be appropriately recorded (Rule 29.2) and that the current balance on each client ledger account must always be shown, or be readily ascertainable, from the records (Rule 29.9). The Respondent was said to be unable to demonstrate to the FIO that she had complied with these rules.

32.2 Upon examining the Firm's accounting records, the FIO found a number of irregularities. The Respondent told the FIO that she did not maintain individual client matter ledgers. A list of client balances was not maintained. The FIO was unable to determine which transactions (as recorded on the client account bank statements) related to each client, or to establish definitively what funds the Firm should have been holding on behalf of clients. Rule 29.12 requires that a reconciliation statement must be prepared at least once every five weeks. However, upon inspection, the FIO found that no five-weekly client account reconciliations had been carried out. The Respondent also confirmed that the Firm had never prepared such reconciliations

Breaches of the Principles

32.3 By not maintaining a list of client balances, and by not undertaking reconciliations, the Respondent was submitted to have had no adequate mechanism in place to ensure that she was complying with the SAR 2011. As the sole director, COLP and COFA of the Firm, it was the Respondent's duty to ensure that her business was run effectively and in accordance with sound financial principles for the benefit of her clients. By failing to do this, it was submitted that the Respondent had breached Principle 8. In addition, it was submitted that members of the public would lose confidence in her and the provision of legal services given the inadequate mechanisms for the protection of client funds. The Respondent was submitted to have failed to behave in a way which maintained the public trust placed in her and the provision of legal services, in breach of Principle 6.

The Respondent's Case

32.4 The allegation was denied.

32.5 In her Answer the Respondent expressed concern that the FIO declined her offer to obtain relevant papers at the outset of the investigatory interview on 27 July 2017. The Respondent stated that she believed that she had complete accounting records at the time and would have been able to produce more documents to the FIO had she not been discouraged from doing so. The Respondent stated that the investigation began just nine days before the investigatory interview and she submitted that it was extraordinary that the FIO should not have wanted the Respondent to have documents available to her during the course of that interview.

32.6 The Respondent maintained that she did have a manual accounts system in place in which she maintained individual ledgers for each file showing movements on office and client account. The Respondent reconciled her client account by comparing her bank statements to her cashbook and list of client balances regularly and as necessary. She believed that it would have been around every two to three weeks although she accepted that this was an informal exercise conducted personally owing to the very small size of the practice and the limited number of transactions in her client account. Apart from those general records the Firm also used to give completion statements to clients at the end of their matter.

32.7 The Respondent stated that she did not understand why the Intervention Agent had stated they did not take possession of any accounting records on the day of the intervention. The Respondent's position was that accounting records and breach registers were available at the time. She stated that she felt extremely unwell on the day of the intervention and needed to go home and was not able to assist the intervention officers. The Respondent's evidence was that she was locked out of the office immediately after the intervention and did not gain access to the office again or any documents held there until after a Court order of 3 November 2017. By this time the landlord had disposed of various records.

The Tribunal's Decision

32.8 The Respondent had confirmed to the FIO during the investigatory interview that five-weekly client account reconciliations had not been carried out. The Tribunal had been referred to the transcript of the interview and this was the evidence of Ms Bridges, the FIO. As noted above, the Tribunal found Ms Bridges a straightforward, helpful and credible witness. During her investigation Ms Bridges had found no evidence of five-weekly reconciliations. Rule 29.12 of the SAR 2011 requires that a reconciliation statement must be prepared at least once every five weeks. Even allowing that the Respondent carried out informal reconciliations as she maintained, and noting her submission that her answers during the interview with the FIO should not be relied upon, the Tribunal found to the requisite standard that the Respondent had breached this rule.

32.9 Ms Bridges' evidence, as set out in her forensic investigation report, was that she was unable to determine which transactions related to each client, or establish definitively what funds should have been held on behalf of clients. Rule 29.2 of the SAR 2011 requires that all dealings with client money must be appropriately recorded. Rule 29.9 requires that the current balance on each client ledger account must always be shown or readily ascertainable from the records. The Tribunal noted the Respondent's position that this information would have been clear and that additional records were available at the time of the interview and also her more general comments about her condition at the time of the interview. For the reasons already recounted, the Tribunal found Ms Bridges a more compelling and credible witness than the Respondent. In her report Ms Bridges stated that the Respondent had acknowledged that the client ledger was not wholly effective and comprehensive and that she did not maintain individual client matter ledgers. The Tribunal found on the balance of probabilities that the Respondent had breached both Rule 29.2 and 29.9 of the SAR 2011.

