The Respondent appealed the Tribunal's decision dated 18 October 2021 to the High Court (Administrative Court). The appeal was heard by Mrs Justice Lang on 12 May 2022 and Judgment handed down on 21 June 2022. The appeal was dismissed. Nazari v Solicitors Regulation Authority [2022] EWHC 1574 (Admin).

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12188-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

WAHID NAZARI Respondent

Before:

Mr A N Spooner (in the chair)
Mr J P Davies
Ms J Rowe

Dates of Hearing:
23 August 2021 and 4 October 2021

Appearances

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

The Respondent represented himself.

JUDGMENT

Allegations

The Allegation against the Respondent, were that, while in practice as a Solicitor at Carpenters Limited:

1. The Respondent on nine occasions between 20 June 2018 and 15 August 2018 used a parking device, namely a disabled badge (Blue Badge), with intent to deceive, resulting in:

1.1 his conviction at Lewes Crown Court on 15 February 2019 of three counts of using a parking device with intent to deceive contrary to Section 115(1) of the Road Traffic Regulation Act 1984;

1.2 him being sentenced at Lewes Crown Court on 15 February 2019 to, amongst other things, a fine of £1,500.

The Respondent therefore breached any or all of:

1.3 Principle 2 of the SRA Principles 2011 (the Principles)

1.4 Principle 6 the Principles

2. In addition, the Allegation set out above was advanced on the basis that the Respondent's conduct was dishonest. Dishonesty was alleged as an aggravating feature of the Respondent's misconduct but was not an essential ingredient in proving the allegation.

Factual Background

3. The Respondent was admitted to the Roll on 17 June 2015. At the material time he was employed as a solicitor by Carpenters Limited, based at Chester House, 2nd Floor, Harlands Road, Haywards Heath, West Sussex, RH16 1LR. At the time of the hearing the Respondent had a current practicing certificate which was not subject to any conditions but he was not currently practicing as a solicitor.

4. The conduct in this matter came to the attention of the Applicant when the Respondent self-reported on 5 March 2019.

5. The Blue Badge had been legitimately issued to a member of the Respondent's family ("Person A") in June 2016 and was valid at the material time. The Respondent was the primary carer for Person A. On 15 August 2018 the Respondent had used his car to drop-off Person A at a location and had then driven to work and parked on a single yellow line which had parking restrictions between 9am and 10am and also 1pm and 2pm. The Respondent had stated that that he intended to collect Person A and another family member from Haywards Heath station and take them to Brighton once he finished.

6. A Blue Badge investigator, BM was inspecting Blue Badges with a colleague, CB. They noticed the Respondent exiting his vehicle that was parked on the single yellow line on Turners Mill Road. BM confronted the Respondent, cautioned him and asked if Person

A was nearby. The Respondent stated he had dropped Person A off some distance away. The Respondent signed BM's pocket notebook and the Blue Badge was confiscated.

7. Previously, on 20 June 2018 BM and a colleague TM had been conducting inspections and had seen the Respondent's vehicle parked on in the same street on a single yellow line during the hours of restriction. On that occasion the Respondent had been observed sitting in the driver's seat with a Blue Badge on display. BM and TM had approached the vehicle, noting the Blue Badge was no longer on display. Upon returning, the male had left the vehicle and the Blue Badge was displayed. They returned at various times during the day and the vehicle remained parked at the location.

8. The Blue Badge serial number was checked, and it was found to have been displayed on the Respondent's vehicle while it was parked on Turners Mill Road, during periods where restrictions on parking, on 21 June 2018, 22 June 2018, 25 June 2018, 27 June 2018, 29 June 2018, 4 July 2018 and 5 July 2018. Under the terms of the Blue Badge scheme the individual named on the Blue Badge must require access to the vehicle at the time it is parked. At the material times Person A did not have use of the vehicle as it was parked outside the Respondent's place of work.

9. The Respondent was summonsed to the Magistrates Court and elected to have his trial in the Crown Court. He was convicted at Lewes Crown Court on 15 February 2019 of three counts of using a Blue Badge with intent to deceive contrary to Section 115(1) of the Road Traffic Regulation Act 1984. He was sentenced by way of fine of £1,500 (being £500 for each count) and ordered to pay prosecution costs of £6,000.

