The Respondent appealed the Tribunal's decision and Order to the High Court. The Respondent did not comply with directions set by Mr Justice Richie and his appeal was struck out. The Tribunal's judgment is therefore unchanged and remains in force as made by the Tribunal.

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12270-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD Applicant

and

JAYESH SASDEV Respondent

Before:

Mr D Green (in the chair)
Mr P Lewis
Dr S Bown

Date of Hearing: 5 – 13 September 2022

Appearances

Benjamin Tankel, counsel of 39 Essex Chambers, 81 Chancery Lane, London WC2A 1DD instructed by Hannah Lane, solicitor of Capsticks LLP, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

The Respondent attended and represented himself.

JUDGMENT

Allegations

1. The allegations made against the Respondent by the Solicitors Regulation Authority LTD ("SRA") were that while in practice as a partner and solicitor at Archer Fields Solicitors ("the Firm"):

1.1 Between December 2010 and 30 September 2018, in relation to his handling of Person MA's estate on behalf of Client A, he charged up to £256,907.96 of costs in relation to the estate of Person MA, when such costs were excessive and unjustified. The excessive charges included any or all of the following:

1.1.1 Charging up to £75,000 plus VAT to store Client A's documents at his Firm's premises;

1.1.2 Charging up to £10,000 for "estate agents commission" in relation to the sale of two properties, in the absence of an agreement that the Firm would provide estate agency services or as the terms on which it would do so;

1.1.3 [withdrawn]

1.1.4 Charging improperly for items, including liaising with the SRA in relation to his conduct;

He thereby breached all or any of Principles 2, 4, 6 and 10 of the SRA Principles 2011 ("the Principles").

1.2 He failed to provide adequate or accurate costs information to Client A about the conduct of her matter, by failing to provide any or all of:

1.2.1 An estimate of the likely overall cost throughout the conduct of the matter where required;

1.2.2 Invoices, or adequate invoices, for interim costs;

1.2.3 Completion statements in relation to the sale of the two properties in Person MA's estate, which would have shown the amount of funds against which he was offsetting his costs

and thereby breached all or any of Principles 2, 5 and 6 of the Principles; failed (in relation to the costs estimate) to achieve Outcome 1.13 of the SRA Code of Conduct 2011 ("the Code"); and breached (in relation to invoices) Rule 17.2 of the SRA Accounts Rules 2011 ("the SAR").

1.3 He failed to wind up the estate of Client A's husband, Person MA, promptly, and in doing so breached Principles 4, 5 and 6 of the Principles.

1.4 He failed to deal with the SRA in an open, timely and cooperative manner, by doing either or both of the following:

1.4.1 Failing, timeously or at all, to provide substantive responses to enquiries by the SRA's regulatory supervisors and investigation officers, whether in writing or by way of interview;

1.4.2 Seeking to prevent Client A and her sister, Person C from providing information to the SRA;

and in doing so breached Principles 2 and/or 6 of the Principles (in relation to seeking to prevent Client A and/or her sister from providing information to the SRA) and Principle 7 of the Principles (in relation to both sub-allegations). In addition, he failed to achieve one or all of Outcomes 10.7, 10.8, 10.9, 10.10 of the Code in relation to these matters.

1.5 Between 17 November 2014 and 30 September 2018, he failed to distribute or otherwise deal with residual client balances (relating to Person MA's firm) totalling approximately £279,807.53, and thereby breached Rules 14.3 and 14.4 of the SAR and/or Principle 6 of the Principles.

1.6 Between 31 January 2017 and 28 February 2018, he failed to:

1.6.1 Obtain and deliver accountant's reports for 2015/2016 and 2016/2017 on time, in breach of Rule 32A.1 of the SRA Accounts Rules 2011;

1.6.2 Provide timeous answers to the SRA's investigator, in breach of Principle 7 of the SRA Principles 2011.

2. It was further alleged that Mr Sasdev acted dishonestly in relation to the allegation 1.1, including any or all of its sub-allegations. However, dishonesty was not an essential ingredient to any of the sub-allegations and it was open to the Tribunal to find allegation 1.1 proved, including any of its sub-allegations, without a finding of dishonesty.

Executive Summary

3. Mr Sasdev applied to adjourn the substantive hearing. That application was refused. The Tribunal's reasons can be accessed here:

The Tribunal's Decision on the adjournment application

4. The Tribunal found that Mr Sasdev had charged costs that were excessive and unjustified. His conduct in that regard was found to be dishonest. He had failed to provide adequate costs information to Client A. He had not wound up the estate of Person MA promptly nor had he dealt properly with the residual client balances relating to Person MA's firm. He had sought to prevent Client A and her sister from providing information to the SRA and had failed to provide substantive responses to the SRA, such that he had failed to deal with the SRA in an open, timely and cooperative manner. Further, he had not delivered the accountant's reports for the Firm on time.

5. The Tribunal's findings can be accessed here:

- Allegation 1.1
- Allegation 1.2
- Allegation 1.3
- Allegation 1.4
- Allegation 1.5
- Allegation 1.6

Sanction

6. The Tribunal considered that the only appropriate and proportionate sanction in light of the matters found proved, was to strike Mr Sasdev off the Roll. The Tribunal's sanction and its reasoning on sanction can be found here:

- Sanction

Documents

7. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):

- Rule 12 Statement, Amended Rule 12 Statement, Re-amended Rule 12 Statement and Exhibit HVL1 dated 2 November 2021, 28 January 2022 and 28 February 2022 respectively.

