

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12121-2020

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

RIZWANA JAMIL

Respondent

Before:

Mr W Ellerton (in the chair)

Mr D Green

Mrs N Chavda

Date of Hearing: 14 – 16 December 2020

Appearances

Andrew Bullock, barrister, of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant.

Christopher Hamlet, barrister, of 23 Essex Street, 1 Gray's Inn Square, London, WC1R 5AA instructed by Steve Roberts, solicitor, of Richard Nelson LLP, 6 Cathedral Road, Cardiff, CF11 9LJ.

JUDGMENT

Allegations

1. The allegations against the Respondent, Rizwana Jamil, made by the SRA are that, while in practice as RJ Solicitors (“the Firm”):
 - 1.1 Between June 2015 and January 2019 she failed to progress a client matter and/or return the client’s documents in a timely manner, in breach of any or all of Principles 4, 5 and 6 of the SRA Principles 2011 (“the 2011 Principles”)
 - 1.2 In relation to the matter referred to in allegation 1.1, she provided false and misleading information to her client about the progress of the matter. In doing so she breached either or both of Principles 2 and 6 of the 2011 Principles.
 - 1.3 Between 20 April 2018 and 19 November 2019 she failed to comply with requests for information and documents from the SRA and/or its agents. In doing so she breached or failed to comply with any or all of Principles 6 and 7 of the 2011 Principles and Outcomes 10.6, 10.8 and 10.9 of the SRA Code of Conduct 2011.
 - 1.4 Between 29 November 2018 and 19 November 2019 she provided the SRA with false and misleading information in relation to an investigation. In doing so she breached one or all of Principles 2, 6 and 7 of the 2011 Principles.
 - 1.5 She provided false and misleading information in:
 - 1.5.1 a proposal form for Professional Indemnity Insurance dated 18 September 2018; and/or
 - 1.5.2 a proposal form for Professional Indemnity Insurance dated 29 August 2019
 in breach of either or both of Principles 2 and 6 of the 2011 Principles.
 - 1.6 Between January 2015 and 30 May 2020, when the SRA intervened into her Firm, she breached the SRA Solicitors Accounts Rules 2011 and the SRA Solicitors Accounts Rules 2019 in any or all of the following ways:
 - 1.6.1 She failed to maintain proper accounting systems, and proper internal controls over those systems, to ensure compliance with the relevant SRA Solicitors Accounts Rules.
 - 1.6.2 She failed to keep proper accounting records to show accurately the position regarding money held for each client, and failed to ensure that current balances on client ledger accounts were shown or were readily ascertainable.
 - 1.6.3 She failed to undertake client account reconciliations for periods after 9 January 2015, when required.
 - 1.6.4 She failed to obtain SRA Accountant’s reports in relation to the Firm for any period after 8 January 2014.

1.6.5 She failed to remedy or correct breaches of the Solicitors Accounts Rules promptly upon discovery.

1.6.6 Between 24 February 2020 and 10 March 2020 she made 207 transfers from client account to office account, totalling £134,393.40, but was unable to provide satisfactory supporting evidence for making such transfers at that time.

She thereby breached provisions of the Solicitors Accounts Rules from 2011 and 2019 as particularised below

- 1.7 By failing to comply with the SRA Solicitors Accounts Rules 2011 and 2019 detailed in allegation 1.6, she also breached or failed to comply with any or all of:
- 1.7.1 Principle 2 of the 2011 Principles (in relation to allegation 1.6.4 only);
- 1.7.2 Principle 6 of the 2011 Principles and/or, for events after 25 November 2019, Principle 2 of the SRA Principles 2019;
- 1.7.3 Her obligations as a Compliance Officer for Finance and Administration (COFA) under Rule 8.5 (e) of the SRA Authorisation Rules 2011 and, to the extent relevant after 25 November 2019, Rule 9.2 of the SRA Code for Firms 2019.
2. Allegations 1.2, 1.4, 1.5 and 1.6.4 are advanced on the basis that the Respondent's conduct was dishonest. Dishonesty is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the allegations.
3. In addition, and in the alternative for allegation 1.4, the allegations at 1.4 and 1.6 (taken together) are advanced on the basis that the Respondent's conduct was reckless. Recklessness is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the allegations.
4. In addition, and in the alternative to dishonesty, it is alleged that the allegations at 1.1 to 1.7, taken together, show manifest incompetence on the part of the Respondent.

Documents

- Rule 12 Statement dated 23 August 2020 and Exhibit JRL1.
- Respondent's Answer to the Rule 12 Statement dated 2 October 2020.
- Witness Statement of SK dated 16 November 2020.
- Respondent's (undated and unsigned) witness statement.
- Applicant's schedule of costs dated 7 December 2020

Preliminary Matters

The Respondent's Application

5. Mr Hamlet sought leave from the Tribunal to admit the Respondent's witness statement out of time. Mr Hamlet submitted that the importance of so doing was self-

evident in that the Respondent was the only witness to provide oral evidence to the Tribunal (as all of the Applicant's witness evidence had been agreed). He further submitted that the Respondent's witness statement would assist the Tribunal as it would essentially stand as the majority of her evidence in chief and would demonstrably narrow the issues between the parties which would save the Tribunal time.

6. Mr Hamlet submitted that no prejudice would be caused to the Applicant by the admission of the Respondent's witness statement which was consistent with and elaborated on the tenor of her Answer to the Rule 12 Statement.

The Applicant's Position

7. Mr Bullock, having been given time by the Tribunal to read the Respondent's witness statement, did not oppose the application but averred that it was unsatisfactory that the application was being made on day 1 of the substantive hearing.

The Tribunal's Decision

8. The Tribunal considered the unopposed application for leave to admit evidence out of time. The Tribunal found that the lateness of the application was regrettable but was reassured by the parties' submissions that the Respondent's witness statement was closely aligned with her Answer to the Rule 12 Statement. Cognisant of that fact the Tribunal was satisfied that no prejudice would be caused to the Applicant and that it was in the interests of justice to grant leave to admit the Respondent's witness statement out of time.
9. The Tribunal therefore granted the application.

Factual Background

10. The Respondent, was admitted to the Roll in October 2001. At all material times, and from 2008, she was trading as RJ Solicitors ("the Firm"), in Bradford, West Yorkshire and was the only solicitor fee earner until 2013.
11. The Respondent held all relevant formal managerial roles at the Firm and was the Compliance Officer for Legal Practice ("COLP") as well as the Compliance Officer for Financial Administration ("COFA").
12. Client P instructed the Firm in June 2015 to make an application on her behalf to the Home Office for discretionary leave to remain in the United Kingdom. The Respondent took instructions from Client P and was the fee earner with conduct of the matter assisted by a paralegal (SK). On 13 November 2015 SK left the Firm having gained alternative employment.
13. In September 2017 Client P was so concerned at the lack of progress of her application. She made a complaint to the Firm in that regard on 8 September 2015 in the following terms:

“...I have brought my immigration case to you back in June 2015 and on/or about 12 or 13 June 2015 you submitted it with the Home Office, however since the submission of my case the Home Office has not debited my account til (*sic*)today. I am very concerned about my case and I do not get an update from you either nor do I have a letter from you to state what has happened or is going to happen, in the simplest of words I have no clue on the progress of my case. I never get an update or a call that If you have chased the Home Office regardless of receiving copies of your letters to the Home Office or the replies of the Home to that matter, It has been almost 25 months on this case and I am lost to words in knowing what is happening and I am told that even the legacy cases do not take this long whilst my case was is one that was pretty much straightforward...”

14. Further complaints were made by Client P to the Firm on 24 January, 8 and 14 February 2018. Client P reported the Respondent to the Applicant on 15 February 2018 broadly on the terms that the Respondent (a) had informed her that her immigration application was progressing with the Home Office when it was not and (b) had not responded to requests for her file or papers, including her passport. On 17 April 2018 Client P made a complaint to the Legal Ombudsman in relation to the Respondent.
15. The Applicant undertook a desk-based investigation into the Firm from April 2018 until late November 2019 and requested information from the Respondent through correspondence and a formal production notice. An “Explanation of Conduct” letter was sent to the Respondent on 21 May 2019 seeking her response to allegations regarding (a) misleading correspondence she had sent, (b) failure to supervise SK and (c) failure to provide information upon request of the Applicant. The Respondent replied on 24 June 2019 and broadly stated that:
 - SK was not formally employed by the Firm.
 - SK did not have a contract of employment.
 - Client P provided debit card details (as opposed to a cheque) to pay the application fee for discretionary leave to remain.
16. A second “Explanation of Conduct” letter was sent to the Respondent on 5 November 2019 seeking her response to further allegations of dishonesty. The Respondent replied on 19 November 2019 and broadly stated that she:
 - Accepted that Client P had been misled about the progress of her application;
 - Denied dishonesty in relation to communications with Client P – stating that she genuinely believed at the time of communicating that the application had been submitted by SK. The Respondent accepted that she should have contacted the Home Office to check the position but said she relied on SK’s verbal assurances.
 - Denied misleading the Applicant or its agents with regards to the fee earner with conduct of Client P’s matter.

17. On 11 December 2019 an on-site Forensic Investigation of the Firm commenced by a Forensic Investigation Officer (“the FIO”) and a report dated 7 February 2020 was produced (“the FIR”).
18. On 27 February 2020 the Applicant’s Investigation Officer (“IO”) finalised a report recommending intervention into the Respondent’s practice and referral of her conduct to the Tribunal. The Respondent’s solicitor provided representations on her behalf on 11 March 2020 in which some admissions were made. After a supplemental report which considered those representations a Panel of Adjudicators decided (“the first decision”) on 17 March 2020 to refer the conduct of the Respondent to the Tribunal, but not at that stage to intervene into her practice.
19. A further supplemental report was prepared by the Applicant’s IO on 27 April 2020, which summarised and exhibited correspondence from the intervening period since the first decision. The Respondent submitted further documents and representations on 1 May 2020 when a panel of the Applicant’s Adjudicators resolved to intervene into the practice of the Respondent at the Firm. The Respondent’s practising certificate was suspended as a result of the intervention and remained suspended as at the date of the substantive hearing.

Witnesses

- The Respondent.

Relevant Legal Framework

Integrity (Principle 2)

20. When the Tribunal was required to consider whether the Respondent’s conduct amounted to a lack of integrity it applied the test promulgated in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366 by Jackson LJ at [100] namely:

“Integrity connotes adherence to the ethical standards of one’s own profession. That involves more than mere honesty. To take one example, a solicitor conducting negotiations or a barrister making submissions to a judge or arbiter will take particular care not to mislead. Such a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse.”

Dishonesty

21. When required to do so the Tribunal applied the test promulgated in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 at [74] namely:

“When dishonesty is in question the fact finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to

knowledgeable belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

Recklessness

22. When required to do so the Tribunal applied the test promulgated in Brett v SRA [2014] EWHC 2974 (Admin), Mr Justice Wilkie held that the settled criminal test for recklessness applied equally to professional regulatory matters namely:

“...with respect to (i) a circumstance when he is aware of a risk that it exists or will exist and (ii) a result when he is aware that a risk will occur and it is, in circumstances known to him, unreasonable for him to take the risk...”

Manifest Incompetence

23. When required to do so the Tribunal had regard to Iqbal v Solicitors Regulation Authority [2012] EWHC] 3251 in which the President of the Queen’s Bench Division said:

“...It seems to me that trustworthiness also extends to those standards which the public are entitled to expect from a solicitor, including competence. If a solicitor exhibits manifest incompetence as, in my judgment, the appellant did, then it is impossible to see how the public can have confidence in a person who has exhibited such incompetence. It is difficult to see how a profession such as the medical profession would countenance retaining as a doctor someone who had shown himself to be incompetent. It seems to me that the same must be true of the solicitors profession. If in a course of conduct a person manifests incompetence as, in my judgment, the appellant did, then he is not fit to be a solicitor. The only appropriate remedy is to remove him from the roll. It must be recalled that being a solicitor is not a right, but a privilege. The public is entitled not only to solicitors who behave with honesty and integrity, but solicitors in whom they can impose trust by reason of competence.

Findings of Fact and Law

24. The Applicant was required to prove the allegations on a balance of probabilities. 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.
25. The written evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to the facts 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 submissions. 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.

26. **Allegations 1.1 - Failure to progress Client P's application for discretionary leave to remain**

The Applicant's Case

26.1 In June 2015, Client P instructed the Respondent in relation to an application for discretionary leave to remain in the United Kingdom. The Respondent took Client P's instructions and completed the application form. The Respondent confirmed in interview with the FIO that she was the fee-earner on the file with ultimate responsibility for lodging Client P's application to the Home Office. The application was not submitted to/received by the Home Office.