32.10 The SAR 2011 are designed to safeguard client money. The Tribunal accepted that the above findings clearly demonstrated that the Respondent did not ensure that her business, for which she was the Compliance Officer for Finance and Administration, was run in accordance with sound financial principles for the benefit of her clients as required by Principle 8. Accordingly, the Tribunal found proved to the requisite standard that the Respondent had breached this Principle. Given that client funds and their protection are sacrosanct, the Tribunal accepted that public trust in the Respondent and the provision of legal services would be undermined by the Respondent failing to ensure she had adequate mechanisms for the protection of client funds. The Tribunal found proved to the requisite standard that she had thereby breached Principle 6.

Previous Disciplinary Matters

33. There were no previous Tribunal findings.

Mitigation

34. The Respondent did not attend the final two days of the hearing, and the Tribunal's decision on liability was given on the final day. As the Respondent was unable to mitigate in person and was not represented, the Tribunal took into account the various matters of mitigation she had raised during her live evidence, in her witness statement and in her Answer.

35. The Respondent had a previously unblemished disciplinary record. She had also cooperated with the Applicant's investigation and engaged with the proceedings and early stages of the hearing when she had given evidence. The Respondent had given her explanation of her failure to attend the final two days of the hearing which related to a lack of representation and a bereavement in her family shortly before the final two days of the hearing were listed.

36. Whilst she had not produced any supporting evidence the Respondent had made repeated references to her health, in particular around the time of the investigatory interview and intervention into the Firm. She stated that her illness also had a significant continuing effect after this time. This was context that she had invited the Tribunal to take into account.

37. There was no suggestion that any client had ultimately lost money.

Sanction

38. The Tribunal referred to its Guidance Note on Sanctions (7th Edition) when considering sanction. The Tribunal assessed the seriousness of the misconduct by considering the level of the Respondent's culpability and the harm caused, together with any aggravating or mitigating factors.

39. In assessing culpability, the Tribunal found that the motivation for the Respondent's conduct was for short term personal gain in that she sought to juggle the funds available to her to meet the Firm's needs. The Tribunal did not consider that she had any intention at any stage for her clients to lose out, and some of the improper transfers were effected in part in order to give effect to client instructions. The Tribunal had found, however,

that the Respondent was aware that what she was doing by making the transfers was improper and wrong. The conduct was planned and took place over a long period of several months. The Tribunal considered that the Respondent was in a position of trust as regards client money, and that the circumstances of the misconduct were entirely within her control. Her suggestion that her culpability may be reduced due to her illness had not been substantiated by any medical evidence other than very general articles. The Respondent was a reasonably experienced solicitor having been admitted to the Roll in 2010. The Tribunal assessed the Respondent's culpability as high.

40. The Tribunal then turned to assess the harm caused by the misconduct. The Tribunal had found that the Respondent dishonestly made improper transfers from the Firm's client account and attempted to arrange for a client to make a payment other than into the Firm's client or office account. The clients concerned did not lose money but in the case of Client A the delays which were the background to the allegations meant that the restaurant lease and business opportunity was lost and there was a delay in money being returned. There was a delay in money being returned to Client R. The client who had complained that they understood the Respondent to be practising as a barrister reported feeling "very upset". The fact that an intervention by the Applicant was required necessarily introduced delay for clients of the Firm. The harm to the profession from such conduct was also significant. The Respondent's conduct represented a complete departure from the probity required of all solicitors. The Tribunal considered that such harm was entirely foreseeable.

41. The misconduct found proved included several different types of misconduct and was aggravated by the fact that two of the allegations included dishonest conduct. The misconduct was deliberate and extended over a considerable period of time. The Respondent knew, or ought to have known, that such actions were potentially harmful to the reputation of the legal profession.

42. In mitigation, the Respondent had raised personal circumstances including her health around the time of the investigatory interview and intervention. As set out above, no supporting medical evidence was provided, but the Tribunal gave due weight and consideration to the Respondent's account of her illness, pressure and the difficult personal circumstances she described. The Tribunal noted that the Respondent had no prior disciplinary findings against her.

43. The Tribunal did not consider that the Respondent had demonstrated any meaningful insight into her misconduct. Whilst she had not intended to cause any loss to any client, when giving evidence she appeared to regard the breaches and mistakes as minor and technical. The Tribunal did not share this assessment and considered the lack of insight heightened the continuing risk to the public.