10. The Judge's sentencing remarks included the following:

> "On a number of occasions between June and August of 2018 - something at least at the order of eight - you improperly took advantage of the blue disabled badge that had been given to [Person A], to park close to your place of work.
>
> I want to make very clear that you parked in a place where you gained no financial advantage because there was no price to pay and you gained no relief in any real sense from any difficulty of - of parking. You tell us, and I accept, that there was free parking somewhere else. What - what you did though was leave your car on a yellow line, just around the corner from your work, where the yellow line restricted parking to make the people who live there's life easier for one hour in the morning - nine until 10 - and then one hour at lunchtime. And for the sake of not moving your car, or not parking it up at the free space and walking down, you have got yourself into this mess. And the mess is that by placing the blue card on the dashboard of your car, you intended on each of the occasions to deceive parking enforcement officers into thinking that someone who did have the right needed to use it.
>
> It's a stupid, stupid thing to have done - it's a stupid, stupid thing to have done repeatedly - but it is an error of - of being lazy and being idle. It is not an error where you were seeking to gain any great financial advantage at all - any financial advantage at all - and it didn't involve any sum of money coming to you or misappropriating any money in any way at all. There's no question of you behaving in such a way. Nor did it cause, on the face of it, any disadvantage

> to anyone of any substance, nor did it cause any harm to any public vehicle or anything of that sort. Further, it is abundantly clear that this is an offence where you had legitimate use of a blue card for [Person A]. You weren't pretending it was for you and you were disabled or anything of that sort, and you haven't misused anyone else's card. It was a card that would have been in the car with you. And I accept - and I sentence you on the basis - that at least you had had [Person A] in the car on those days, but where I and the jury draw issue with you is that we find that you knew that you shouldn't be using it in the circumstances that you did. So it's an error where you had decided to take advantage of a situation for ease and laziness. It is no worse than that and no one should view it as any worse than that. And I'm sure Mr Jenkins will understand why I spell it out as clearly as that, and it falls very much at the low end.
>
> It could, in my judgment, have been dealt with by a strict liability offence, but I understand - and I don't criticise the prosecution for proceeding it in their way - in the way that they have because the blue card system is there as a benefit, and when society does confer a benefit it must be seen to make sure that the benefit is used in a proper way. And other people do misuse Blue Badges, and it must be seen that Blue Badges are being used in the right way. So I sentence you on that basis. I appreciate that once these charges were levied against you, you - you didn't have any great choice into your reaction to them, given the potential consequences, but you can't claim that to your credit. In sentencing you, I've considered my sentencing powers, which include sending you to prison, in theory. It - it would not, in any sense, be appropriate to do so, and that sort of sentence should be reserved for people who forge or steal other people's blue cards and use them in a deliberately dishonest and deceptive way - in distinction to your conduct, where you've taken advantage of something.
>
> I've considered whether imposing a sentence in the community would make any sense, in your case. My view is that it would not. Your life is tough enough as it is and imposing either a requirement of probation is not going to rehabilitate you because you ain't going to do this again, and imposing community service would just distract from your ability to look after your family and would also prevent you caring properly for [Person A]. So for all of those reasons, in my judgment, the appropriate sanction upon you in this court is one of a fine. I impose a fine in respect of each of the three counts that you face of £500, and that means that the total fine that I impose is one of £1500. I have to also consider the prosecution's costs. The prosecution's costs in this case come to the sum of £8,630. Whilst I consider that that is a reasonable sum for the amount of work that it could have and, indeed, no doubt took the counsel to prepare its case, and for the counsel to prepare the case for trial and present it as ably as he did, and your counsel as ably as he did to respond to it no doubt incurred a similar type of fee - as an act of mercy, I'm going to reduce that to a figure of £6,000, which you should pay by way of contribution. That means that I'm going to impose costs of £6,000 and a fine of £1500."

11. After making some further remarks about costs and the Respondent's means, the Judge continued:

> "I'm very sorry to see you in this court. I'm very sorry to see you in this court on charges which are serious, but they are what they are. And I suspect that you will leave here ashamed of your conduct and rightly so, but please put it behind you as best you can and look after [Person A] as best you can, and you deserve a future credit for doing so. You're free to go."

Witnesses

The Respondent

12. The Respondent told the Tribunal that his witness statement stood as his evidence in chief. The Respondent explained that on all the relevant dates Person A had been in the car with him earlier and there was no question of him gaining any financial advantage. The Respondent was not pretending that the Blue Badge was for him and he had given his true identity and a truthful explanation to the parking officials. The Respondent told the Tribunal that the SRA had not initially alleged dishonesty and that the recommendation of the investigator was a financial penalty rather than referral to the Tribunal.