26.2 Despite the fact that no application had been submitted to/received by the Home Office the Respondent wrote to Client P in the following terms:

On 25 April 2017:

"...I can confirm that the application is still being considered by the Home Office under the rules relating to discretionary leave to remain ...please obtain a letter from your child's school or GP confirming that your son ... currently resides with you and that you are responsible for his care. This letter has been requested by the Home Office (*emphasis added*) ...

I also understand that you...may wish to apply for carers allowance...Please forward this letter to confirm your current immigration position..."

On 21 August 2017:

"... I can confirm that the application is still being considered by the Home Office under the rules relating to discretionary leave to remain ...

I also understand that you...may wish to apply for carers allowance...Please forward this letter to confirm your current immigration position..."

26.3 An undated letter addressed "To Whom it may Concern" was provided to Client P. That letter purported to confirm that the Respondent/her Firm had submitted Client P's application for discretionary leave to remain to the Home Office. In an interview with the FIO on 20 December 2019, the Respondent stated that the purpose of the undated letter was to enable Client P to:

"... prove to third parties that an application had been made..."

26.4 On 8 September 2017, Client P complained to the Respondent and raised further concerns regarding the lack of progress of her application having not seen correspondence to or from the Home Office. Client P requested a written update and a copy of her file. Client P subsequently instructed new solicitors who, on 3 October 2017, wrote to the Respondent further requesting a copy of Client P's file and all work undertaken on her behalf. The Respondent did not comply with any of those requests.

- 26.5 On 24 January 2018 and 14 February 2018 Client P sent further complaints to the Respondent which (a) asserted that the Respondent had not replied to her (or her new solicitors), (b) set out the difficulties faced by Client in not having a legal status in the UK, (c) asked the Respondent to “come clean with me to advice (sic) me what you really did with my case” and (d) put the Respondent on notice of a proposed negligence claim and likely complaints to the Applicant and the Legal Ombudsman.
- 26.6 By 15 February 2018, the Home Office had confirmed to Client P that they had not received any application on her behalf since 2012. Further correspondence took place between Client P and the Respondent between 15 February and 17 May 2018 including the following emails:
- On 15 February 2018 the Respondent acknowledged Client P’s complaints and stated that:

“... I can reassure you that I will contact the Home Office and locate your file of papers and provide you with a written response within the next 7 days... I will ensure that your case is progressed expeditiously and a decision is made at the earliest convenience of the Home Office...”
 - On 9 March 2018, in response to chaser emails from Client P, the Respondent stated:

“...By way of an update I can confirm that an appointments (sic) for your biometrics will now be posted out by the Home Office within the next 20 working days. They may post it directly to your home address ... If I receive it, I will forward to you immediately...”
- 26.7 On 30 November 2018, the Respondent stated, in an email to KP (Investigating Officer employed by the Applicant), that she had contacted the Home Office and been advised that there was no record of any application being received.
- 26.8 The Respondent contradicted that assertion in her interview with the FIO on 20 December 2019 in which she stated that (a) she had not contacted the Home Office, to find out about the progression of the application, “because...in hindsight I should have. I just put it off because it’s so hard to get in touch with the Home Office and sometimes you’re holding for hours...”, (b) she did not refer to the file when writing the letters [in 2017] as “there was no file” and (c) the wording of the letters was predicated on Client P “[wanting] these letters as confirmation because she wanted to show other third parties that obviously there was something that she’s instructed us to sort out her immigration...”
- 26.9 It was not until 3 January 2019 that the Respondent sent Client P’s original documents and underlying papers to her new solicitors.
- 26.10 Mr Bullock submitted that the Respondent failed to progress Client P’s application for discretionary leave to remain in that she did not ensure that the application was lodged and nor did she contact the Home Office, having not received an acknowledgment of the application, at any time. Instructions were taken from Client P in June 2015, and

numerous enquiries as to the progress of the application were made by Client P from April 2017, which the Respondent responded to without having checked the status with the Home Office. Despite Client P advising the Respondent in February 2018 that the Home Office had no application in her name since 2012, the Respondent did not confirm that position until November 2018.

Principle Breaches

26.11 Principle 4: -You must act in the best interests of each client

26.11.1 Mr Bullock submitted that a solicitor acting in the best interests of their client would ensure the client's time-sensitive matter is properly progressed over a period of years as well as the solicitor responding appropriately and in a timely manner to requests for the return of the client's documentation.

26.11.2 Mr Bullock submitted that the Respondent did neither of the above. She failed to progress Client P's immigration matter at all and took over a year to provide any substantive response to Client P and/or her new solicitors' requests for the return of underlying documents. Mr Bullock therefore contented that the Respondent's conduct breached Principle 4.

26.12 Principle 5: -You must provide a proper standard of service to clients

26.12.1 Mr Bullock submitted that for the reasons set out above (in relation to Principle 4) the Respondent's conduct breached Principle 5.

26.13 Principle 6: -You must behave in a way that maintains the trust the public places in you and in the provision of legal services

26.13.1 Mr Bullock submitted that the public instructs solicitors to handle sensitive and important matters for them. The solicitor is trusted to undertake the matter in a professional and responsible manner. The Respondent, in failing to make any progress at all with Client P's matter and failing to respond to her requests for the return of her documentation and matter file in a timely manner, breached Principle 6.

The Respondent's Position

26.14 The Respondent admitted the factual matrix of Allegation 1.1 and the breach of Principles 4, 5 and 6.

The Tribunal's Findings

26.15 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.

26.16 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.1, breach of Principles 4, 5 and 6 proved on a balance of probabilities.

27. Allegation 1.2 - Providing misleading and false information to Client P

The Applicant's Case

27.1 Mr Bullock submitted that the Respondent provided Client P with information that was misleading and false on four occasions namely:

Letter dated 25 April 2017

“...I can confirm that the application is still being considered (*emphasis added*) by the Home Office ... This letter [from Mrs P's child's school or GP] has been (*emphasis added*) requested by the Home Office...”

Letter dated 21 August 2017

“... I can confirm that the application is still being considered (*emphasis added*) by the Home Office...”

Undated letter “To Whom it May Concern”

“...This application has been submitted to the Home Office (*emphasis added*)...”

Email dated 9 March 2018

“... I can confirm that an appointment for your biometrics will now be posted out by the Home Office within the next 28 days (*emphasis added*)...”

27.2 Mr Bullock submitted that each and every statement relied upon was misleading and false in light of the fact that (a) no application had been lodged with the Home Office, (b) no acknowledgment was therefore received from the Home Office and (c) there were no communications whatsoever to or from the Home Office in respect of Mrs P's matter.

27.3 Mr Bullock further submitted that the Respondent was aware of or turned a blind eye to each and every one of those factors at the material time. Notwithstanding that fact she wrote to Client P in terms which gave the impression that an application had been lodged, provided her with a letter to that effect for Client P to furnish third parties with and falsely advised Client P that the Home Office was arranging biometrics testing.

Principle Breaches

27.4 Principle 2:-You must act with integrity

27.4.1 Mr Bullock submitted that by repeatedly providing Client P with unchecked, incorrect and misleading information, regarding the position and progress of

her immigration matter, the Respondent failed to act with integrity, i.e. with moral soundness, rectitude and a steady adherence to an ethical code in that she:

- Had not engaged in any correspondence with the Home Office.
- Had not contacted the Home Office to check the position on her own admission in the FIO interview on 20 December 2020.
- Repeatedly provided false and misleading information about the progress of Client P’s matter in circumstances where she understood the purpose was partly for her to “prove” to third parties that an application was progressing when it was not.
- Provided, within the communications on 25 April 2017 and 9 March 2018, positive assertions of specific information supposedly requested by the Home Office and/or of specific actions supposedly taken by the Home Office when there was no basis for making any such statements.

27.4.2 Mr Bullock addressed the assertions made by the Respondent during the course of the investigation in which she stated at the material time she “genuinely thought in 2017 that the application was with the Home Office”. Mr Bullock submitted her contention that she delegated the task of lodging Client P’s application to a paralegal (SK) who she relied upon was no proper basis for making positive (but false) assertions in 2017 and 2018. The Respondent had not see any correspondence from the Home Office at any time in relation to Client P. She had no basis for making positive claims on 25 April 2017 and 9 March 2018 that the Home Office had made active requests or had taken active steps in relation to Client P.

27.4.3 Mr Bullock therefore submitted that the Respondent’s conduct breached Principle 2.

27.5 Principle 6: - You must behave in a way that maintains the trust the public places in you and in the provision of legal services

27.5.1 Mr Bullock submitted that the public, both as clients and third parties, trust information provided by a solicitor to be strictly truthful and accurate and not false or misleading. The Respondent’s conduct, in providing false and misleading information to Client P (and potentially thereby to third parties) undermined the trust the public placed in her as a solicitor and in the provision of legal services generally, contrary to Principle 6.

The Respondent’s Position

27.6 The Respondent admitted the factual matrix of Allegation 1.2 and the breach of Principle 6. She denied that her conduct demonstrated a lack of integrity contrary to Principle 2.

- 27.7 The Respondent asserted that between 2013 and 2015 the Firm “engaged” a paralegal (SK) who was the daughter of a family friend. The “engagement” of SK was initially informal by way of unpaid work experience but that was subsequently formalised in that she became a contracted employee of the Firm. The Respondent averred that there came a time when SK asked, and was permitted, to assist the Respondent in relation to immigration matters. SK assisted the Respondent in relation to “2 or 3 other immigration” cases prior to the Client P matter.
- 27.8 The Respondent accepted that she took instructions from Client P in June 2015. She asserted that thereafter she “passed the file” to SK to complete the application which was then “passed back” to her. The Respondent then met with Client P, confirmed the accuracy of the content of the application and signed the same.
- 27.9 The Respondent stated that she gave SK all of Client P’s paperwork and instructed her to submit the same to the Home Office for processing. The Respondent asserted that “it was my understanding that this had been done by SK and [the Respondent’s] recollection [was] that she [SK] confirmed she had done it”.
- 27.10 With regards to the letter written to Client P in April 2017, the Respondent stated that it was written in that way based upon her previous experience in immigration matters. She asserted that the Home Office routinely sought confirmation from the school or GP of any dependents impacted by the application for discretionary leave to remain. The Respondent averred that her reason for making a request for such confirmation from the school or GP was pre-emptive on the part of the Respondent as she “knew it would be requested by the Home Office once the application had been considered”. The Respondent stated that at that time she believed that the application had been submitted.
- 27.11 With regards to the letter written to Client P in August 2017, the Respondent stated that, at the material time, she still believed that the application was under consideration by the Home Office. She was not concerned at the time that had elapsed as “it was not unusual for them to take some time to make any decision”. The Respondent asserted that decisions around the immigration rules, where an exercise of discretion was deployed by the Home Office, took much longer as they were not time sensitive.
- 27.12 The Respondent maintained that at all material times she believed that SK had submitted the application to the Home Office. However, the Respondent accepted that she did not refer to Client P’s file before drafting any of the letters sent. The Respondent accepted that, with the benefit of hindsight, the information provided to Client P in each of the communications relied upon by the Applicant was inaccurate in that “the application had not been received by the Home Office”.
- 27.13 Mr Bullock put to the Respondent in cross examination that the content of her communications to Client P in circumstances when she had not verified the position with the Home Office was “unwise”. The Respondent stated that it was reckless and manifestly incompetent but reiterated that she had no reason to believe that Client P’s application had not been submitted. The Respondent maintained that her conduct did not lack integrity.

The Tribunal's Findings

- 27.14 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 27.15 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.2 and the breach of Principle 6 proved on a balance of probabilities.
- 27.16 In determining whether the Respondent's conduct amounted to a lack of integrity, the Tribunal applied the principles promulgated in Wingate to the established facts. The Respondent accepted that she was the fee earner on the Client P matter in respect of which instructions were taken in June 2015. The Respondent accepted that, having received queries from Client P some two years later in 2017, she replied to those queries without having checked the matter file. The Respondent accepted that there was no acknowledgment of the application, nor any request from the Home Office for a letter from the dependant's school or GP and that she made those positive requests and assertions based upon her previous experience of immigration matters. The Respondent relied upon the alleged verbal assurance from SK, an unqualified paralegal, that the application had been submitted to the Home Office. The Respondent took no steps to verify that position despite being an experienced solicitor who had run her own Firm since 2008.
- 27.17 The Tribunal found that the Respondent's communications to Client P were predicated on assumptions as opposed to fact. The Tribunal further found the Respondent's evidence that SK had responsibility for the day to day conduct of the matter to be disingenuous; she was the qualified fee earner and the delegation of tasks to SK did not absolve the Respondent from overall responsibility.
- 27.18 The Tribunal determined that no solicitor acting with integrity would write to a client in the terms that the Respondent did without undertaking the fundamental task of checking the file to ensure the accuracy of what was being relayed.
- 27.19 The Tribunal therefore found the allegation that the Respondent lacked integrity and breached Principle 2 proved on a balance of probabilities.
28. **Allegations 1.3 - Failure to reply to the Applicant's requests for information/documents**

The Applicant's Case

- 28.1 Mr Bullock submitted that between 20 April 2018 and 29 August 2018, the Applicant requested information and documents from the Respondent in relation to Client P's matter on the following dates:
- 20 April 2018:
Email from the Applicant's Investigating Officer which required a response within 14 days.
 - May 2018:

A follow up email from the Investigating Officer which required a response by 25 May 2018.