- Respondent's Answer, Amended Answer and Re-amended Answer and Exhibits dated 2 December 2021, 20 December 2021 and 23 May 2022 respectively.

- Applicant's Reply and Amended Reply dated 28 January and 6 June 2022 respectively.

- Respondent's Statement and Amended Statement dated 5 September and 12 September 2022 respectively.

- Applicant's Schedule of Costs dated 25 August 2022

Preliminary Matters

8. Application to adduce evidence

8.1 Mr Sasdev applied to adduce his Witness Statement and documents upon which he intended to rely. He had not complied with the Tribunal's deadline for the service of those documents. Mr Tankel confirmed that he had no objection to those documents being adduced. Most of the documents on which Mr Sasdev intended to rely were already in evidence, and the Applicant was fully aware of the defence advanced by Mr Sasdev as contained in his Answer and witness statement. The Tribunal considered that in the circumstances, it was fair and just to allow Mr Sasdev to adduce the evidence out of time. Accordingly, the application was granted.

9. Application to adjourn the substantive hearing

The Respondent's Submissions

9.1 Mr Sasdev explained that due to his personal circumstances, he had lagged behind in the preparation of his defence. He requested an adjournment of the substantive hearing for one month.

9.2 It was submitted that further time was needed to obtain witness statements from various members of staff and others. He had only realised the relevance of those witnesses when he was drafting his own statement.

9.3 There had been no detailed assessment of the bill which had been issued on 14 December 2021. Ms Idrees had until December 2022 to request a detailed assessment. Further, Mr Sasdev submitted that as the solicitor, it was open to him to request a detailed assessment of the bill. Mr Sasdev confirmed that there were not currently any detailed assessment proceedings in train.

9.4 If an adjournment were granted, it would give Mr Sasdev the opportunity to "sort something out" with Ms R Idrees. If the hearing went ahead and he was struck off the Roll, she would not receive any monies from the SRA. He would "lose out" and Ms R Idrees would also "lose out". This amounted to a substantial risk both for Ms Idrees and Mr Sasdev.

9.5 Mr Sasdev submitted that the way the compensation claim had been dealt with by the SRA there was a substantial risk of prejudice to him. The SRA had indicated that it would be paying Ms R Idrees monies from the compensation fund but, having discovered that the estate was insolvent, had not done so. Mr Sasdev intended to issue a Judicial Review as regards the decision and considered that the SRA should either grant or refuse the application. Time was required by him to prepare a letter to the SRA regarding a Judicial Review.

The Applicant's Submissions

9.6 Mr Tankel resisted the application. Mr Sasdev's witness statement in support of the application to adjourn asserted that his witness statement demonstrated he had "valid defences to all the allegations in this matter on substantial grounds". With regards to the need to obtain witness statements, this point had been made by Mr Sasdev in February when he requested additional time to obtain witness statements. The relevance of those witnesses was obvious to Mr Sasdev in February. His submission that he only realised when drafting his own statement that he would require statements from other witnesses was inaccurate. Further, Mr Sasdev was, in effect making the application on the grounds that he was not ready. Mr Tankel submitted that this was not the case in circumstances where a full defence had been provided in Mr Sasdev's Answer and witness statement. Additionally, the Tribunal's policy/practice note on adjournments stated that a lack of readiness would generally not be regarded as providing justification for an adjournment.

9.7 With regards to the submission that an adjournment would allow Mr Sasdev to take steps to resolve the client's grievances, Mr Tankel submitted that these proceedings were not between Mr Sasdev and his client but were between Mr Sasdev and his regulator. He had had a significant amount of time to 'resolve any grievances. In any event, the continuation of the proceedings did not preclude Mr Sasdev from seeking a resolution with his client.

9.8 It was argued that the proceedings should be adjourned until a detailed assessment had been undertaken. However, there was no detailed assessment process had been initiated either by the client or by Mr Sasdev. The prospect of hypothetical proceedings elsewhere could not justify an adjournment. Further, and in any event, the proceedings did not preclude a detailed assessment taking place.

9.9 The application to adjourn on the basis of a potential Judicial Review was misconceived. In August 2021, there was a recommendation that Client A receive monies from the compensation fund. Mr Sasdev was given an opportunity to comment. He stated that the estate was insolvent. No decision had been made as regards payment, accordingly, there was no decision for Mr Sasdev to have judicially reviewed. Further, and in any event, the 3-month period for the instigation of Judicial Review proceedings had long expired. As with the submissions on detailed assessment, Mr Sasdev sought to rely on the prospect of hypothetical proceedings.

9.10 Mr Tankel submitted that the Tribunal should have regard to GMC v Adeogba [2016] EWCA Civ 162, as regards the impact on the regulator and any witnesses. The client and her sister had been warned to attend the hearing but had been left with the uncertainty of knowing whether they would be required to give evidence as Mr Sasdev had failed to indicate whether they were required for cross-examination. This had been stressful for them. The Applicant had prepared for an 8-day hearing and had incurred the additional cost of an interpreter.

9.11 Mr Tankel submitted that Mr Sasdev had not advanced any good reasons in support of his application to adjourn. It was noted, and was the Applicant's case, that Mr Sasdev was a serial delayer. In all the circumstances, the application to adjourn should be refused.