13. In cross examination the Respondent agreed with Mr Bullock's suggestion that he was aware of the allegation of dishonesty from 5 January 2021. Mr Bullock asked the Respondent if his Answer in these proceedings, served on 24 May 2021 and sent to the Tribunal by David Barton, solicitor advocate, had been sent on instructions. The Respondent confirmed that it had. Mr Bullock asked the Respondent if, when he admitted dishonesty in his answer, this was also written on instructions. The Respondent confirmed that it was that and stated that he was not sure if he had understood the concept correctly. When asked to clarify what he meant by that, the Respondent told the Tribunal that what he was admitting was the conviction as described in the Judge's sentencing remarks. There had been a deadline for filing the Answer as he had asked Mr Barton to file the answer on his behalf. The Respondent told the Tribunal that he had not appreciated the seriousness of the allegation of dishonesty at the time but now understood that it was a very serious matter. Mr Bullock put to the Respondent that this was the first time that he had denied the offence of dishonesty. The Respondent stated that he had not had the opportunity to do so. Mr Bullock put to him that the reason he had changed his position was because he had now realised the serious consequences of an admission to dishonesty. The Respondent denied this and stated that he took responsibility for his actions. He told the Tribunal that his admission was based on the evidence and that evidence went against the allegation of dishonesty.

14. The Respondent confirmed that he had been represented in the Crown Court and he had not appealed against the verdict of the jury. Mr Bullock asked Respondent if his evidence before the Crown Court was the same as it was before the Tribunal. The Respondent stated that it was the same facts but different evidence as this case was based on the jury's findings. The Respondent reiterated that he accepted the jury's findings and the convictions.

15. The Respondent confirmed that, at the time he was parked, Person A was not in the car. Mr Bullock put to the Respondent that he knew that he was not supposed to be using the Blue Badge in those circumstances. The Respondent stated that at the time he had

an honest belief that he was entitled to park there and that he had made an honest mistake. The Respondent accepted that the jury had rejected that defence in the Crown Court.

Findings of Fact and Law

16. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (on the balance of probabilities). The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

17. **Allegation 1**

Applicant's Submissions

17.1 The Applicant submitted that the Respondent had used the Blue Badge with intent to deceive on nine separate occasions and that in doing so her had failed to act with integrity. The Tribunal was referred to Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366, and the test for integrity set out in that judgment.

17.2 The Applicant's case was that adherence to the ethical standards of the profession included adherence to the law particularly as solicitors were officers of the court. Principles 2 and 6 expressly applied to conduct outside practice. The Applicant submitted that a solicitor acting with integrity would not have displayed a Blue Badge with the intention to deceive parking enforcement officers into thinking he was entitled to park his vehicle when he was not.

17.3 The Applicant submitted that the public would be "shocked" to learn that the Respondent had been convicted of these offences, the penalty for which can include a term of imprisonment. The Applicant submitted that the Respondent had breached Principles 2 and 6.

17.4 In relation to dishonesty, the Applicant relied upon the test for dishonesty in Ivey v Genting Casinos [2017] UKSC 67. The Applicant submitted that the Respondent would have known that the Blue Badge was for the use of Person A only and that that he was not entitled to use the Blue Badge for his own personal benefit, including parking close to the firm for the purposes of his employment as a solicitor. The Respondent would also have known when the parking restrictions were in place as he had decided to use the Blue Badge during those periods.

17.5 On 20 June 2018, the Respondent had removed the Blue Badge from his dashboard whilst the enforcement officers were within the vicinity and then returned it once they had left. The Respondent knew, that in displaying the Blue Badge, he would be deceiving parking enforcement officers into thinking Person A had immediate use of the vehicle and was thereby entitled to park. The Respondent's conduct was not an isolated incident, having occurred on nine occasions over a three-month period. The Applicant relied on the certificate of conviction in support of its case.

17.6 Mr Bullock submitted that the fact that the investigator had been of the view that the matter could be dealt with by way of a financial penalty and without referral to the Tribunal was not relevant as the investigator did not have the decision-making authority.