- August 2018:
Letter from Fieldfisher LLP (on behalf of the Applicant) which asked the Respondent to provide the information and documents requested “as soon as [she] can”.
- 29 August 2018:
A follow up email from Fieldfisher LLP to the Respondent which required a response by 5 September 2018.

- 28.2 The Respondent failed to respond to any of the requests for information/documents which led, on 31 October 2018, to the Applicant serving a formal Production Notice pursuant to Section 44B of the Solicitors Act 1974, which the Respondent had to comply with by 14 November 2018.
- 28.3 The Respondent did not reply until 29 November 2018, as a consequence of further emails and telephone calls by the Applicant on 16 November 2018 and 28 November 2018, in which the Respondent stated:

“... Sincere apologies for not replying earlier. I have now located the file [Client P’s file] and will email a full response to you within the next 48 hours...”

Principle Breaches

- 28.4 Principle 6: - You must behave in a way that maintains the trust the public places in you and in the provision of legal services

28.4.1 Mr Bullock submitted that the Respondent undermined the trust vested in her and in the profession by failing to engage properly with the Applicant in relation to the supply of the information requested by the Applicant and in ensuring that the information provided was accurate. He therefore submitted that the Respondent breached Principle 6.

- 28.5 Principle 7: - You must comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner.

28.5.1 Mr Bullock submitted that the Respondent failed on all counts in that she repeatedly failed to respond to requests for information/documentation relating to Client P. He further submitted that when the Respondent did respond she failed to do so in an open, timely or co-operative manner in breach of Principle 7.

- 28.6 Outcomes not met

Outcome 10.6: - You cooperate fully with the SRA and Legal Ombudsman at all times including in relation to any investigation about a claim for redress against you.

Outcome 10.8:- You comply promptly with any written notice from the SRA

Outcome 10.9: - Pursuant to a notice under Outcome 10.8 you:

- a) Produce for inspection by the SRA documents held by you, or held under your control
- b) Provide all information and explanations requested
- c) Comply with all requests from the SRA as to the form in which you produce any documents you hold electronically, and for photocopies of any documents to take away; in connection with your practice or in connection with any trust of which you are, or formerly were, a trustee.

28.6.1 Mr Bullock reminded the Tribunal that the Respondent initially failed to respond to the Applicant's enquiries regarding Client P for over 7 months. She then failed to provide a full response to the Production Notice by failing to provide copies of the draft application or any of the correspondence between herself and Client P or Client P's representatives, and on occasion failed to respond at all.

28.6.2 Mr Bullock therefore submitted that the Respondent failed to cooperate fully with the Applicant at all times and in so doing failed to achieve Outcomes 10.6, 10.8 and 10.9.

The Respondent's Position

28.7 The Respondent admitted the factual matrix of Allegation 1.3, and breaches of Principles 6 and 7 and a failure to meet Outcomes 10.6, 10.8 and 10.9.

The Tribunal's Findings

28.8 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.

28.9 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.3, including the breaches of Principles 6 and 7 and the failure to meet Outcomes 10.6, 10.8 and 10.9 proved on a balance of probabilities.

29. **Allegation 1.4 - Between 29 November 2018 and 19 November 2019 she provided the Applicant with false and misleading information in relation to an investigation.**

The Applicant's Case

29.1 The Respondent eventually responded to the Applicant's requests for information/documents on 30 November 2018. That response did not, Mr Bullock submitted, properly or fully respond to information sought in the Production Notice. Mr Bullock relied upon the following paragraphs of that response to support the contention that it contained false and misleading information:

“ ...

- [2] ...A paralegal [SK] at the Firm was given the documentation to complete and submit the application...
- [6] ... Unfortunately there was no handover of files etc. and I had to go through all her [SK's] files.
- [7] This particular application was on file with a copy of the application, copy of the passport and other documents.
- [8] Having not received an acknowledgement from the Home Office, I contacted them and was advised that there was no record of the application been received.
- [9] Having checked the bank account, it was confirmed that the cheque [for the Home Office application fee] had not been cashed...”

29.2 Mr Bullock submitted that the Respondent's assertions implied that SK was the fee earner on Client P's matter which was not the case; [6] sought to add credence to the primary assertion that SK held the file when she did not; [8] was false and the Respondent knew that it was so having confirmed the same in interview with the FIO on 11 December 2019 by stating that she did not contact the Home Office but should have and [9] was false as the application made plain that the issue fee was payable by Client P's debit/credit card as details of which were given on the form.

29.3 On 5 February 2019 the Respondent replied to a letter from Capsticks who were instructed by the Applicant to issue enforcement proceedings against the Respondent due to non-compliance with the production notice. In that response the Respondent stated:

“ ...

- [1] There is no file available to copy and produce. As previously advised to the SRA, all I had was the client's original documents including her passport which I managed to retrieve. All these original documents have been posted out by special delivery to her new solicitors, My UK Visas upon their request...
- [4] No application was submitted, therefore there are no copies to provide...”

- 29.4 Mr Bullock submitted that the Respondent's assertions at [1] were false in light of the fact that the Respondent was able to produce Client P's file to the FIO on 20 December 2020 during an inspection at the Firm.
- 29.5 On 1 March 2019 the Respondent emailed Capsticks to answer queries raised with regards to the inconsistencies in the positions she had advanced. In that email the Respondent stated:
- “... The position did not change...the file of papers referred to as being retrieved was in fact the original documents belonging to the client including her passport...There were no other papers...”
- 29.6 On 29 August 2019, in an email to the Investigating Officer, the Respondent admitted the allegations raised in the Applicant's letter dated 21 May 2019 in particular that she had provided contradictory information regarding Client P's file.
- 29.7 On 20 December 2019, during an interview with the FIO, the Respondent produced a copy file of documents which included an unsigned draft of Client P's application for discretionary leave to remain as well as the misleading correspondence that she sent to Client P regarding the inaccurate status of her application. The FIO enquired of the Respondent why she had stated that there was no copy application when she plainly held the unsigned draft to which the Respondent replied; “...it was completed, yeah. And maybe at the time I didn't have that application. I can't recall why I wrote that...”
- 29.8 Mr Bullock therefore submitted that, for over a year, the Respondent failed to accurately respond to requests for information or documents relating to Client P's file, and at times provided false and misleading responses.
- 29.9 With regards to the employment status and role of SK within the Firm the Respondent initially stated, on 30 November 2018, that Client P's matter and correspondence in relation thereto had been dealt with by a paralegal, who had subsequently left the Firm without notice.
- 29.10 The Applicant posed further questions of the Respondent in that regard and the Respondent provided the following inaccurate and contradictory information:
- In an email dated 24 June 2019 the Respondent stated that (a) she held no details in relation to SK other than her name, (b) SK was not formally employed by the Firm, (c) SK undertook work experience at the Firm then proceeded to work there on a flexible basis for three days per week and (d) SK did not have a contract of employment with the Firm.
 - In an email dated 29 August 2019 the Respondent reiterated that she held no paperwork in relation to SK's employment which was on a “flexible trial basis”.
 - In an email dated 19 November 2019 the Respondent denied that her previous assertions regarding who had conduct of Client P's matter were misleading. The Respondent provided bank statements (December 2014, January 2015 and April/May 2015) which showed end of month payments made by the Firm to SK.

The Respondent failed to respond to the Applicant's allegation that she had misled the Applicant in the answers given to date.

- In interview with the FIO at the Firm on 20 December 2018 the Respondent (a) confirmed that she, as opposed to SK, was the fee earner with conduct of the Client P matter, (b) confirmed that she completed Client P's application as opposed to SK, (c) stated that the only documents she held in relation to SK's employment were the bank statements previously disclosed and (d) there were no further documents regarding SK's status/role within the Firm "...because she wasn't on my payroll". Later, on 20 December 2018, the Respondent produced SK's personnel file which contained a contract of employment dated 1 August 2014, SK's curriculum vitae which provided that SK commenced employment at the Firm in "2013" and SK's identification documents. The Respondent sought to explain the contradictory assertions she had made by stating that SK's personnel file had been in a filing cabinet specifically used for staff documentation, but that she had not previously checked this cabinet.
- On 23 December 2019 the Respondent provided further bank statements which showed end of month payments to SK from May – August 2015.

29.11 In addition to the contradictory responses given by the Respondent to the Applicant, the Respondent failed to respond sufficiently or at all to enquiries made by the Applicant on 24 September 2019 and 16 January 2020.

29.12 Mr Bullock submitted that the Respondent provided misleading and incorrect information to the Applicant over a period of approximately six months, in relation to SK's involvement in Client P's matter and SK's employment status at the Firm.

Principle Breaches

29.13 Principle 2:- You must act with integrity

29.13.1 Mr Bullock submitted that by providing the Applicant with false and misleading information, the Respondent failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code.

29.13.2 The Applicant required the Respondent to provide information and documents regarding her handling of Client P's matter and SK's employment. When the Respondent did begin to reply, she had already received over a year of complaint correspondence from Client P and initial communications from the Legal Ombudsman on the matter. She also held details relating to SK within a designated personnel filing cabinet yet she repeatedly asserted that she held no documents.

29.13.3 Mr Bullock submitted that a solicitor acting with integrity would have been open, transparent and accurate in the provision of information to the Applicant providing copies of documentation requested and explanations as required.

29.13.4 Mr Bullock therefore submitted that by failing to do so and instead providing false and/or misleading information to the Applicant, the Respondent had breached Principle 2.

29.14 Principle 6: -You must behave in a way that maintains the trust the public places in you and in the provision of legal services

29.14.1 Mr Bullock submitted that the conduct alleged undermined the trust vested in solicitors and the profession by the public who would expect solicitors, upon enquiry from the Applicant, to provide information that is strictly true and accurate irrespective of the potential consequences.

29.14.2 Mr Bullock therefore submitted that the Respondent breached Principle 6.

29.15 Principle 7:-You must comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner.

29.15.1 Mr Bullock submitted that the Respondent's contradictory, delayed and incomplete responses to the Applicant rendered her in breach of Principle 7.

The Respondent's Position

29.16 The Respondent admitted the factual matrix of Allegation 1.4 and breaches of Principles 6 and 7. The Respondent denied that her conduct was in breach of Principle 2.

29.17 The Respondent acknowledged that following Client P's complaint to the Applicant she received "various correspondence from them (and their agents) requesting information regarding the [Client P] matter". She stated that she "dealt with the [Applicant's] correspondence [herself]" and did not have any help in preparing the responses at all. "I had not disclosed the [Applicant's] investigation to anybody at the Firm other than my sister (who was my PA)".

29.18 The Respondent further acknowledged that she did not provide the information requested in a timely manner. Her delay was borne out of distress and panic; she essentially "buried her head in the sand and hoped that it would all go away". The Respondent asserted that, with the benefit of hindsight, she recognised that her approach to the investigation was wrong and stated that "had I been thinking clearly I would have sat down and properly reviewed everything, I would have been able to provide a proper response. I acknowledge that I did not do this and provided information in a haphazard manner".

29.19 The Respondent explained that the Firm moved offices in early 2018 and that the filing was in a state of disarray. Her panic was exacerbated by that fact as she could not find all of the information sought by the Applicant. The Respondent averred that, in hindsight, she should have "engaged somebody to help [her] respond to the Applicant in a thorough and productive manner". The Respondent maintained that at that time she was not "focussing on anything properly".