The Tribunal's Decision

9.12 Witness Statements – The Tribunal considered that Mr Sasdev had had ample opportunity to obtain any witness statements that he considered would assist him in his defence. It noted that the Tribunal had given him extra time to prepare for the proceedings when it amended its Standard Directions on 24 February 2022. The Tribunal noted that by that time, Mr Sasdev had identified those from whom he considered it was appropriate to take witness statements. The Tribunal did not accept that it was not until he was writing his own statement that Mr Sasdev was aware of the relevance of his potential witnesses. The Tribunal considered that Mr Sasdev's application on this ground was an application relating to his readiness. As detailed above, lack of readiness was not, ordinarily, sufficient justification for an adjournment. The Tribunal determined that in the particular circumstances, Mr Sasdev had not satisfied the Tribunal that an adjournment was justifiable.

9.13 Other Proceedings – The Tribunal's policy/practice note on adjournments stated:

> "The following reasons will NOT generally be regarded as providing justification for an adjournment:
>
> a) The existence of Other Proceedings:
>
> The existence or possibility of criminal proceedings unless the criminal proceedings relate to the same or substantially the same underlying facts as form the basis of the proceedings before the Tribunal AND there is a genuine risk that the proceedings before the Tribunal may 'muddy the waters of justice' so far as concerns the criminal proceedings. Proceedings which are not imminent will not usually meet this criterion. Civil proceedings are even less likely to do so."

9.14 No other proceedings were in existence; no procedure for detailed assessment had been initiated and there had been no application for Judicial Review. The Tribunal thus determined that the application to adjourn on those grounds was misconceived.

9.15 Resolution of the Client's Complaint – The Tribunal considered that the application to adjourn on this ground was deeply unattractive, inappropriate, and otherwise irrelevant. Mr Sasdev had had ample time to seek a resolution of the Client's complaint with the Client. Even if matter had been resolved, it would have remained entirely appropriate for the Tribunal to consider whether in his dealing with Client A and the MA estate, Mr Sasdev's conduct had fallen below the required professional standards. Further, irrespective of the Tribunal's findings, it remained open to Mr Sasdev to seek to resolve matters with his former client. The Tribunal found that there was no merit in this ground of the application.

9.16 Accordingly, for the reasons detailed above, the application to adjourn the substantive hearing was refused.

Factual Background

10. Mr Sasdev was admitted to the Roll in July 1987. His Practising Certificate was suspended following the SRA's intervention into the Firm. He was a partner, manager and sole equity owner of the Firm, and the Firm's COLP, COFA, and MLRO.

11. The Firm began trading in July 1998. It operated from a single office and was a recognised body. The main areas of work were conveyancing, probate and estate administration, immigration, and family.

12. Annual renewal information for 2017 listed the Firm's annual turnover at £153,000.00. As at 31 July 2018, the Firm held £320,990.72 on behalf of its clients. Most of the client money related to Ms R Idrees' matter.

Witnesses

13. The following witnesses provided statements and gave oral evidence:

- Ms Razia Idrees – Client A
- Ms Atia Idrees – Client's sister
- Marc Banyard – Costs expert
- Jayesh Sasdev – Respondent

14. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to was that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all the documents in the case and made notes of the oral evidence. 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.

Findings of Fact and Law

15. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Tribunal considered all the evidence before it, written and oral, together with the submissions of both parties.

Dishonesty

16. The test for dishonesty was that set out in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 at [74] as follows:

> "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 knowledge or 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. When considering dishonesty, the Tribunal firstly 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. It then considered whether that conduct was honest or dishonest by the standards of ordinary decent people.

Integrity

18. The test for integrity was that set out in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366, as per Jackson LJ:

> "Integrity is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members … [Professionals] are required to live up to their own professional standards … Integrity connotes adherence to the ethical standards of one's own profession".

19. **Allegation 1.1 - Between December 2010 and 30 September 2018, in relation to his handling of Person MA's estate on behalf of Client A, he charged up to £256,907.96 of costs in relation to the estate of Person MA, when such costs were excessive and unjustified. The excessive charges included any or all of the following: (1.1.1) Charging up to £75,000 plus VAT to store Client A's documents at his Firm's premises; (1.1.2) Charging up to £10,000 for "estate agents commission" in relation to the sale of two properties, in the absence of an agreement that the Firm would provide estate agency services or as the terms on which it would do so; (1.1.4) Charging improperly for items, including liaising with the SRA in relation to his conduct. He thereby breached all or any of Principles 2, 4, 6 and 10 of the Principles.**

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

19.1 Person MA was the sole principal of ADC. He died on 10 August 2010, intestate and without having wound down his legal practice. Ms R Idrees was Person MA's widow. She was not fluent in English and she generally acted in concert with her sister, Ms A Idrees. Ms A Idrees' evidence was that, in December 2010, she and her sister made first contact with Mr Hitesh Gohil of the Firm in relation to the administration of Person MA's estate and dealing with ADC's residual client account balances, and that he agreed to take on the work.

19.2 Over the next few months they provided some documents to the Firm and gave Mr Gohil the ADC office keys so that he could also access them for himself.

19.3 Letters of Administration were granted in favour of Ms R Idrees on 22 March 2011. The earliest piece of available correspondence between the Firm and Ms R Idrees dated to 28 November 2011.