Respondent's Submissions

17.7 The Respondent reiterated points made in his evidence. He referred the Tribunal to Beckwith v SRA [2020] EWHC 3231, in particular [54] which stated as follows:

> "54. There can be no hard and fast rule either that regulation under the Handbook may never be directed to the regulated person's private life, or that any/every aspect of her private life is liable to scrutiny. But Principle 2 or Principle 6 may reach into private life only when conduct that is part of a person's private life realistically touches on her practise of the profession (Principle 2) or the standing of the profession (Principle 6). Any such conduct must be qualitatively relevant. It must, in a way that is demonstrably relevant, engage one or other of the standards of behaviour which are set out in or necessarily implicit from the Handbook. In this way, the required fair balance is properly struck between the right to respect to private life and the public interest in the regulation of the solicitor's profession. Regulators will do well to recognise that it is all too easy to be dogmatic without knowing it; popular outcry is not proof that a particular set of events gives rise to any matter falling within a regulator's remit."

17.8 The Respondent submitted that this was relevant as the approach taken by the Applicant had the effect of expanding the scope of the Respondent's obligations. He submitted that the offence had occurred in course of caring for Person A and was unrelated to his professional work. The Respondent also referred to Wingate and submitted that the "unrealistically high standards" should not be set and solicitors were not required to be "paragons of virtue" The Respondent submitted that he had made a "stupid mistake" but nothing worse than that. The allegations were admitted save for the allegation of dishonesty, which was denied.

17.9 The Respondent reminded the Tribunal that the initial view of the SRA had been that this could have been dealt with internally.

The Tribunal's Findings

17.10 The admissibility of the conviction was covered by Rule 32(1) of the SDPR 2019 which stated as follows:

> "Previous findings of record
> 32.—(1) A conviction for a criminal offence in the United Kingdom may be proved by the production of a certified copy of the certificate of conviction relating to the offence and proof of a conviction will constitute evidence that the person in question was guilty of the offence. The findings of fact upon which that conviction was based will be admissible as conclusive proof of those facts save in exceptional circumstances."

17.11 The Respondent had denied acting dishonestly, notwithstanding that he had been convicted of an offence of intending to deceive. The Tribunal saw no distinction between the concepts of deception and dishonesty. The facts behind that conviction were admissible as conclusive proof of those facts unless there were exceptional circumstances why they should not be admissible. The Tribunal listened carefully to the evidence and submissions of the Respondent but found no circumstances in which it would be appropriate to go behind the conviction. The Respondent had elected to have his trial before a jury in the Crown Court, had been represented throughout the criminal proceedings and all the material facts had been before the Court during trial and sentence. The Respondent had not sought to appeal against the conviction. The Tribunal therefore accepted the conviction as proof of the facts upon which it was based and found the factual basis of the Allegation proved on the balance of probabilities.

Principle 2

17.12 In considering whether the Respondent had lacked integrity, the Tribunal applied the test set out in Wingate. At [100] Jackson LJ had stated:

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

17.13 The Respondent had parked near his place of work and, rather than parking a little further away where it would have been free, he had chosen to park where he did and to use the Blue Badge in circumstances where at that time he was not entitled to do. The Tribunal found that this lacked integrity. The Blue Badge system was in place to assist vulnerable people who would otherwise find suitable parking difficult to access. It was not in place to allow people to park closer to their place of work who were not themselves entitled to the use of the Blue Badge.

17.14 The Tribunal noted that Beckwith was a case involving entirely different circumstances, not least of all because it was not a conviction case and did not involve dishonesty. The case before this Tribunal was a criminal offence of deception committed while the Respondent was at work.

17.15 The Tribunal found the breach of Principle 2 proved on the balance of probabilities.

Principle 6

17.16 The Tribunal found that the public would not expect solicitors to take advantage of the Blue Badge scheme or to act with an intention to deceive. The Tribunal found the breach of Principle 6 proved on the balance of probabilities.

Dishonesty

17.17 The test for considering the question of dishonesty was that set out in Ivey at [74] as follows:

> "the test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: ….. 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."

17.18 The Tribunal applied the test in Ivey and in doing so, when considering the issue of dishonesty adopted the following approach:

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

- Secondly, once that was established, the Tribunal then considered whether that conduct was honest or dishonest by the standards of ordinary decent people.

17.19 The Tribunal noted the nature of the conviction was "intent to deceive" and so the Tribunal found that the Respondent's state of knowledge at the time had been an intention to deceive the parking officials into believing that he was entitled to use the Blue Badge on those occasions. The Tribunal noted the witness evidence before the Crown Court, which referred to the Respondent moving the Blue Badge when he saw the parking officials.