The Tribunal's Findings

- 29.20 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 29.21 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.4 and breach of Principles 6 and 7 proved on a balance of probabilities.
- 29.22 In determining whether the Respondent's conduct amounted to a lack of integrity, the Tribunal applied the principles promulgated in Wingate to the established facts. The Respondent was required to provide information to her regulator, the Applicant, during the course of a formal investigation into her conduct. Whilst the Tribunal recognised that such an investigation caused inevitable stress and anxiety, that did not vitiate the fundamental obligations on Respondent to be open, candid, clear and accurate in responses given. The Tribunal did not accept the Respondent's assertions that the office move, disarray of files or the panic she felt exonerated her from that fundamental obligation.
- 29.23 The Tribunal found that a solicitor acting with integrity would recognise the duty incumbent upon them not to provide false or misleading information to the Applicant during the course of an investigation. A solicitor acting with integrity would have and should have taken steps to ensure the accuracy of any information provided.
- 29.24 The Tribunal determined that the Respondent made a number of false and misleading statements to the Applicant during the course of its investigation
- 29.25 The Tribunal therefore found the allegation that the Respondent lacked integrity and breached Principle 2 proved on a balance of probabilities.

30. **Allegation 1.5: - Provided false and misleading information in:**

1.5.1 a proposal form for Professional Indemnity Insurance dated 18 September 2018; and/or

1.5.2 a proposal form for Professional Indemnity Insurance dated 29 August 2019

The Applicant's Case

Allegation 1.5.1 - 2018 AON Proposal Form

- 30.1 On 18 September 2018, the Respondent completed and signed an AON PII Proposal Form. Under the section "Claims and Material Facts", the proposal form asked the following question:

"...After making full enquiries of all Principals and employees in your practice, are you aware of any circumstances, incidents, or claims that have not been reported and acknowledged by AON Claims Solutions (including any letters of complaint about your service?.."

- 30.2 The Respondent answered “No” despite the fact that she had received and responded to complaints from Client P for over a year (2017-2018) regarding her application for discretionary leave to remain. Client P included a specific reference, on 24 January 2018, to the potential negligence of the Respondent in respect of which Client P was considering whether to issue a claim. Additionally, in April 2018 the Respondent was sent notification of a complaint lodged by Client P with the Legal Ombudsman.
- 30.3 As part of the AON proposal form, the Respondent signed a declaration to the effect that she understood her legal duty to make a fair presentation of the risk to be insured and that all facts provided were true or substantially true. The Respondent confirmed that she was not aware of any claim or circumstance which may give rise to a loss being sustained or claim being made, where such had not previously been notified to insurers.
- 30.4 On 16 January 2020, the FIO asked the Respondent to explain her response and declaration in the proposal to AON. The Respondent replied saying: “...This was a total oversight. It was an honest mistake...”
- 30.5 Mr Bullock submitted that the Respondent’s assertions did not stand up to scrutiny and it was plain that she knowingly provided false and misleading information on the AON proposal form.

Allegation 1.5.2 - 2019 LegalEx proposal form

- 30.6 On 29 August 2019, the Respondent signed and completed a LegalEx proposal form for the subsequent period and provided the following responses to questions posed:

Question	Respondent’s Answer
a) In the last 10 years has any Partner, Director in the practice: Practised in a Firm subject to an investigation or intervention by the Solicitors Regulation Authority?	No
b) In the last 10 years has any Partner, Director in the practice: Had an award for inadequate professional service made against him or her by the Legal Ombudsman?	No
c) Are you aware of any circumstances, allegations, shortcomings or expressions of dissatisfaction which could give rise to a claim being made against you?	No
d) Is there any dual control over electronic funds transfer so that no one person can transfer money without the knowledge of the other?	Yes

- 30.7 The Respondent also signed a declaration which confirming that;

“... to the best of her knowledge and belief the particulars and statements given...and information provided...are true and complete...”

... if she was in any doubt whether a fact may influence an insurer she should disclose it...”

30.8 Mr Bullock reminded the Tribunal that by 29 August 2019, the Respondent had been in correspondence with the Applicant for some time about the ongoing investigation regarding Client P’s matter, most significantly:

- The Production Notice of 23 October 2018 and follow up correspondence expressly refer to an investigation.
- On 21 May 2019, when the Applicant formally raised various initial allegations against the Respondent.
- On the very same day that she completed and signed the Legal Ex proposal form, 29 August 2019, the Respondent made admissions to the Applicant regarding serious allegations, including having breached Principle 2 (integrity) and Principle 6 (Public trust).

30.9 Furthermore, the Respondent had been in correspondence with the Legal Ombudsman in particular the Case Decision on 21 March 2019, in which the Respondent was directed to pay compensation to Client P as a consequence of the “...huge impact the poor service has had on her day to day life over a prolonged period of time..”.

30.10 On 29 August 2019 the Respondent provided the Applicant with a copy of the Case Decision yet, on the very same day, she failed to disclose the Legal Ombudsman investigation and outcome on the LegalEx proposal form.

30.11 On 11 December 2019, the Respondent confirmed to the FIO that she was the sole signatory on office and client bank accounts, confirming that she was the only person who could execute internal and external payments and that a dual control system was not in place contrary to her answer on the LegalEx proposal form. She therefore failed to accurately describe her accounting situation to LegalEx.

30.12 In her interview with the FIO, in summary the Respondent stated that she accepted that responses identified in the LegalEx proposal form had been incorrect. She stated that the responses (set out in the table above) arose from her misunderstanding the questions and that for the response at question (b) she was “fully aware” of the decision by Legal Ombudsman and “...in hindsight [she] should have said yes there...”

Principle Breaches

30.13 Principle 2: - You must act with integrity

30.13.1 Mr Bullock submitted that by providing her insurers with false and misleading information, despite signing declarations that they are true and

complete, the Respondent failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code.

- 30.13.2 Mr Bullock further submitted that the Respondent was a very experienced solicitor, who had run her own Firm for many years. She was therefore well used to reviewing and completing PII forms, and knew that the information provided had to be fair, true and complete. The Respondent's state of knowledge was that at the relevant times she was well aware of the complaints by Client P, the decision of the Legal Ombudsman and the ongoing investigation by the Applicant. She was also aware of the payment systems operated by her Firm.
- 30.13.3 Mr Bullock contended that the Respondent's position, namely that the responses she gave on both forms were oversights on her part, errors or that she misunderstood the questions, was not plausible. The questions were straightforward and it was not tenable that she misunderstood all the relevant questions, or by oversight failed to declare all relevant events. Mr Bullock averred that the Respondent's assertions did not stand up to scrutiny in light of the fact that she failed to declare that she was under investigation by the Applicant and the Legal Ombudsman's Case Decision on the same day that she provided evidence of the same to the Applicant's Investigation Officer. In that regard, the Respondent accepted in interview with the FIO that she was fully aware of the Case Decision and "in hindsight" should have declared it. Mr Bullock submitted that no hindsight was required as the Respondent's provision of false information lacked integrity, in breach of Principle 2.
- 30.14 Principle 6: - You must behave in a way that maintains the trust the public places in you and in the provision of legal services.
- 30.14.1 Mr Bullock submitted that AON and LegalEx were entitled to rely upon correct and accurate information from the Respondent in order for the premium to be properly quantified following a fully informed risk assessment.
- 30.14.2 The Respondent's repeated failure to disclose (a) the fact that she was under investigation, (b) that the Legal Ombudsman had ordered her to pay compensation to Client P and (c) the fact that she held sole responsibility for payments made by the Firm prevented either insurance company from so doing.

The Respondent's Position

- 30.15 The Respondent admitted the factual matrix of Allegation 1.5 and the consequential breach of Principles 6. The Respondent denied that her conduct breached Principle 2.
- 30.16 The Respondent accepted that she provided false information on both PII renewal forms as alleged. She asserted that she had not done so deliberately. The Respondent asserted that her errors on both forms were borne out of lack of care when completing

the same, failure to read the questions properly and her insurance broker “pestering” her to complete the forms quickly which caused her to do so “in a rush”.

- 30.17 With regards to the 2018 AON Form, the Respondent accepted that she incorrectly answered “No” when asked if there were any complaints in relation to poor service. The Respondent asserted that that was a “complete oversight” on her part.
- 30.18 With regards to the 2019 LegalEx Form, the Respondent accepted that she incorrectly answered “NO” when asked if there was any ongoing investigation/intervention into the Firm by the Applicant. The Respondent asserted that she read that question quickly and focused on the intervention element thereof as opposed to the investigation which she knew she was subject to. The Respondent accepted that she incorrectly answered “NO” when asked whether there had ever been a finding against her/the Firm by the Legal Ombudsman. The Respondent asserted that she did not believe that she needed to disclose the Case Decision against her as she “had not made a claim” in that regard and has “paid the penalty out of [her] own pocket”.

The Tribunal’s Findings

- 30.19 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 30.20 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.5 and consequential breach of Principles 6 proved on a balance of probabilities.
- 30.21 With regards to the alleged breach of Principle 2 the Tribunal rejected the Respondent’s evidence in its entirety. The Tribunal did not consider it credible that a solicitor to adopt the approach that the Respondent claimed to have undertaken in respect of the PII renewal forms. The Tribunal accepted Mr Bullock’s submissions that such forms were essentially contracts of good faith, the insurer relied upon the accuracy of the information provided to assess risk and quantify the premium and that the Respondent would have been well aware of those facts. The Tribunal considered the Respondent’s assertions that she (a) was in a rush, (b) didn’t read the questions properly and (c) didn’t believe that she needed to disclose the Legal Ombudsman decision on the LegalEx form to be a disingenuous attempt on her part to downplay the risk profile of the Firm. In particular, the Tribunal found that the Respondent’s answer on the LegalEx form with regards to the “dual control” of the Firm’s finances defied logic.
- 30.22 The Tribunal considered the Respondent’s fast and loose approach to the PII renewal forms demonstrably showed lack of integrity on her part. No solicitor acting with integrity would have completed the forms in the manner that she did.
- 30.23 The Tribunal therefore found the allegation that the Respondent lacked integrity and breached Principle 2 proved on a balance of probabilities.
31. **Allegation 1.6: - Solicitors Accounts Rules Breaches**

Allegations 1.6.1 – 1.6.3: Failure to maintain records/undertake reconciliations (Allegations 1.6.1 – 1.6.3)

The Applicant's Case

- 31.1 On 11 December 2019, the first day of the on-site investigation, the Respondent informed the FIO that the Firm's books of account were not up to date. In relation to client account reconciliations, the Respondent initially stated these had not been done "for a while...probably about a year", before later stating she thought such reconciliations had last taken place in approximately 2016/2017.
- 31.2 On 13 December 2019, the Respondent provided a copy of the last reconciliation prepared for the Firm. It was for the period ending 8 January 2015, was unsigned and showed a date for signing of 23 March 2016 (i.e. some 14 months after the period it related to). No client account reconciliations had therefore been undertaken for periods going back nearly 5 years.
- 30.3 Documents showing the overall accounting position at the extraction date of 30 November 2019 were provided to the FIO by the Respondent. These showed a client account bank balance of £269,547.37, but client matter balances and client cash book records of £4,401,748.22 and £5,139,154.71 respectively; accounting discrepancies of over £4,000,000.00 had therefore arisen.
- 30.4 The FIO reviewed 14 of the 830 client matters included on the matter balance list, and noted that not all the client transactions on the bank account had been accurately recorded in the Firm's books of account. The matter balances total was not reliable.
- 30.5 The FIO also reviewed the cash-book receipts for the period of November 2019 and found them to have been incorrectly recorded, with cashbook receipts for that period being overstated by £516,599.00.
- 30.6 The FIO did not identify a shortage of client funds on any of the 14 matters reviewed. However, due to the failure to accurately maintain books of account the FIO was unable to calculate whether the Firm held sufficient funds in client bank account to match its liabilities to clients.
- 30.7 In interview with the FIO, the Respondent confirmed that she had been aware of the requirement to keep client ledgers for each matter, and that each ledger should show the current balance. She also accepted that the client ledgers were not up to date.
- 30.8 The Respondent further accepted that she had not been "fully aware" of the requirement to undertake client reconciliations at least every five weeks. She had thought they had to be undertaken "as soon as possible really...I'm probably thinking every couple of months at least minimum, if not earlier". The FIO put to the Respondent that the last reconciliation related to the period ending 9 January 2015 in response to which the Respondent stated; "I know that's totally wrong that...shouldn't have happened".
- 30.9 Mr Bullock submitted that as a consequence of her conduct the Respondent breached the following Rules:

Solicitors Accounts Rules 2011

- Rule 1.2:** You must:
- (a) Establish and maintain proper accounting systems, and proper internal controls over those systems to ensure compliance with the rules.
 - (b) Keep proper accounting records to show accurately the position with regard to the money held for each client and trust.
- Rule 29.1:** You must at all times keep accounting records properly written up to show your dealings with:
- (a) Client money received, held or paid by you; and
 - (b) Office money relating to any client or trust matter.
- Rule 29.2:** All dealings with client money must be appropriately recorded:
- (a) In a client cash account or in a record of sums transferred from one client to another; and
 - (b) On the client side of a separate client ledger account for each client (or other person or trust). No other entries may be made in these records.
- Rule 29.9:** The current balance on each client ledger account must always be shown, or be readily ascertainable, from the records kept in accordance with Rule 19.2.
- Rule 29.12:** You must, at least every five weeks:
- (a) Compare the balance on the client cash account(s) with the balances shown on the statements and passbooks of [all accounts where client money is held].
 - (b) As at the same date prepare a listing of all the balances shown by the client ledger accounts of the liabilities to clients and compare the total of those balances with the balance on the client cash account.
 - (c) Prepare a reconciliation statement; this statement must show the cause of the difference, if any, shown by each of the above comparisons.