19.4 On 31 May 2012, the Firm sent a client care letter to Ms R Idrees, which stated (amongst other things) as follows:

> "Your instructions to us are to act on your behalf in connection with the administration of the estate of your late husband...You would like to transfer your former home [Property 2] into the names of yourself and your sister, on the basis that you both obtain a mortgage to replace the existing mortgage in favour of Mortgage Express. You have also instructed us to deal with the sale of the freehold business premises of your late husband [Property 1], deal with the closure of his solicitors practice, organise transfer of client balances held in the name of your late husband and deal with return of monies to clients or render bills where appropriate.
>
> Our advice to you includes the following:

a. We are prepared to act in the administration of the estate, including (i) The sale of the business premises (ii) Return of monies held in client account and refundable to clients.

b. We have draft estate accounts prepared by previous solicitors which would indicate the estate is actually or potentially insolvent and: (i) Substantial monies would be required from you to deal with the administration.

c. At this stage we are unable to confirm that there will be sufficient assets after payments of sums due to creditors, to leave any residue for you. You stated that as a minimum it would be good to transfer the equity in the former home to you and your sister. If that is not possible, you are content with an orderly administration of the estate to avoid the SRA intervening in your late husband's practice.

The action we have agreed to carry out is as follows:

1. Deal with the administration of the estate
2. Place for sale on the open market the business premises at [Property 1].
3. Keep the SRA informed of progress.
4. Obtain the critical indemnity policy monies.
5. Take steps to organise transfer of client balances to this firm:
a. Deal with the client balances in accordance with the law.
6. Deal with the files of your late husband's practice in accordance with the law..."

19.5 The letter stated that the work would be primarily conducted by Mr Sasdev, with assistance from an assistant solicitor, a paralegal, and a legal cashier, with the following hourly rates:

Partner	£200
Solicitor	£180
Paralegal	£150
Legal cashier	£125

19.6 Mr Tankel submitted that it was unclear why nothing appeared to have taken place between (at the latest) the date Letters of Administration were granted on 22 March 2011, and the date of the client care letter on 31 May 2012.

Sale of Property 1 (former ADC offices)

19.7 ADC had owned its own offices. These premises were sold on 23 November 2012 for £280,000.00. The Firm conducted the sale on behalf of Client A's estate.

19.8 In addition to ordinary legal costs, the Firm also charged estate agent's commission in relation to this sale, even though there was no evidence that Ms R Idrees had entered into any agreement with the Firm for the provision of estate agency services or as to the terms on which such services would be provided. By letter dated 9 May 2012, the Firm wrote to the mortgagor's representatives stating, amongst other things, "we have

appointed Hamiltons & Company, Estate Agents...to organise the marketing and sale of the property... Members of this firm have also shown the property to a number of interested buyers..." (emphasis added).

19.9 The file contained a letter dated 26 July 2012 to Ms R Idrees which stated:

> "We are in the process to sell the property at [Property 1] ...
>
> We anticipate that the estate agents will be able to secure the sale price in the region of £290,000...
>
> We would like to confirm that the commission on the sale of this property will be 3% of the sale price.
>
> (Normal commission on the commercial property being 3.5% but we have negotiated to 3%).
>
> Please confirm by signing below and returning this letter by post to us."

19.10 The reference to commission in the above letter appeared to be a reference to the estate agent's commission for the sale of the property. There was no mention of the identity of the estate agents, however the reference to the commission having been negotiated to 3% carried the inference that the agent was a third party. There was no other written evidence of an agreement between Ms R Idrees and any estate agents, or of the terms on which such services would be provided. There was no signed returned slip on the Firm's client matter file for the sale of Property 1.

19.11 The file contained a client care letter from the Firm to Ms R Idrees dated 28 August 2012. Mr Hitesh Gohil was identified as the solicitor responsible for the work. The letter provided a costs estimate in the sum of £1,500. There was no mention in the client care letter of estate agency services or as to the terms upon which such services would be provided.

19.12 The Firm sent a further client care letter, in very similar terms, on 10 October 2012. Again, there was no mention of estate agency services or of the terms on which such services would be provided.

19.13 By letter to Client A dated 16 October 2012, Mr Sasdev confirmed that a buyer had been found who was willing to purchase the property for a price of £280,000. It continued:

> "With regard to the work carried out by the Estate Agency department on the sale, the Estate Agency commission will be 2.5% of the sale price plus VAT.
>
> This computes to:
>
> | | |
> |---|---|
> | Commission (2.5% x £280,000) | £7,000 |
> | Add VAT at 20% | £1,400 |
> | Total | £8,400 |

> Please confirm your agreement to the above by signing, dating and returning to us the enclosed copy of this letter."

19.14 The 2.5% estate agents commission was lower than the 3% initially cited. There was no evidence on the file of any variation to an estate agents' agreement, if such agreement existed. The Applicant's case was that the commission charges were arbitrary.

19.15 Ms A Idrees stated that she did not see a completion statement for the sale of Property 1.

19.16 The client file contained an invoice dated 27 May 2016 for the sum of £643.29 plus VAT, for "part interim fees for acting in connection with the sale of [Property 1]". It was unclear why the invoice was not raised until 3.5 years after the sale.

19.17 Mr Sasdev asserted that part of the costs of this sale, including commission, were charged collectively with the sale of another property in the estate known as Property 2. Mr Tankel submitted that to the extent that was the case, it was not clear why a further £643.29 was charged on this file on 27 May 2016.

19.18 By letter dated 28 August 2018, Mr Sasdev explained that the bill of costs included the following: estate agency type work of introducing the buyer; obtaining a valuation report; conveyancing work; organising disposal of unsellable contents; and organising the relocation of files to the Firm's premises. Further, he "recall[ed] that the bills shown on the Property 1 and Property 2 ledgers also included work on the general administration of the estate and believes that all the bills and the ledgers form part of the whole administration (including the property sales)."

<u>Storage of ADC client files</u>

19.19 ADC held approximately 7,659 files, documents and items at its former offices. This figure included miscellaneous office documents held by ADC and a small number of miscellaneous office items such as printers.