44. The Tribunal had regard to the case of SRA v Sharma [2010] EWHC 2022 (HC), and the comment of Coulson J that, save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck of the Roll.

45. The Tribunal was not expressly invited to consider exceptional circumstances. The Tribunal did not consider that the personal circumstances raised by the Respondent, even had they been evidenced, were capable of amounting to exceptional circumstances. The Tribunal had regard to the Guidance Note on Sanctions. Paragraph

[53] of the Guidance Note on Sanctions summarised what amounts to exceptional circumstances drawing on the case of Sharma and SRA v James et al [2018] EWHC 3058 (Admin):

> *"In considering what amounts to exceptional circumstances: 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." (Sharma above).*
>
> *The exceptional circumstances must relate in some way to the dishonesty (James above)"*

46. The dishonesty was repeated improper transfers from the Firm's client account, including to a personal bank account, and attempts to arrange an improper payment to circumvent the terms of an intervention into her practice. The improper payments, found to be made knowingly, were made over a period of several months. The nature, scope and extent of the dishonesty comprised repeated improper transfers made over an extended period of time. The Tribunal had regard to the comments of Lord Justice Flaux in James at [113] that "*Pressure of work or of working conditions cannot ever justify dishonesty by a solicitor*". The Tribunal did not consider the matters raised by the Respondent related to the dishonest conduct nor amounted to exceptional circumstances (even had they been evidenced). The Tribunal was not persuaded that any exceptional factors were present such that the normal penalty would not be appropriate.

47. Having found that the Respondent acted dishonestly the Tribunal did not consider that a reprimand, fine or suspension were adequate sanctions. The Tribunal determined that the findings against the Respondent including dishonesty required that the appropriate sanction was strike off from the Roll.

Costs

48. The total costs claimed in the Applicant's schedule of costs dated 7 September 2020 was £51,954.40. Ms Bruce applied for these costs. In response to a query from the Tribunal, and having taken instructions, Ms Bruce confirmed that a reference in the schedule of costs to "work and advice around intervention into Firm" related to at most two and a half hours' of work.

49. Capsticks Solicitors' fixed fee was £34,000 and the Applicant's investigation and supervision costs were £10,554.40. Ms Bruce stated that given the time taken by Capsticks this fixed fee translated to a notional hourly rate of £95.70 per hour (including VAT). Ms Bruce stated that six witness statements had been taken, four other potential witnesses had been approached, there had been a Case Management Hearing and a Non-Compliance Hearing. Ms Bruce stated that nothing had been added to the schedule produced prior to the hearing to reflect the fact that an additional two days had been required. It was submitted that the costs claimed were reasonable.

50. The Respondent had not submitted any Statement of Means. She had made reference to being unable to afford legal fees and the need to practise in order to do so in the future but had produced no supporting evidence.

51. The Tribunal assessed the costs for the hearing. The Tribunal had heard the case and considered all of the evidence. The Tribunal considered that having regard to the level of documentation and the work necessarily involved in the Application, the costs claimed were reasonable in all the circumstances. Whilst two and a half hours had been included for work relating to the intervention which were not recoverable through the Tribunal proceedings, this sum was more than offset by the fact that no claim had been made on the Applicant's behalf for the costs involved in days four and five of the hearing.

52. The Respondent had not provided evidence to substantiate the statements she had made about her financial means. She had not provided comprehensive or evidenced information to inform the Tribunal's decision. In line with its Standard Directions, of which the Respondent had received a copy, the Tribunal consequently proceeded without regard to the Respondent's means. In any event, the Tribunal considered that as a legal regulator regulating in the public interest the Applicant was experienced in reaching workable instalment arrangements for the recovery of costs and that the Respondent's ability to pay would thereby be taken into account. The allegations had been of serious professional misconduct and multiple allegations, including two aggravating allegations of dishonesty, had been found proved. The Tribunal considered that in all the circumstances it was appropriate for the Respondent to pay the Applicant's reasonable costs. The Tribunal ordered the Respondent to pay the Applicant's costs of and incidental to this application fixed in the sum of £51,954.40.

Statement of Full Order

53. The Tribunal ORDERED that the Respondent, SHAZIA ANJUM, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £51,954.40.

Dated this 10th day of February 2021
On behalf of the Tribunal

JUDGMENT FILED WITH THE LAW SOCIETY
10 FEB 2021

W Ellerton
Chair