Solicitors Accounts Rules 2019

- Rule 8.1:** You must keep and maintain accurate, contemporaneous and chronological records to:
- (a) Record in [appropriately identified] client ledgers: (i) all receipts and payments which are client money on the client side of the ledger; and (ii) all receipts and payments which are not client money and bills of costs including transactions through the authorised body's accounts on the business side of the client ledger.
 - (b) Maintain a list of all the balances shown by the client ledger accounts of the liabilities to clients (and third parties), with a running total of the balances; and
 - (c) Provide a cash book showing a running total of all transactions through client accounts held or operated by you.

Rule 8.3: You complete at least every five weeks, for all client accounts held or operated by you, a reconciliation of the bank or building society statement balance with the cash book balance and the client ledger total, a record which must be signed off by the COFA or a manager of the Firm. You should promptly investigate and resolve any differences shown by the reconciliation.

The Respondent's Position

30.10 The Respondent admitted the factual matrix of Allegation 1.6.1, 1.6.2 and 1.6.3. She further admitted that her conduct rendered her in breach of the attendant Solicitors Accounts Rules as particularised by the Applicant.

The Tribunal's Findings

30.11 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.

30.12 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.6.1, 1.6.2 and 1.6.3 proved on a balance of probabilities. The Tribunal further found that the breaches of the Solicitors Accounts Rules 2011 (Rules 1, 29.1, 29.2, 29.9 and 29.12) and the Solicitors Accounts Rules 2019 (Rules 8.1 and 8.3) proved on a balance of probabilities.

31. Allegation 1.6.4 - Failure to prepare Accountant's reports

The Applicant's Case

31.1 The Respondent informed the FIO that the last time an Accountant's report was prepared for the Firm was 2014 namely a qualified report dated 27 June 2014 relating to the accounting period 9 January 2013 – 8 January 2014. That report was qualified due to discrepancies in the reconciliation between the client ledger figures and the client bank account balance. The accountant reported that the ledger balances had been rectified, with the Respondent moving to different accounts software "...in order to ensure this problem does not occur again..."

31.2 In interview with the FIO, the Respondent stated that the reason why no further reports had been prepared was "...purely because the bookkeeping wasn't up to date..." The Respondent explained that had happened after the accounting issues had "...snowballed..." after a problem with a previous bookkeeper, and the compliance work and bookkeeping "...took a bit of a back seat unfortunately..." with her focus being on client work.

31.3 The Respondent acknowledged to the FIO that, as her books were not up to date and she had not undertaken any client account reconciliations, any report would have been qualified. She also stated that she became aware that the rules had changed and the

only reason the accountant would have to submit the report to the Applicant would be if it was qualified. When the FIO suggested to the Respondent that one of the reasons for not preparing an Accountant's report, or that she deliberately avoided preparing such a report was because she knew it would be qualified she stated:

"...No, it's not that at all...It's just that because I didn't have anything to give to the accountant...it was purely because I didn't have the records and I thought once our records are up to date, I would then be able to get the accountant to do the reports...and that would have been it ...

[The Respondent] didn't think of it like that...it was purely that the fact that our books weren't up to date. That's the only reason I didn't instruct an accountant to come in and do the report...it's a hard one for, for me to try and explain where I was coming from. But my focus was on getting the books up to date and then obviously...getting the Accountant's Report done...I never sort of you know wilfully thought to myself I'm not putting in an Accountant's Report because I know it's going to be qualified. That never crossed my mind unfortunately...it was focused on that the books weren't up to date and, eventually they were going to be up to date, and I was going to do whatever it took to do that..."

31.4 Mr Bullock submitted that as a consequence of her conduct the Respondent breached the following Rules:

Solicitors Accounts Rules 2011

Rule 32A.1 - If you have, at any time during an accounting period, held or received client money, or operated a client's own account as signatory, you must:

- Obtain an accountant's report for that accounting period within six months of the end of that accounting period; and
- If the report has been qualified, deliver it to the [Applicant] within six months of the end of the accounting period.

Solicitors Accounts Rules 2019

Rule 12.1 - If you have, at any time during an accounting period, held or received client money, or operated a client's own account as signatory, you must:

- Obtain an accountant's report for that accounting period within six months of the end of that accounting period; and
- Deliver it to the [Applicant] within six months of the end of the accounting period if the accountant's report is qualified to show a failure to comply with these rules, such that money belonging to clients or third parties is, or has been, or is likely to be placed at risk.

The Respondent's Position

- 31.5 The Respondent admitted the factual matrix of Allegation 1.6.4. She further admitted that her conduct rendered her in breach of the attendant Solicitors Accounts Rules as particularised by the Applicant.

The Tribunal's Findings

- 31.6 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 31.7 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.6.4 proved on a balance of probabilities. The Tribunal further found that the breaches of the Solicitors Accounts Rules 2011 (Rules 32A.1 and 32A.1A) and the Solicitors Accounts Rules 2019 (Rule 12.1) proved on a balance of probabilities.

32. Allegation 1.6.5 - Failure to rectify breaches

The Applicant's Case

- 32.1 The Respondent acknowledged that she knew about problems (and breaches) with her accounts for several years. Her explanation to the FIO was that she, at the material time, was focussed on updating her accounts before instructing an Accountant to prepare an Accountant's Report. The Respondent produced to and discussed with the FIO correspondence with her previous accountant regarding the Firm's accounts between from 2015 – 2017, which made clear that she knew a report was due and that she had ongoing issues with her accounts.
- 32.2 By 30 November 2019 (the extraction date for the FI Report), and even by 1 May 2020 (the date of the Applicant's decision to intervene into the Firm), the Respondent had failed to rectify the breaches with her accounting systems despite the issues having originally arisen five years previously.
- 32.3 Mr Bullock submitted that as a consequence of her conduct the Respondent breached the following Rules:

Solicitors Accounts Rules 2011

Rule 7 - Any breach of the rules must be remedied promptly upon discovery.

Solicitors Accounts Rules 2019

Rule 6.1 - You correct any breaches of these rules promptly upon discovery.

The Respondent's Position

- 32.4 The Respondent admitted the factual matrix of Allegation 1.6.5. She further admitted that her conduct rendered her in breach of the attendant Solicitors Accounts Rules as particularised by the Applicant.

The Tribunal's Findings

- 32.5 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 32.6 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.6.5 proved on a balance of probabilities. The Tribunal further found that the breaches of the Solicitors Accounts Rules 2011 (Rule 7.1) and the Solicitors Accounts Rules 2019 (Rule 6.1) proved on a balance of probabilities.

33. Allegation 1.6.6 - Transfers between 24 February 2020 and 10 March 2020

The Applicant's Case

- 33.1 After the initial decision of 17 March 2020 by the Applicant's Panel of Adjudicators, the Respondent provided further documentation to the Investigating Officer. The bank statements showed that 207 transfers had been made from client account to office account between 24 February 2020 and 10 March 2020, totalling £134,393.40, a figure broadly in line with the Firm's annual turnover for the previous 5 years. The Investigating Officer requested explanations and/or documentation relating to those transfers.
- 33.2 The Respondent, through her solicitor, gave the following explanations:

In an email dated 25 March 2020:

“... all invoices were sent to clients contemporaneously but were not posted and monies not transferred from client to office account at the relevant time...”

In an email dated 7 April 2020:

“...[the transfers related to] multiple bills that had been delivered to clients and monies held on account, evidence will be produced as part of the [accounts reconciliation] process undertaken above...”

In an email dated 21 April 2020:

“...The monies transferred between 24 February 2020 and 10 March 2020 were all in relation to bills raised between 2016 and 2020. They were all raised

and sent to clients on completion of their matters. They were all monies due to the Firm but not transferred. The bills sent electronically with my last communication together with the bills being sent by [the Respondent] in hardcopy format relate to the monies transferred in this period...”

- 33.3 Prior to the Applicant’s decision to intervene into the Firm, the Respondent disclosed to the Investigating Officer 102 invoice/completion statements dated from 8 January 2018 to 22 March 2020 and totalling £70,861.80 (but £67,935.80 if six duplicate invoices were not counted). The Respondent had not provided copies of covering letters to clients or confirmation that the payments and subsequent transfers had been properly added to the relevant ledgers.
- 33.4 The Respondent subsequently provided a further hard copy bundle of additional invoices said to have been “...raised and sent to clients in respect of transfers made...in February and March 2020...” The additional documents were received by the Applicant on 30 April 2020, but scanned copies were not received by the Investigating Officer until after the decision had been made to intervene into the Firm. The bundle comprised of 54 invoices or completion statements dated from 4 January 2017 to 5 March 2020, with costs calculated by the Investigating Officer in the sum of £31,946 according to the completion statements.
- 33.5 Taking into account the additional invoices and completion statements provided, the combined totals of the documents left a significant shortfall to the £134,393.40 transferred between the client and office account. The Respondent made those transfers at a time when her accounts and ledgers had not been updated and reconciled. Furthermore, there was no contemporaneous evidence of the bills having been sent to clients. Additionally, if the Respondent was correct in her assertion that transfers related to invoices as far back as January 2017 then office money was being kept in client account for a long period of time, in breach of the Solicitors Accounts Rules.
- 33.6 Mr Bullock submitted that as a consequence of her conduct the Respondent breached the following Rules:

Solicitors Accounts Rules 2011

- Rule 14.1** Only client money may be paid into or held in the client account, except...[none of the exceptions applied]
- Rule 17.2** If you properly require payment of your fees from money held for a client or trust in a client account, you must first give or send a bill of costs, or other written notification of costs incurred, to the client or paying party.
- Rule 17.3** Once you have complied with Rule 17.2 above, the money earmarked for costs becomes office money and must be transferred out of the client account within 14 days.

Solicitors Accounts Rules 2019

- Rule 4.1** You keep client money separate from money belonging to the authorised body.

Rule 4.3 Where you are holding client money and some or all of that money will be used to pay your costs:

- You must give a bill of costs, or other written notification of costs, to the client or paying party.
- This must be done before you transfer any client money from a client account to make a payment.
- Any such payment must be for the specific sum identified in the bill of costs ... and covered by the amount held for the particular client or third party.

Rule 8.4 You must keep readily accessible a central record of all bills or other written notifications of costs given by you.

The Respondent's Position

33.7 The Respondent admitted the factual matrix of Allegation 1.6.6. She further admitted that her conduct rendered her in breach of the attendant Solicitors Accounts Rules as particularised by the Applicant.

The Tribunal's Findings

33.8 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.

33.9 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.6.6 proved on a balance of probabilities. The Tribunal further found that the breaches of the Solicitors Accounts Rules 2011 (Rules 14.1, 17.2 and 17.3) and the Solicitors Accounts Rules 2019 (Rule 4.1, 4.3 and 8.4) proved on a balance of probabilities.

34. Allegations 1.7: - Other breaches arising from accounting failures

Allegation 1.7.1: Principle 2 (You must act with integrity) in relation to Allegation 1.6.4.

The Applicant's Case

34.1 Mr Bullock submitted that the Respondent's decision not to obtain any accountant's reports, on the basis that she knew her accounts were not in order, demonstrably showed a lack of integrity in that she failed to act with moral soundness, rectitude and steady adherence to an ethical code

34.2 The Respondent had provided similarly qualified accountant's reports for three years in a row i.e. for 2011-2012 and 2012-2013, as well as 2013-2014. The first of these was also prepared and filed very late (prepared 2 August 2013), and led to an earlier

visit to the Firm from an FIO. As the period up to 8 January 2014 fell within the time of that visit, with the Respondent indicating that new systems had been implemented to prevent recurrence, the final Accountant's Report provided (2013-2014) was not investigated further at the time. The Investigating Officer noted on closing the relevant files that she had spoken with the Respondent earlier in 2014, and that with new software/bookkeepers only recently in place the "... real test will be 2014/2015 AR..." The Respondent did not meet that test choosing instead not to obtain an accountant's report thereafter.