19.20 Following the sale of ADC's former offices in November 2012, it was necessary for ADC's paper files to be stored somewhere, either physically or (if scanned) digitally.

19.21 Ms A Idrees explained that Mr Sasdev told her and her sister in March 2015 that he would "have to rent a two-bedroom house at a monthly rent of £1,200 in order to store all the boxes of costs" and that the total cost would be between £40,000.00 to £50,000.00.

19.22 The file contained a copy letter dated 14 December 2012 and addressed to Ms R Idrees, which states as follows:

> "Following completion [of the sale of ADC's premises], the files of ADC which occupied three levels at [Property 1] were brought to my offices. They currently occupy two levels (over 2,000 square foot).

> The files will need to be kept at our premises for checking ledger balances, indexing, closure, archiving and related matters.
>
> I confirm that this firm will make a rental charge of £25,000 per annum (inclusive of business rates, gas, and electric charges) for the files occupying our premises. I will limit this to three years, meaning that the maximum rental will be £75,000. VAT will be chargeable at 20 per cent on the rental. I will raise interim invoices from time to time, and a final invoice will be included in our final bill of costs. This firm will have a right (but not an obligation) to collect the rent in advance for periods of up to 12 months.
>
> Your right to require us to apply to the Court for assessment of our fees will apply, also, to the rent.
>
> Please confirm your agreement to the above by signing and returning to me the enclosed copy of this letter.
>
> Your continuing instructions in this matter will signify your acceptance of the above terms, subject to your right to Court assessment."

19.23 There was no signed returned copy of the letter on file. Ms A Idrees stated that she did not receive anything in writing confirming the storage costs. Ms R Idrees clarified that "Although we received a letter from Mr Sasdev dated 14 December 2012, setting out the storage costs for storing ADC's client files, we did not come to a final agreement on this. It was all discussed verbally and Mr Sasdev never gave a final figure for the storage costs." Ms R Idrees expressly stated that she did not give written authorisation for the storage costs.

19.24 Ms A Idrees stated that, in or around September 2018, Mr Sasdev told her that storage costs had been £40,000-£50,000 over the past seven to eight years. Mr Tankel submitted that it was unclear why Mr Sasdev gave a different figure from the £75,000 quoted, not least since six years had passed rather than the estimated three. This tended to suggest that the storage costs were arbitrary and not connected to the true cost of the service provided.

19.25 It also seemed very unlikely that the 7,659 files, documents and items would have occupied 2,000 square feet of space - the equivalent floor space of approximately 1,400 ordinary, unstacked, bankers' boxes. When the files were subsequently transferred to a different firm, they were stored in a variety of comparable, stacked boxes at an ordinary garage lock-up. The Intervention Project Officer for the SRA, confirmed that a total of 441 boxes were recovered from the subsequent firm (which may or may not have included the few miscellaneous office items).

19.26 The SRA conducted an internet search for storage costs in London and the South East. The cost for storing one banker's box per year was £4.64. On this basis, for 441 boxes, the cost of storing ADC's files for one year would be £2,046.24.

19.27 In short, the Firm appeared to have paid itself somewhere between £40,000 and £75,000 plus VAT to store the files in its own premises. This was many times more than it would have cost for the files to be stored at a specialist document storage facility. There was

no need for all the files to be stored on the Firm's premises at one time. No explanation had been provided as to why, if the files were to be stored at the Firm's premises, the cost of doing so should be £25,000 plus VAT per annum. There was no evidence that Mr Sasdev carried out reasonable searches for alternative storage solutions or suggested to the client that there might be less costly alternatives. The inference to be drawn was that this was a ploy for charging the client up to £75,000 plus VAT with no proper basis for doing so.

19.28 To compound all of these problems, Mr Sasdev charged his client for storing these files for long periods during which he was undertaking no, or very little, work on them.

19.29 On 22 April 2013, further Letters of Administration were granted in favour of Person MA's children. That further grant was revoked by an order dated 29 November 2013 [HVL1/1622]. Mr Sasdev contended that this caused him delay, in that he could not undertake any work on the administration of Person MA's estate whilst there were competing administrators.

Sale of Property 2

19.30 Property 2 was the matrimonial home of Ms R Idrees and her late husband. Ms A Idrees stated that Ms R Idrees wanted to keep Property 2 but was advised by Mr Sasdev that it needed to be sold in order to pay the Estate's creditors.

19.31 The file contained a copy of a client care letter in relation to the sale of Property 2 dated 6 February 2014. Mr Tankel noted that this was during the period that there were competing administrators, a period during which Mr Sasdev had since claimed he was unable to conduct any work on the administration of Person MA's estate. Mr Gohil was again named as the fee-earner handling the matter. The Firm gave a costs estimate of £1,200 plus VAT for work on the sale of the property.

19.32 Property 2 sold on 1 April 2014 for £150,000.00.

19.33 On the file, there are three invoices with the subject heading "Re: Sale of [Property 2], Dagenham". They were dated 2 June 2015 in the sum of £6,000, 10 June 2015 in the sum of £3,000, and 15 June 2015 in the sum of £3,000 (all inc. VAT). The narrative on the first two stated that they were for:

> "Part rent for occupation by ADC closed files of two floor levels at 261 Cranbrook Road, Ilford, Essex IG1 4TG
>
> Part interim fees for acting for you in connection with the administration of the Estate of MJ Alia deceased
>
> Part commission for sale of [Property 1] [sic]"

19.34 The narrative on the third invoice was the same save that, in place of "Part commission for sale of [Property 1]", it referred to "Part fees for acting in connection in the sale of [Property 2] and [Property 1]".