17.20 The Respondent was aware that the Blue Badge had been issued to Person A, not to himself. He would therefore have been aware of the circumstances when he could, and could not, use it.

17.21 The Respondent, in his Answer to the Allegations, had stated as follows:

> "This Application to the Tribunal is based on the said convictions and he [the Respondent] accepts the jury found him guilty and that the Recorder found he knew he ought not to have been using the Blue Badge. The Respondent admits the allegation of dishonesty, consistent with the verdict and the Recorder's findings. He has not appealed that decision."

17.22 In his evidence the Respondent had moved away from that position and denied acting dishonestly. As discussed above, the Tribunal had relied on the conviction and had found that it was a conviction for an offence of dishonesty. The Respondent had invited the Tribunal to have regard to the sentencing remarks of the Judge. The Tribunal did so and noted the following:

> "And for the sake of not moving your car, or not parking it up at the free space and walking down, you have got yourself into this mess. And the mess is that by placing the blue card on the dashboard of your car, you intended on each of the occasions to deceive parking enforcement officers into thinking that someone who did have the right needed to use it."

17.23 The Judge clearly sentenced the Respondent on the basis that this was an offence of deception, consistent with the jury's verdict. The fact that the SRA investigator had taken the view that the matter could be dealt with by way of a financial penalty and without referral to the Tribunal was not a relevant factor. The investigator was not a decision-maker and the Allegation had been properly brought.

17.24 The Tribunal found that the Respondent's conduct would be considered dishonest by the standards of ordinary decent people, as indeed it had been by a jury in the Crown Court. The Tribunal therefore found the allegation of dishonesty proved.

Previous Disciplinary Matters

18. There was no record of any previous disciplinary findings by the Tribunal.

Mitigation

19. The Respondent told the Tribunal that he was in "a complete state of shock". He told the Tribunal that the last three years had been the most difficult time for him and my family. The Respondent stated that he was "deeply saddened and ashamed to be here today" and told the Tribunal that he had to accept the findings. He had regretted his actions and taken every possible step to ensure it would never happen again.

20. The Respondent referred to the Judge's sentencing remarks and invited the Tribunal to view this matter in the same way that the Judge had. He urged the Tribunal not to give "too much weight to the nature of the conviction" but to look at the Judge's remarks.

21. The Respondent submitted that given his personal circumstances and the sentencing remarks, this would qualify as exceptional circumstances such that the Tribunal did not need to strike him off. He submitted that any sanction imposed would have a profound effect on his family as well as himself and he invited the Tribunal to impose a fine. He had not taken financial advantage of anyone else and had not received any monetary advantage or misled the Court.

22. The Respondent submitted that the timing of the misconduct was relevant and he referred the Tribunal to details of his family situation at that time, which included medical evidence before the Tribunal. The Respondent submitted that the factors identified in Solicitors Regulation Authority v Sharma [2010] EWHC 2022.

23. The Respondent reminded the Tribunal that he had self-reported to the SRA and fully co-operated with it.

24. In response to a query from the Tribunal, the Respondent confirmed that he had not submitted any medical evidence at the Crown Court.

Sanction

25. The Tribunal referred to its Guidance Note on Sanctions (8th Edition) dated December 2020 when considering sanction. The Tribunal assessed the seriousness of the misconduct by considering the Respondent's culpability, the level of harm caused together with any aggravating or mitigating factors.

26. In assessing culpability, the Tribunal found that the Respondent's motivation had been laziness rather than financial. The offences were planned and the trust of the public was undermined as set out in the Tribunal's finding in relation to Principle 6.

27. In assessing harm, the Tribunal recognised that no harm was caused to any individual. However, there was harm to the reputation of the profession on account of the Respondent having committed a criminal offence of dishonesty.

28. The misconduct was aggravated by the dishonesty and the fact that the offences had been deliberate, calculated and had continued over a period of time. The nature of the offence was such that concealment was an integral part of it. The Respondent ought to have known that he was in breach of his professional obligations.

29. The misconduct was mitigated by the fact that the Respondent had self-reported and co-operated fully with the SRA's investigation. The Respondent had made admissions at an early stage, albeit he had backed away from some of those admissions during his evidence. The Respondent had a previously unblemished career.