- 34.3 In interview with the FIO on 20 December 2019, the Respondent referred to multiple items of correspondence with her previous reporting accountant between October 2014 – 2017 which included the accountant providing an explanation to the Respondent of the new rules in October 2014, reminders of the requirement for an audit in 2016 as well as in 2017 and the Respondent noting that a report was due.
- 34.4 Mr Bullock therefore submitted that the Respondent did not obtain an accountant's report for 2014/2015 or any subsequent period in circumstances in which she would have been aware of the fact that (a) she was required to do so, (b) her accounts were not compliant with the Rules, (c) if the report was qualified it would have to be disclosed to the Applicant and (d) she had been previously investigated by the Applicant as a consequence of a qualified report having been submitted.
- 34.5 Mr Bullock further submitted that the Respondent's position, that she failed to obtain an accountant's report because her books and records were not up to date and matters "snowballed", was clearly unsatisfactory. Her position undermined the purpose of the requirement to obtain an Accountant's reports namely to indicate problems that can then be resolved, or lead to enquiry from the Applicant.
- 34.6 Mr Bullock reminded the Tribunal that the Respondent was a very experienced solicitor who was well aware of her regulatory obligations. Her decision not to obtain any accountant's reports for several years, on the basis that her books and records were not up to date, was a decision that manifestly denied the purpose of the requirement and lacked rectitude and moral soundness, in breach of Principle 2.

The Respondent's Position

- 34.7 The Respondent admitted the factual matrix of Allegation 1.7.1 and the consequential breach of Principle 2.

The Tribunal's Findings

- 34.8 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 34.9 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.7.1 and the consequential breach of Principle 2 proved on a balance of probabilities.

35. **Allegation 1.7.2 - Principle 6 of the 2011 Principles and Principle 2 of the 2019 Principles (you must behave in a way that maintains the trust the public places in you and in the provision of legal services) in relation to Allegations 1.6.1, 1.6.2, 1.6.3, 1.6.5 and 1.6.6.**

The Applicant's Case

- 35.1 Mr Bullock submitted that the Respondent's repeated breaches of the Solicitors Accounts Rules over a protracted period of time undermined public trust vested in her and in the profession.
- 35.2 The solicitors' profession was trusted with large amounts of money by members of the public and other institutions. The public expected, and was entitled to expect, a solicitor to maintain accounting records and a clear divide between client money and the Firm's money and to otherwise make efforts to comply with the basic and fundamental tenets of solicitors accounts. Mr Bullock submitted that the Respondent failed to do this in breach of Principle 6 and the latter iteration of this, Principle 2 of the 2019 Principles.

The Respondent's Position

- 35.3 The Respondent admitted the factual matrix of Allegation 1.7.2 and the consequential breach of Principle 6 of the 2011 Principles and Principle 2 of the 2019 Principles.

The Tribunal's Findings

- 35.4 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 35.5 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.7.2 and the consequential breach of Principles 6 and 2 proved on a balance of probabilities.
36. **Allegation 1.7.3 - In her role as Compliance Officer for Finance and Administration, Rule 8.5(e) of the Authorisation Rules 2011 and Rule 9.2 of the Code for Firms 2019.**

The Applicant's Case

- 36.1 In her capacity as COFA for the Firm, the Respondent was specifically required to:
- Take all reasonable steps to ensure compliance with the relevant Solicitors Accounts Rules;
 - Report to the Applicant any material failure to comply as soon as reasonably practicable (or after 25 November 2019 ensure a prompt report is provided to the Applicant of any facts or matters you reasonably believe are capable of amounting to a serious breach of the Solicitors Accounts Rules).

36.2 Mr Bullock submitted that despite long-running, serious accounts problems, and significant correspondence from the Applicant on other matters, the Respondent did not note or report any concerns with her accounts before the FIO visited her office on 11 December 2019. Mr Bullock therefore submitted that the Respondent accordingly breached Rule 8.5 (e) of the SRA Authorisation Rules 2011 and, to the more limited extent relevant after from 25 November 2019, Rule 9.2 of the SRA Code for Firms 2019.

The Respondent's Position

36.3 The Respondent admitted the factual matrix of Allegation 1.7.3. She further admitted that her conduct rendered her in breach of the attendant Authorisation Rules 2011 and Code for Firms 2019 as particularised by the Applicant.

The Tribunal's Findings

36.4 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.

36.5 On the basis of the evidence before it and the admissions made the Tribunal found Allegation 1.7.3 proved on a balance of probabilities. The Tribunal further found that the breaches of the Authorisation Rules 2011 (Rule 8.5 and the Code for Firms 2019 (Rule 9.2)) proved on a balance of probabilities.

37. **Allegation 2: - Dishonesty in respect of Allegations 1.2, 1.4, 1.5 and 1.6.4**

The Applicant's Case

37.1 Mr Bullock submitted that, in relation to all allegations where dishonesty was alleged as an aggravating feature, relevant factors to the Respondent's state of mind were that she (a) was a very experienced solicitor having qualified in 2001, (b) had been a sole practitioner since 2008 (c) was the COLP and COFA at the Firm and (d) managed the Firm alone as a sole practitioner.

Dishonesty with regards to Allegation 1.2

37.2 Mr Bullock submitted that at all material times the Respondent had no correspondence to or from the Home Office. Furthermore, in an email to the Investigating Officer on 30 November 2018 the Respondent stated:

“...Having not received an acknowledgement from the Home Office, I contacted them and was advised that there was no record of the application been received...”

37.3 Notwithstanding those facts the Respondent made positive statements to Client P in the following communications which Mr Bullock contended were false:

37.4 Letter dated 25 April 2017:

“...I can confirm that the application is still being considered by the Home Office ... I hope to have a decision for you in the course of the next three months...This letter [from her son’s GP or school] has been requested by the Home Office In relation to your application...”

Mr Bullock submitted that the Respondent, at the material time, was well aware that she had taken instructions from Client P some two years earlier, there was no acknowledgement from the Home Office in relation to the application for discretionary leave to remain, there was no basis for the “three months” referred to and at no time had the Home Office requested a letter from the Respondent’s son’s GP or school.

Mr Bullock submitted that each statement made was done so without any regard as to its veracity or otherwise against the backdrop of no communications from the Home Office. Mr Bullock therefore contended that the ordinary, decent man would consider the Respondent’s conduct to have been dishonest.

37.5 *Letter dated 21 August 2017:*

“...I can confirm that the application is still being considered by the Home Office under the rules relating to discretionary leave to remain. I hope to have the Home Office decision for you in the course of the next three months...”

Mr Bullock reiterated his previous submissions and further contended that the Respondent should have been on notice that, having anticipated a decision within three months of 25 April 2017, there was an issue with the application which required enquiry with the Home Office. No such enquiry was undertaken and the Respondent again made an unfounded statement that a further three months was required. Mr Bullock submitted that statement was a fiction designed to appease Client P which was, by the standards of the ordinary, decent man, dishonest.

37.6 *Undated “To Whom it May Concern” letter:*

“...The application has been submitted to the Home Office and is awaiting consideration. We are not able to comment on how long it will take for the application to be determined as this is the decision of the Home Office...”

Mr Bullock submitted that whilst the letter was undated, it was plain that there had been no communication from the Home Office from June 2015, when the Respondent took instructions from Client P, and further that by 30 November 2018 the Respondent was aware that no application had been submitted. Mr Bullock submitted that the making of positive assertions by the Respondent, when no steps had been taken to check the status of Client P’s application with the Home Office, in circumstances where she did not know if those positive statements were in fact true, was dishonest by the standards of the ordinary, decent man.

37.7 *Email dated 9 March 2018:*

“...By way of an update I can confirm that an appointments for your biometrics will now be posted out by the Home Office within the next 20 working days...”

Mr Bullock submitted that this statement made by the Respondent was an outright lie in that there was no communication from the Home Office in any respect let alone in relation to the discrete issue of biometric testing.

The Respondent’s Position

37.8 The Respondent relied upon her evidence in relation to lack of integrity as set out above at paragraphs 27.7-27.13. She further asserted that at all material times she genuinely held the belief that SK had submitted Client P’s application for discretionary leave to remain to the Home Office notwithstanding the fact that there was nothing on file to substantiate that belief. The Respondent averred that if she had any reason to suspect that the application had not been submitted “it would have been easier for [her] to resubmit the application as there was no time limit” in so doing. The Respondent maintained that she “had nothing to gain by lying” to Client P and that it was “unfortunate” that she had not checked the status of the application before responding to Client P’s enquiries.

37.9 Mr Bullock queried why the Respondent had not checked the position with the Home Office before replying to Client P. The Respondent asserted that she did not do so as it was “hard to get hold of the Home Office” and further that she “questioned the reliability of the advice” given by them. She further asserted that she did not contact the Home Office because of work pressure and time constraints at the material time.

37.10 The Respondent, despite extensive cross examination, maintained that all of her communications with Client P were predicated on the genuine belief at the material time that the application had been submitted to the Home Office.

The Tribunal’s Findings

37.11 In determining whether the Respondent’s conduct was dishonest, the Tribunal applied the principles promulgated in Ivey to the established facts. The Tribunal firstly considered what the Respondent’s state of mind as to the facts at the material was and determined that:

- Between 25 April 2017 and 9 March 2018 the Respondent had not seen an acknowledgement from the Home Office in respect of Client P’s application.
- Between 25 April 2017 and 9 March 2018 the Respondent had not seen any correspondence from the Home Office to the Firm in respect of Client P’s application.
- The Respondent wrote to Client P without having consulted Client P’s file prior to any communication.
- The queries from Client P arose approximately 20 months post instructions having been taken and the application purportedly having been filed.

- No enquiry was made by the Respondent to ascertain the status of the application throughout the relevant period.
- The Respondent made positive statements to Client P which implied that the application had been submitted, documents had been requested by the Home Office (when they had not) and biometrics testing was being arranged (when it was not).

37.12 Against that context the Tribunal proceeded to consider whether the ordinary decent man would consider the content of the offending communications to have been dishonest. In so doing the Tribunal carefully considered the Respondent's evidence on that point and rejected the same. She wrote to Client P having not verified the position on the file or with the Home Office. Her positive statements were not founded in fact rather that they were founded on assumptions. The Tribunal determined that the positive assertion that the Home Office was seized of Client P's application, absent any evidence from the Home Office to that effect, was dishonest by the standards of the ordinary decent man. The Tribunal further determined that seeking a letter from the dependent's school or GP on the basis that the Home Office had requested it, when they had not, was dishonest by the standards of the ordinary decent man. The Tribunal determined that the positive assertion that a decision was likely to have been made within three months, in circumstances where there was no acknowledgement or communication from the Home Office to that effect, was dishonest by the standards of the ordinary decent man. The Tribunal determined that advising Client P that an appointment for biometrics testing would be received within 28 days, absent any communication from the Home Office in that regard, was dishonest by the standards of the ordinary decent man.

37.13 The Tribunal therefore found dishonesty in respect of Allegation 1.2 proved on a balance of probabilities.

Dishonesty with regards to Allegation 1.4

37.14 Mr Bullock submitted that the Respondent was fundamentally obliged to communicate with the Applicant in an open, frank, honest and truthful manner. That fundamental obligation was, he submitted, a necessary price to pay for membership to the profession. Mr Bullock contended that "it cannot have been lost on the Respondent" that the answers she gave in correspondence with the Applicant was likely to inform its decision as to what action, if any, to take post investigation. Notwithstanding those irrefutable propositions, the Respondent failed to meet those obligations and was dishonest in so doing in the following communications with the Applicant:

37.15 *Email dated 30 November 2018:*

"...Unfortunately there was no handover of files etc. and I had to go through all her files..."

That statement implied that SK had day to day conduct of Client P's matter when in fact the Respondent, on her own admission, was the fee earner with conduct.

“...Having not received an acknowledgement from the Home Office, I contacted them and was advised that there was no record of the application been received...”

The Respondent, when asked whether she had contacted the Home Office by the FIO on 11 December 2019, contradictorily stated that:

“...No because it’s really, again, again in hindsight I should have. I just put it off because it’s so hard to get in touch with the Home Office and sometimes you’re holding for 35 hours on end, trying to get some information out of them, and it’s really difficult to get any information from them, and again, as a busy sole practitioner, I just didn’t do that, and I admit that that was wrong. I should have chased it up earlier and then it would have come to light earlier, that no application had been made. I just wrongly assumed that the application had been made and because it was a discretionary application, outside of the immigration rules, they usually do take a lot longer than a normal application, which is within the rules...”