19.35 Again, therefore, the Firm charged estate agent commission for the sale of Property 2. Moreover, there was again no evidence of an agreement that the Firm would provide estate agency services or as to the terms on which it would do so.

19.36 The client and her sister agree that they did not see a completion statement for the sale of Property 2.

19.37 Between 16 December 2013 and 27 May 2016, Mr Sasdev raised 78 interim bills on the estate file and transferred £168,214.35 from monies held in the client account for the estate, to the Firm's office account. Additionally, as observed above, three bills totalling £12,000 were raised on the Property 2 file, and one in the sum of £643.29 + VAT on the Property 1 file.

19.38 Mr Sasdev never sought payment directly from his client under these invoices. Instead, he offset the claimed costs from funds already on the estate's ledgers detailed below.

19.39 Ledger in relation to the administration of estate of Person MA:

19.39.1 As at 22 May 2012, the ledger balance was £13,607, comprising a cheque for £500 from Client A received 21 November 2011 and the proceeds of a critical illness policy for £13,607 received on 22 May 2012. Systematic transfers for costs were made so that by 14 November 2014 the balance was £891.17. The narratives for the transfers generally stated, "Transfer as per client's instructions" and "Pay F/N [invoice no.]".

19.40 Ledger in relation to the sale of Property 1:

19.40.1 Net proceeds of sale were approximately £108,400.58. Transfers were made from this ledger to the estate ledger, generally with the narrative "Transfer as per client's instructions". Typically, funds were then transferred from the estate ledger to office account on account of costs. By 31 May 2016, the sale proceeds had been entirely used.

19.41 Ledger in relation to the sale of Property 2:

19.41.1 Net proceeds of sale were approximately £80,770.51. Transfers were made from the sale ledger to the estate ledger, generally with the narrative "Trft per cl instrs" or "pay F/N [invoice no]". By 11 August 2016, the ledger stood at £20,052.99.

19.42 Mr Tankel noted a number of features of the invoices:

- The narrative for each was identical.
- It was impossible to ascertain from the narrative what, if any, work was carried out;
- There was no breakdown of storage costs and work undertaken, thus it was impossible to ascertain how much of the bill pertained to storage costs and how much pertained to legal work;

- The location of the storage was not identified and the period of storage was not defined;

- The costs are not apportioned between the rent and administration of Person MA's estate;

- Most of the invoices were for round sums;

- The costs were not based on any arithmetical calculation at the hourly rates as stated in the retainer - the invoices were described as including the cost of renting storage space for the client files, which is not itself a round sum (£64.89 per day);

- A number of invoices were raised only a short time after the previous invoice and on a number of occasions the time between invoices was so short that it was highly unlikely that sufficient work could have been undertaken to justify the same. For example, an invoice for £2,508.40 was raised on 13 November 2014 and a further invoice in the sum of £1,200.00 was raised on the following day. On 19 December 2014 (a Friday) an invoice in the sum of £850.00 is raised. On 23 (the following Tuesday) a further invoice in the sum of £8,400.00 is raised, representing approximately 34 hours at Mr Sasdev's rate over a period of just two working days. Two further invoices were then raised on the following day totalling a cumulative £3,600.00, equating to a further approximately 15 hours 39 minutes at Mr Sasdev's hourly rate;

- Sometimes, more than one invoice was raised on the same day. On 13 March 2015, for example, some three invoices totalling £6,870 were raised to the estate;

- Many of the invoices were raised during the period that Mr Sasdev was being chased by the SRA for updates about the progress of this matter, the responses to which tended to suggest that no work was being done on the case.

19.43 Mr Tankel acknowledged that the Firm did undertake some chargeable work relating to the winding down of ADC. However, Mr Sasdev imposed charges on his client which were, to his knowledge, excessive:

- He charged her £40,000 - £75,000 plus VAT for file storage without adequate justification;

- He charged 2.5% commission for "estate agency" fees for the sale of the two properties, despite there being no evidence of any agreement that Mr Sasdev would act as estate agent or as to the terms on which he would do so;

- Some of the invoicing was suspicious and impossible to explain;

- Mr Sasdev failed to provide adequate answers to his client, the RSO, the Investigation Officer, or claimant firms, about what work he had done, despite having been given many opportunities to do so. Instead, he provided a large number of excuses as to why he had been unable to do the work to date or was unable to provide answers to the questions asked.

19.44 Mr Tankel submitted that the inference to be drawn was that, for long periods during which these invoices were being raised, no or no adequate work was in fact being done on the file to justify the interim bills that were raised.

19.45 The Applicant relied on the expert report of Mr Banyard which concluded (amongst other things), that:

- Some of the invoices were rendered particularly opaque by virtue of the inclusion of storage charges, and/or commission charges. Not only could a client not tell what work was being done, they could not even tell what proportion of the sums charged were for legal fees;

- There is no good reason why one would need to raise multiple invoices on the same day;

- "Having undertaken a costing of the file, my feeling is that the invoices raised do not represent the product of a costing of the work undertaken for the relevant periods (indeed one might question exactly how the firm could undertake any such costing given the paucity of recorded time on file to cost).";

- The evidence on file of the work done on ADC files is simply insufficient to base any estimate of costs upon;

- He could find nothing to substantiate the assertion that the Respondent had reviewed 'hundreds' of files;

- On such evidence as existed, the costs properly chargeable (excluding any storage or commission charges, or charges for reviewing ADC files as the costs draftsman was unable to quantify these) should stand at no more than £33,170.