30. The misconduct was so serious that a Reprimand, Fine or Restriction Order would not be a sufficient sanction to protect the reputation of the profession from future harm by the Respondent. Coulson J, in Sharma, observed:

> "34. there is harm to the public every time a solicitor behaves dishonestly. It is in the public interest to ensure that, as it was put in Bolton, a solicitor can be "trusted to the ends of the earth"."

31. The Tribunal noted that the usual sanction where misconduct included dishonesty would be a strike-off. The circumstances in which such a sanction was not imposed were exceptional, described in Sharma as follows:

> "13. It seems to me, therefore, that looking at the authorities in the round, that the following impartial points of principle can be identified: (a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the roll, see Bolton and Salisbury, That is the normal and necessary penalty in cases of dishonesty, see Bultitude. (b) There will be a small residual category where striking off will be the disproportionate sentence in all the circumstances, see Salisbury. (c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself; whether it was momentary, such as Burrowes, or other a lengthy period of time, such as Bultitude; whether it was a benefit to the solicitor (Burrowes), and whether it had an adverse effect on others."

32. In Solicitors Regulation Authority v James [2018] EWHC 3058 (Admin) at [101], Flaux LJ set out the basis of which question of exceptional circumstances was assessed:

> "First, although it is well-established that what may amount to exceptional circumstances is in no sense prescribed and depends upon the various factors and circumstances of each individual case, it is clear from the decisions in Sharma, Imran and Shaw, that the most significant factor carrying most weight and which must therefore be the primary focus in the evaluation is the nature and extent of the dishonesty, in other words the exceptional circumstances must relate in some way to the dishonesty."

33. The Tribunal considered whether the circumstances in this case were exceptional, having regard to James and Sharma.

34. The Tribunal considered whether there were any exceptional circumstances that would make such an order unjust in this case. The Tribunal had regard to the Respondent's personal circumstances at the time of the offences and in doing so took into account the medical evidence that he had submitted in relation to his family, while noting that he had not submitted any medical evidence in relation to his own health.

35. The Tribunal accepted that there had been no loss to any individual and it took full account of the Judge's sentencing remarks and the sentence itself, which was at the lower end of the range of sentences available to the Judge. However the Tribunal was considering a conviction for nine separate instances of using a Blue Badge with intent to deceive. The Blue Badge system was designed for the assistance and protection of vulnerable people and the Respondent's repeated abuse of that system was a serious matter. The Respondent had shown little insight into the seriousness of what he had done during the course of his evidence before the Tribunal. On the one hand he had told the Tribunal that he accepted the jury's verdict but he also continued to maintain he had made an honest mistake, something the jury had clearly rejected.

36. The Tribunal reviewed the factors set out in Sharma and applied them to the facts of this case. The nature, scope and extent of the dishonesty was that the Respondent had committed the offences on nine occasions and on one of those had removed the Blue Badge when he saw the parking officials. This could not be described as momentary as the offences spanned an eight-week period. The benefit to the Respondent was not financial but it did afford him a degree of convenience that he would otherwise not have enjoyed.

37. The Tribunal did not find the circumstances to be exceptional, unfortunate though they were. The repeated nature of the offending and the limited insight demonstrated by the Respondent led to Tribunal to the conclusion that there was nothing that would justify a lesser sanction than a strike-off. The only appropriate and proportionate sanction was that the Respondent be struck off the Roll.

Costs

38. Mr Bullock sought costs in favour of the Applicant in the sum of £3,980.00.

39. The Respondent did not challenge the principle or level of costs claimed in terms of the work undertaken, but he did refer the Tribunal to his limited means as set out in his personal financial statement. The Respondent told the Tribunal that he was renting his current accommodation.

40. The Tribunal reviewed the Applicant's costs schedule and noted that 14 hours had been claimed for perusal and preparation of documents. In light of the fact that this was a case based on the Respondent's conviction, this seemed excessive and the Tribunal reduced the overall costs to £3,500 to reflect that.

41. The Tribunal moved on to consider the Respondent's means. The form had been completed at a time when he had been working and this was clearly not going to continue in the same form after the conclusion of these proceedings. He had significant debts and limited assets. The Respondent's monthly surplus was negligible. In the circumstances the Tribunal considered it reasonable and proportionate to reduce the costs to £1,000 to reflect the Respondent's limited means.

Statement of Full Order

42. The Tribunal Ordered that the Respondent, WAHID NAZARI, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,000.00.

Dated this 18th day of October 2021
On behalf of the Tribunal

A N Spooner
Chair