“...Having checked the bank account, it was confirmed that the cheque had not been cashed...”

37.15.1 Mr Bullock reminded the Tribunal that, on the Respondent’s own account, she had taken instructions from Client P, she had completed the application form and the requisite section on the form in relation to payment of fees held Client P’s debit card details as the means of payment. Mr Bullock submitted that the Respondent made a positive false assertion to the Applicant with regards to Client P’s payment of the application fee and knowingly did so.

37.15.2 Mr Bullock therefore submitted that the false statements made by the Respondent and the circumstances in which they were made were dishonest by the standards of the ordinary, decent man.

37.16 *Letter dated 5 February 2019 from the Respondent to Capsticks:*

37.16.1 Mr Bullock submitted that it was tolerably clear that the correspondence from Capsticks, which the Respondent was replying to, was essentially a letter before action which intimated that High Court Enforcement Proceedings would be pursued if the Respondent did not reply to the Section 44B Production Notice served upon her.

37.16.2 The Respondent replied to that correspondence in the following terms:

“...There is no file available to copy and produce...”

37.16.3 Mr Bullock submitted that the assertion was plainly false as the Respondent produced a file to the FIO at the inspection visit on 20 December 2019. Furthermore, the Respondent’s position regarding the status of the file contradicted the previous position advanced to the Applicant on 30 November 2018 namely that there was a file but that it was held by SK.

“.....No application [for discretionary leave to remain] was submitted, therefore there are no copies to provide...”

37.16.4 Mr Bullock submitted that the assertion was plainly false as a copy was subsequently extracted from the file and disclosed to the Applicant.

37.16.5 Mr Bullock therefore submitted that the false statements made by the Respondent and the circumstances in which they were made were dishonest by the standards of the ordinary, decent man.

37.17 *Email dated 24 June 2019 to the FIO:*

37.17.1 Mr Bullock submitted that, as this was the Respondent’s response to the Applicant’s Explanation of Conduct letter, the Respondent could have been under no illusion as to the importance of providing open, frank and honest answers to the questions posed by the FIO. Notwithstanding that fact the Respondent, in response to questions posed regarding SK, stated:

“...[SK] was not formally employed by the Firm. She came to the Firm on work experience and stayed for 6 months on a flexible basis working three days a week ...She did not have a contract of employment...”

37.17.2 Mr Bullock reminded the Tribunal of SK’s unchallenged evidence that she was employed by the Firm and did have a contract of employment dated 1 August 2014. Mr Bullock submitted that, as sole proprietor of the Firm, the only fee earner and with “a handful of support staff” it was inconceivable that the Respondent would not know who was in her employ.

37.17.3 Mr Bullock therefore submitted that the false statements made by the Respondent and the circumstances in which they were made were dishonest by the standards of the ordinary, decent man.

37.18 *Email dated 29 August 2019 to the FIO:*

37.18.1 Mr Bullock submitted that the following statements made by the Respondent were false and knowingly so:

“...[SK] was working at the Firm on a flexible trial basis...
...I have no such paperwork [pertaining to SK’s employment]...”

37.18.2 Mr Bullock relied upon the submissions made above to support the contention that both statements made by the Respondent were dishonest by the standards of the ordinary, decent man.

The Respondent’s Position

37.19 The Respondent relied upon her evidence in relation to lack of integrity as set out above at paragraphs 29.17-29.19.

- 37.20 The Respondent accepted the summaries advanced by the Applicant regarding the information she provided in respect of the Client P matter and the employment status of SK.
- 37.21 The Respondent accepted that there were contradictions in the correspondence particularised by the Applicant but asserted that she had no intention to mislead and that her responses were not dishonest. She further asserted that she was “on each occasion trying to give as much information as [she] could without being in receipt of the full information”. The Respondent accepted that her use of language was careless but that she was not dishonest in that regard.
- 37.22 The Respondent reiterated that at the material time of the communications with the Applicant she (a) had recently moved office and “a lot of the paperwork was in disarray”, (b) was distressed at the fact that she was under investigation and (c) had no deliberate intent to mislead.
- 37.23 In relation to SK’s status within the Firm the Respondent averred that she was trying to provide the correct information without the benefit of SK’s employment file. At that time her recollection was limited to the fact that SK joined the Firm on a voluntarily unpaid basis and she genuinely did not believe that she held any documentation pertaining to SK. The Respondent stated that once she had found SK’s personnel file she was able to correct the position in the interview with the FIO in December 2019.

The Tribunal’s Findings

- 37.24 In determining whether the Respondent’s conduct was dishonest, the Tribunal applied the principles promulgated in Ivey to the established facts. The Tribunal firstly considered what the Respondent’s state of mind as to the facts at the material was and determined that:
- The Respondent had conduct of the Client P matter.
 - Progression of Client P’s application was the Respondent’s sole responsibility irrespective of any tasks that she chose to delegate to SK.
 - The Respondent was the qualified fee earner whereas SK was an unqualified paralegal.
 - As sole practitioner of a small firm the Respondent was well aware who was on the payroll and employed by the firm.
- 37.25 On the basis of those facts which the Tribunal found to be representative of the Respondent’s knowledge at the material time, the Tribunal made the following findings in respect of the offending communications.
- 37.26 *Email dated 30 November 2018:*

37.26.1 The Respondent's statement regarding the handover of files implied that SK had day to day conduct of Client P's matter when in fact the Respondent, on her own admission, was the fee earner with conduct. Furthermore, the Respondent's statement regarding the lack of acknowledgment from the Home Office which led to her contacting them and being advised that no application had been received was false and demonstrably so by virtue of her subsequent admission to the FIO on 11 December 2019. The Respondent's assertions regarding the manner in which the application fee was to be met, namely by cheque which she discovered had not been cashed, was demonstrably false as debit card details were taken by the Respondent and endorsed on the application form as a means of payment.

37.26.2 The Tribunal determined that in respect of each and every one of the statements made by the Respondent she deliberately provided information which, by the standards of the ordinary decent man, was dishonest.

37.27 Letter dated 5 February 2019:

37.27.1 The Respondent replied to what was essentially a letter before action from Capsticks in respect of her non-compliance with the Production Order issued by the Applicant. Her assertion that there was no matter file in respect of Client P was plainly false as she was able to subsequently produce a file to the FIO on 20 December 2019. The Tribunal rejected the Respondent's assertions that the files were in a state of disarray following the office move. The Tribunal found it inconceivable that the Respondent would have accepted instructions from Client P and not opened a file in that regard.

37.27.2 The Respondent compounded that position by going on to assert that no application was submitted thus there were no copies to be provided. The Respondent, on her own admission, had taken instructions and SK had completed the form following which the Respondent met with Client P to confirm its content. The Tribunal determined that the Respondent knew that a form had been completed, albeit not submitted, which could have been and which subsequently was extracted from the matter file.

37.27.3 The Tribunal determined that in respect of both statements made by the Respondent she deliberately provided information which, by the standards of the ordinary decent man, was dishonest.

37.28 Emails dated 24 June 2019 and 29 August 2019:

37.28.1 The Tribunal rejected the Respondent's evidence that at the material times she was unaware or could not recollect that SK was employed by the Firm. The Tribunal found it inconceivable that, as sole proprietor of a small Firm employing a handful of staff, the Respondent would not have known who was or was not in her employ. The Tribunal further determined that the Respondent who, by her own admission had a filing cabinet which held personnel details of employees, knew who was on the payroll. Her assertions to the contrary were disingenuous and did not stand up to scrutiny.

37.28.2 The Tribunal determined that in respect the statements made by the Respondent on both communications she deliberately provided information which, by the standards of the ordinary decent man, was dishonest.

37.29 The Tribunal therefore found the allegation of dishonesty in respect of Allegation 1.4 proved on a balance of probabilities.

Dishonesty with regards to Allegation 1.5

37.30 Mr Bullock submitted that, at the time she completed both the AON and LegalEx PII renewal forms, the Respondent was clearly aware of Client P's complaint, the Legal Ombudsman's Case Decision the award of compensation she had paid to Client P as a consequence and the Applicant's investigation which she was engaged in.

37.31 Mr Bullock further submitted that the questions asked on both forms in relation to these matters were straightforward and clear; the Respondent essentially gave false answers to clear questions.

37.32 Mr Bullock therefore submitted that the answers given by the Respondent on both forms, as detailed under Allegation 1.5 above, were dishonest by the standards of the ordinary, decent man.

The Respondent's Position

37.33 The Respondent relied upon her evidence in relation to lack of integrity as set out above at paragraphs 30.16-30.18.

37.34 The Respondent accepted that she provided incorrect information in respect of both forms but asserted that she did not do so deliberately and therefore was not dishonest.

37.35 With regards to the 2018 AON form the Respondent averred that she (a) did not read the questions properly, (b) did not take enough care when completing it, (c) was under pressure from her insurance broker to return the form and (d) rushed to complete the form.

37.36 With regards to the 2019 LegalEx form the Respondent averred that she (a) overlooked Client P's complaint when answering the questions, (b) did not read the questions properly, (c) knew that she was under investigation but focussed on the "intervention part of the question" and (d) did not believe that she needed to disclose the Legal Ombudsman's Case Decision as she "paid the penalty out of her own pocket" as opposed to by way of a claim on her insurance policy.

37.37 The Respondent maintained in respect of both forms that she did not intentionally provide misleading answers and was therefore not dishonest.

The Tribunal's Findings

37.38 In determining whether the Respondent's conduct was dishonest, the Tribunal applied the principles promulgated in Ivey to the established facts. The Tribunal firstly

considered what the Respondent's state of mind as to the facts at the material was and determined that:

- The Respondent was an experienced solicitor who had run her own Firm for 10 and 11 years at the time of completing the respective PII renewal forms.
- The Respondent held all managerial roles within the Firm and was the COLP and COFA at all material times.
- As at 18 September 2018 (in respect of the AON form) the Respondent was actively responding to and addressing Client P's complaint against her, the threat of a claim of negligence being pursued by Client P and the complaint lodged with the Legal Ombudsman in April 2018
- As at 29 August 2019 (in respect of the LegalEx form) the Respondent knew that she was under investigation by the Applicant, had received the Case Decision from the Legal Ombudsman dated 21 March 2019, was well aware of Client P's dissatisfaction with the service provided and solely retained all financial control of the Firm's accounts.

37.39 Notwithstanding the irrefutable facts set out above the Respondent answered the questions posed on both forms in the manner that she did and signed declarations attesting to the truth of the answers given. The Tribunal rejected the Respondent's evidence as to why she answered the questions in the way that she did. The Tribunal found it incredulous that a solicitor of the Supreme Court would not be able to understand the clear questions posed and the purpose thereof. The Tribunal found the Respondent's position in relation to her "oversights, rush and pressure" to be disingenuous. The Tribunal found that the Respondent's evidence in relation to the dual control of the Firm's finances defied logic.

37.40 The Tribunal determined that based on the Respondent's knowledge of the facts at the material time the answers she gave were dishonest by the standards of the ordinary decent man.

37.41 The Tribunal therefore found dishonesty in respect of Allegation 1.5 proved on a balance of probabilities.

Dishonesty with regards to Allegation 1.6.4

37.42 Mr Bullock reminded the Tribunal that, for a protracted period of time, the Respondent was well aware that (a) her accounts were not compliant with the governing Solicitors Accounts Rules, (b) she was required to obtain an accountant's report, (c) that report it would need to be submitted to the Applicant if it was qualified and (d) the Applicant had previously investigated her accounts in 2014 as a consequence of her submitting a qualified accountant's report.

37.43 Against that backdrop the Respondent, on her own admission, had chosen not to obtain an accountant's report (which she knew would have to be qualified given the disarray of the Firm's books and her previous experience). Mr Bullock submitted that her decision in that regard was dishonest by the standards of the ordinary, decent man.