19.46 On 14 December 2021, Mr Sasdev purported to send a final bill (the "Final Bill") to his client and to file and serve the same in these proceedings. The Final Bill sought total payment in the sum of £256,907.96 less sums already recovered by way of interim bills.

19.47 Mr Tankel submitted that the Final Bill contained no satisfactory explanation for the storage fees or estate agent's commission. Indeed, in relation to the estate agents commission there now also appeared to be an element of double charging: Mr Sasdev not only purported to have charged a commission that was well above market rates but has also purported to charge separately for non-legal work done on the sale.

19.48 Very little weight should be attached to the Final Bill, it was submitted. It appeared to have been drafted from memory, many years after the work in question was done, with no evidence of any system of time-recording and was self-serving. Mr Banyard described it as probably the least transparent file he had encountered in twenty years of costing in providing any useful record of the work undertaken.

19.49 Moreover, there were aspects of the Final Bill which shed yet further light on Mr Sasdev's approach to the charging of this matter: for example, he purported to have charged £20 for sending or receiving a text message, including many brief and informal such messages. He also purported to have charged the Estate for time spent responding

to the SRA's investigation into his conduct, and for liaising with his client about the same.

19.50 Mr Tankel submitted that by charging costs that were excessive and unjustified, Mr Sasdev had failed to act in his client's best interests in breach of Principle 4 and had failed to protect her money and assets in breach of Principle 10. Members of the public would be alarmed by a solicitor charging fees to which he was not entitled, and to which he knew he was not entitled. In doing so, Mr Sasdev had breached Principle 6.

19.51 Further, in paying himself fees that were excessive and unjustified, Mr Sasdev had acted without integrity in breach of Principle 2.

Dishonesty

19.52 Mr Tankel submitted that knowingly overcharging a client was dishonest. It involved deliberately obtaining funds from a client without any legitimate basis or legal entitlement for doing so. As part of this, Mr Sasdev had created unparticularised, opaque invoices and bills (which his client says were not sent to her). He purported to charge commission on property sales without any underlying legal agreement entitling him to do so. He purported to charge a sum for document storage which was manifestly excessive when compared with ordinary market rates. He had charged for text messages and liaising with his client and the SRA over investigations into his conduct, when he was not entitled to do so. As the experienced owner of the Firm and with responsibility for the work, he had control over all relevant matters and must have known what he was doing. Mr Sasdev sought to conceal what he was doing from the client, and to frustrate the SRA's investigation about it. Any one of these charging issues, judged by the objective standards of ordinary decent people, was wrong. Individually and collectively, they amounted to wrongful overcharging.

The Respondent's Case

19.53 Mr Sasdev did not accept that the charges were excessive or unjustified. The Final Bill was detailed and ran to 41 pages. It particularised the work undertaken. The Final Bill was for £256,907.96. It exceeded the sum transferred to the Firm of £182,186.30. This meant that there was a balance of £74,721.66 owed to the Firm. Mr Sasdev had informed his client, when he delivered the Final Bill, that he did not expect her to pay the excess to him. Mr Sasdev submitted that Final Bill rendered the allegation of that he had overcharged for his services meritless.

19.54 When preparing the Final Bill, Mr Sasdev took account of the fact that the rates quoted in his client care letter were reasonable and proper. He was conscious that his client had received the marketing estimate as well as the revised marketing estimate and had not reverted back to him. He therefore believed that his client had received the general estimate.

19.55 He considered that the marketing rate of 2.5% was fair and reasonable. He had unilaterally reduced that fee from 3%. Even though it was slightly higher than other estate agents, he had secured the sale of the property for a larger amount than anticipated; this offset the higher marketing fee. His letter was "basic". There was no clause stipulating that the Firm should be the sole estate agent, nor were there any

clauses in relation to fees being payable if the Firm introduced the buyer, but the client did not use the Firm. Nor was there any requirement for the Firm's fees to be paid when contracts were exchanged. Mr Sasdev did not consider that there was any impropriety in his Firm charging for marketing fees.

19.56 The charges for storage had been notified to his client and not objected to. Further, the appropriate amount to charge had been considered at the time. The estimated rental value for the premises was £63,300 p.a. He considered the space required to store the files and then calculated the appropriate charged based on those figures. It was important to note that there was a cap after 3 years. Mr Sasdev explained that had he not capped the time, he would have charged approximately £22,500 p.a. That charge would have continued for the full time that he retained the files. The cap meant that there could be no suggestion that he was incentivised to delay the winding up of the estate so as to earn fees from storage. He considered that the cap was a fair restriction on the charge. Further, as he had not received the full sum of the Final Bill, this operated as a 20% reduction. Applying that to the storage costs, this reduced those costs from £25,000 to £20,000 p.a.

19.57 Further, those costs would be subject to a detailed assessment if the client chose to invoke that process. He remained willing to engage with Ms Idrees and the estate regarding his fees.

19.58 As regards charging for dealing with the valuation of Property 1, he considered that he was under an obligation to ensure that the property was sold at market value which required him to peruse and consider the valuation.

19.59 As regards the valuation of Property 2, the purchaser was found by Ms Idrees. Mr Sasdev considered that in those circumstances, it was all the more important to consider an independent valuation. He was involved in selecting and instructing the valuer on any relevant assumptions. It was also necessary for him to attend Property 2 to ensure that it was transferred with full vacant possession, and to ensure the removal/disposal of items.