The Respondent's Position

- 37.44 The Respondent denied that her motivation in not obtaining an accountant's report was dishonest. She asserted that accounting issues at the firm "snowballed out of control". The Respondent acknowledged that she was "foolish and naïve" in failing to properly address the issues but maintained that she was not dishonest in so doing.
- 37.45 The Respondent explained that there were no issues with the Firm's accounts "in the early years". Between 2008 and 2013 an accounting system called "Virgo" was used. She would input all accounts transactions into that system and undertook reconciliations herself. The Respondent stated that a system error on the "Virgo" software led to a qualified report being sent to the Applicant and a forensic investigation ensued. The outcome of the investigation was, amongst other things, a recommendation that the Respondent change from "Virgo" to a different accounting system.
- 37.46 The Respondent took advice from her accountant and purchased a licence for "Perfect Books" software; she also took on a book keeper (AQ) as recommended by her accountant. The Respondent stated that she was advised that AQ was familiar with both the Solicitors Accounts Rules and the software. AQ undertook the accounting work for approximately 18 months, between 2014 and mid 2015, but she found him to be unreliable and unobtainable on occasion. His role as book keeper ended when he advised the Respondent that he was going to spend an extended period of time abroad.
- 37.47 The Respondent stated that she sought further advice from her accountant with regards to appointing a new book keeper. Her accountant advised that he would look and recommend a new book keeper but in the intervening period she should try to undertake the book keeping herself. The Respondent stated that was what she did with the assistance of a part time support member of staff who had some accounting experience. The Respondent acknowledged that during that intervening period she did not prioritise the book keeping element of her practice. She stated that every transaction was supported by a hard copy document, credit and debit slips, but that there was a "substantial backlog with the inputting" of those slips onto the system which inevitably led to a lack of reconciliation. Notwithstanding that fact the Respondent averred that, as every transaction was undertaken by her alone, she was confident that money was fully accounted for.
- 37.48 The Respondent stated that around the beginning of 2019 she appointed a new book keeper (AA) to whom she gave all outstanding paperwork. She relied on his assurances that he would input all of the paper transactions, namely the backlog of credit/debit slips, onto the system and undertake the requisite reconciliations. That did not happen and after a few months it became clear to the Respondent that AA did not understand either the Solicitors Accounts Rules or the "Perfect Books" software.
- 37.49 The Respondent stated that she appointed a further book keeper in December 2019, MB, who was recommended by another Firm of solicitors and was therefore familiar with the Solicitors Accounts Rules and the "Perfect Books" software. MB was the Firm's book keeper working on the backlog regarding the accounts up until the Applicant's intervention.

- 37.50 The Respondent stated that during the Applicant's investigation and subsequent to her meetings with the FIO in December 2019, she decided that "the problems with the accounts were such that the right thing to do was close the Firm" which she commenced in an orderly manner.
- 37.51 On 27 February 2020, the Respondent was notified by the Applicant of its recommendation of intervention. She responded, via her representative, that she had closed the Firm and sought a stay of the intervention for a period of weeks for her to get the accounts in order and all reconciliations completed. That request was acceded to by the Applicant's Adjudication Panel on 17 March 2020 and the Respondent stated that she worked with her accountant to deal with the backlog and reconciliations. However it was not possible for them to complete those tasks and provide the Applicant with the information sought within the time permitted.
- 37.52 The Respondent maintained that her conduct with regards to her accounts was reckless and manifestly incompetent but not dishonest. She asserted that her failures led to the loss of her Firm and referral to the Tribunal. The Respondent stated that she was deeply ashamed of her conduct which tarnished her reputation forever. The Respondent was suspended from practice following the intervention into her Firm.
- 37.53 The Respondent relayed to the Tribunal that as a consequence of the intervention she no longer wanted to practice law and that she recognised her failures were "such that I can never manage my own Firm again".
- 37.54 Mr Bullock, in cross examination, asked the Respondent whether, at the material time, she understood that she was obliged to obtain accountant's reports irrespective of the state of the Firm's books. The Respondent replied that she had "nothing to give the accountant to produce a report because reconciliations were not undertaken". Notwithstanding that fact the Respondent accepted, when challenged, that she was able to provide the FIO with cash books, ledgers, bank statements, credit and debit slips for the client account during the course of the Applicant's investigation.
- 37.55 Mr Bullock put to the Respondent that, on her own evidence, she did have something to give to the accountant in order to prepare a report. The Respondent stated that, based on her previous experience, she believed that the accountant needed the reconciliations, which had not been done, in order to prepare a report. The Respondent further asserted that she "did not understand the true purpose of an accountant's report".
- 37.56 Mr Bullock put to the Respondent that she knew that if the accounts were not in order that inevitably led to a qualified accountant's report. The Respondent accepted that contention. Mr Bullock put to the Respondent that she knew that qualified accountant's reports had to be submitted to the Applicant and could result in a forensic investigation. The Respondent did not accept that contention. Mr Bullock put to the Respondent that she deliberately failed to obtain an accountant's report from 2014 as she was (a) trying to hide the fact that reconciliations had not been done and (b) she wanted to avoid the issue of a qualified accountant's report. The Respondent did not accept that contention, accepted that no reconciliations had been carried out as

required by the Solicitors Accounts Rules but maintained that she “had nothing to give the accountant to prepare a report”.

The Tribunal’s Findings

37.57 In determining whether the Respondent’s conduct was dishonest, the Tribunal applied the principles promulgated in Ivey to the established facts. The Tribunal firstly considered what the Respondent’s state of mind as to the facts at the material was and determined that:

- As at 2014 the Respondent had been a sole practitioner, COLP and COFA of the Firm for 6 years.
- She was, or ought to have been, fully familiar with the duties incumbent on her by virtue of the Solicitors Accounts Rules.
- The responsibility for compliance with the Solicitors Accounts Rules rested solely with her and could not be delegated to an accountant and/or book keeper.
- As of 2014 of the consequences of submitting a qualified accountant’s report to the Applicant, namely that a forensic investigation was likely to ensue.
- From 2014 – 2020 the Respondent was well aware of the issues regarding the Firm’s books of accounts, lack of reconciliation and failures to input transactions onto the accounting software used by the Firm which inevitably contravened the Solicitors Accounts Rules..
- From 2014 – 2020 transactions were recorded in hard copy by way of debit and credit slips, cash books, and ledgers and were recorded in bank statements all of which were provided to the FIO.
- The Respondent failed to obtain accountant’s reports from 8 January 2014.

37.58 The Tribunal determined that based on the Respondent’s knowledge of the facts at the material time she made a conscious and deliberate decision not to obtain accountant’s reports from 2014 onwards. The Tribunal concluded that the Respondent’s decision to do so was motivated by the desire not to subject the Firm to further forensic investigations which she knew would follow as a consequence of a submitting a qualified accountant’s report to the Applicant. That was, in the Tribunal’s view, dishonest by the standards of the ordinary decent man.

37.59 The Tribunal therefore found dishonesty in respect of Allegation 1.6.4 proved on a balance of probabilities.

38. **Allegation 3: -Recklessness in the alternative to dishonesty in respect of Allegation 1.4 and in respect of Allegation 1.6.**

Recklessness with regards to Allegation 1.4

- 38.1 Mr Bullock submitted that the Applicant's primary position was that the Respondent's conduct in respect of Allegation 1.4 was dishonest but, if the Tribunal did not find dishonesty, her conduct was reckless.
- 38.2 Mr Bullock submitted that the information provided by the Respondent to the Applicant without having checked basic facts and information, was:
- Reckless to the risk of providing false and misleading information.
 - The consequences of that risk were that the Applicant would have been provided with misleading information regarding an ongoing investigation regarding her own conduct and been unable to establish the correct position.
 - Given the ease with which some issues could apparently be checked (e.g. by checking for a personnel file or collating documents together from her own records), it was unreasonable in all the circumstances for the Respondent to run such risks

The Respondent's Position

- 38.3 The Respondent admitted the aggravating feature of recklessness in respect of Allegation 1.4.

The Tribunal's Findings

- 38.4 Having found that the Respondent's conduct in respect of Allegation 1.4 was dishonest, it was not required to consider recklessness which was alleged in the alternative.

Recklessness with regards to Allegation 1.6

- 38.5 Mr Bullock submitted that the Respondent's approach to her accounts generally included, (a) failing to keep accounts and ledgers up to date, b) not reconciling client account or obtaining accountant's reports for several years and (c) mixing office and client money for several years and transferring funds from client account to office account without relevant records readily available. That conduct was:
- Reckless to the risk of losing control of her accounts situation and of being able to account for client money appropriately.
 - Reckless as to the risk that client money would be inappropriately transferred to office account without proper records recording the position.
- 38.6 Mr Bullock submitted that it was unreasonable for the Respondent to fail to maintain her accounts for several years, before transferring significant funds into her office account without corresponding paperwork readily to hand and prior to correcting the errors in her accounts and records.

The Respondent's Position

38.7 The Respondent admitted the aggravating feature of recklessness in respect of Allegation 1.6.

The Tribunal's Findings

38.8 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.

38.9 On the basis of the evidence before it and the admissions made the Tribunal found the additional aggravating feature of recklessness in respect of Allegation 1.6 proved on a balance of probabilities.

39. **Allegation 4: Manifest Incompetence, in the alternative to dishonesty where alleged, and additionally in respect of Allegations 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.7.**

39.1 Further in the alternative Mr Bullock submitted that even on the Respondent's own account her conduct was manifestly incompetent. The Respondent asserted that:

- She had conduct of Client P's matter and could not locate the file for a protracted period of time.
- She understood that the Home Office was processing an application in 2017/2018, on the basis of alleged conversations with a paralegal who left the Firm in 2015 and despite having no papers or reference number from the Home Office.
- She made no contact with the Home Office for several years, even after receiving queries about the progress of Client P's matter.
- She made no contact with the Home Office even after Client P advised that they had not received an application for discretionary leave to remain on her behalf.
- She replied to the Applicant in the course of an investigation without having undertaken any basic enquiry as to the status of Client P's application.
- She denied the fact that SK was employed by the Firm without having undertaken any basic enquiry of her personnel records.
- She provided incorrect information on two PII renewal forms despite having sole responsibility for Client P's complaints, dealings with the Legal Ombudsman and being under investigation by the Applicant.
- She consistently and repeatedly failed to comply with the Solicitors Accounts Rules for around five years.
- She made a conscious decision not to obtain an Accountant's Report for five years which vitiated any interrogation or scrutiny of her books of account which she knew were in disarray.

The Respondent's Position

- 39.2 The Respondent admitted the aggravating feature of manifest incompetence in respect of Allegations 1.1 – 1.7 inclusive.

The Tribunal's Findings

- 39.3 The Tribunal paid significant regard to the fact that the Respondent was represented by a solicitor and counsel in the Tribunal proceedings. Cognisant of that fact the Tribunal determined that the admissions were properly made.
- 39.4 On the basis of the evidence before it and the admissions made the Tribunal found the additional aggravating feature of manifest incompetence in respect of Allegations 1.1, 1.3, 1.6.1, 1.6.2, 1.6.3, 1.6.5, 1.6.6 and 1.7 proved on a balance of probabilities.
- 39.5 Having found that the Respondent's conduct in respect of Allegation 1.2, 1.4, 1.5 and 1.6.4 and was dishonest, it was not required to consider manifest incompetence which was alleged in the alternative.

Previous Disciplinary Matters

40. None

Mitigation

41. Mr Hamlet submitted that, in light of the Tribunal findings and the admissions made, the Respondent was under no illusions as to the likely consequences, namely an Order striking her from the Roll.
42. Mr Hamlet submitted that the Respondent accepted that her conduct represented a serious departure from the standards incumbent upon her as a solicitor of the Supreme Court. He averred that the Respondent appeared before the Tribunal, notwithstanding her serious failings and likely outcome, not to "rescue her career". She appeared in deference to the Tribunal in order to explain why she had conducted herself in the manner that she did.
43. Mr Hamlet reminded the Tribunal that the Respondent had closed the Firm, co-operated and engaged fully with the Tribunal proceedings and made "fulsome admissions" in advance of the substantive hearing.

Sanction

44. The Tribunal referred to its Guidance Note on Sanctions (Seventh Edition) when considering sanction. The Tribunal considered the mitigation advanced and accepted the same. The Tribunal noted that the Respondent recognised the seriousness of the misconduct found and the likely sanction to be imposed. No exceptional circumstances were either advanced on behalf of the Respondent or found by the Tribunal.
45. The Tribunal found that the Respondent had acted dishonestly on numerous occasions in respect of four allegations spanning 2015 and 2020. It further found that she was manifestly incompetent and reckless on numerous occasions over a protracted period

of time. In light of those findings the Tribunal determined that neither a reprimand, financial penalty, restrictions on practice nor a suspension order sufficiently met the seriousness of the misconduct. The Tribunal therefore concluded that the appropriate and proportionate sanction was an order striking the Respondent off the Roll of Solicitors

Costs

46. Costs were agreed by the parties in the sum of £25,000.00.

Statement of Full Order

47. The Tribunal Ordered that the Respondent, RIZWANA JAMIL, solicitor, 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 £25,000.00.

Dated this 20th day of January 2021

On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'W Ellerton', written over a horizontal line.

W Ellerton
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
21 JAN 2021