19.60 Mr Sasdev submitted that he did not understand that it was improper to charge for liaising with the SRA. The amount charged in the bill was minimal and was capable of being offset by the margin of the extra work

19.61 Mr Sasdev considered that it was proper to charge for text messages. He noted that the retained messages commenced in April 2015. He had only charged for the messages he could evidence. In reality there would have been numerous messages prior to that date. In effect, Mr Sasdev had only charged for 60% of the text messages. Accordingly, the amount claimed was not excessive.

19.62 Mr Sasdev denied that his conduct was dishonest. He considered that his client and her sister understood that they would receive £200,000 from the compensation fund. This, he submitted, had coloured their recollection of events.

19.63 Mr Sasdev submitted that he had, at all times, behaved honestly. If he had charged for any matters that were not chargeable, this was a genuine mistake on his part; he had not deliberately or knowingly charged for items which he should not have.

The Tribunal's Findings

19.64 The Tribunal noted that the charges made were not in dispute. The issue to be determined was whether the charges were excessive and unjustified.

Storage Charges

19.65 The Tribunal heard the evidence of Mr Banyard who explained that he had never seen costs claimed for storage of case papers. It was conceivable that a costs Judge might accept, in some circumstances, that this was a legitimate charge. Mr Banyard stated that it was difficult to define a circumstance where this would arise as he had never seen a claim advanced, let alone argued. As to the amount that had been charged, Mr Banyard was unable to comment as it was not a legal cost.

19.66 When asked whether there had been any discussion with his client or her sister following the letter about storage charges, Mr Sasdev said "no" and that he knew they "would not argue about money". He considered that if told that the charges should be less, he would accept that. When it was suggested that his client and her sister were not the sort of clients that would challenge the amount, Mr Sasdev agreed stating: "I know that". He explained that he had written the letter (quoting the storage fees) as he would have been criticised had he not done so. It was written so as to comply with his obligations. They could "worry about the amounts later on".

19.67 Mr Sasdev considered that commercial rental charges were a good comparator when considering the appropriate storage charges. When asked why he had not used commercial storage rates as a comparator, Mr Sasdev said that he had not considered that. In any event using commercial storage rates was "not comparing like for like". Mr Sasdev explained that he did not want to put the files into commercial storage as it would have been impractical to access the files to work on.

19.68 The Tribunal accepted the evidence of Mr Banyard and found that storage charges would ordinarily be considered an overhead, particularly in circumstances where the documents being stored were those that the solicitor needed to work on as part of his retainer. They did not amount to profit costs. If chargeable at all, (which the Tribunal did not consider they were in this case) this would have been as a disbursement. The submission and evidence that commercial rental rates were an appropriate comparator but that storage rental rates were not, when Mr Sasdev was charging for storage, was rejected by the Tribunal as wholly without merit.

19.69 The Tribunal found that there was no cost to Mr Sasdev of storing the files at the office. His evidence made clear that the Firm did not lose any revenue (for example from a potential tenant) by holding the files. The Tribunal noted that Ms Idrees and her sister had suggested alternative arrangements, but that Mr Sasdev had rejected those as unsuitable.

19.70 The Tribunal found that Mr Sasdev had charged for storage when he was not entitled to do so. He did so with the belief that this would not be challenged by his client. Accordingly, the Tribunal found that the charges for storage were excessive and unjustified.

Estate Agency Fees

19.71 The Tribunal considered both letters in which Mr Sasdev quoted the fees to be charged as an estate agent.

19.72 The letter dated 27 July 2012 stated, (amongst other things): "We anticipate **the estate agents** will be able to secure the sale price …" and "… the commission payable … will be 3% … (normal commission on the commercial property being 3.5% but **we have negotiated** to 3%)" (**the Tribunal's emphasis**).

19.73 The Tribunal found that the wording of the letter suggested that the 'estate agent' in this transaction was a third party. There was no other sensible construction of the letter, particularly when Mr Sasdev had referred to negotiating a lower rate: the alternative would be to suggest that Mr Sasdev was negotiating with himself. There was nothing in the letter that advised Ms R Idrees (or her sister) that the Firm was acting as the estate agent in this matter, and that any fee was therefore payable to the Firm. The Tribunal found that the letter was deliberately written in this way so as to lead the recipients to believe that external estate agents were being used. The Tribunal did not accept that by virtue of this letter, Ms R Idrees had consented or agreed to paying the Firm for estate agency fees. In evidence she stated that she expected to pay usual '*legal*' fees.

19.74 Later, in a letter dated 9 October 2012, Mr Sasdev referred to "the Estate Agency department". There was nothing in that letter that would have led his client or her sister to understand that the Estate Agency department was, in fact, a department within the Firm or that the commission was being paid to the Firm.

19.75 In evidence, Mr Sasdev submitted that although he considered the Estate Agency department to be autonomous from the Firm, it was appropriate to bill using the Firm's headed paper as the department was new and "why go to the trouble" of using a separate billing system.

19.76 Mr Sasdev confirmed that he did not advise his client to compare commission fees, or give her the opportunity to 'shop around' as he "knew they were not going to shop around". If his client had said that the commission should only be £3,000 he would not have argued.

19.77 When it was suggested (in cross-examination) that the failure to alert his client to the fact that the Firm was acting as the estate agent amounted to a lack of transparency, and that he had reserved the sale to his firm at a price that he controlled, such price being at the higher end, Mr Sasdev agreed that the price was higher than a particular estate agent, but that as the quote was sent to his client, there was transparency.

19.78 The Tribunal found that the estate agents fee was not excessive per se. Whilst it was at the higher end of what could be charged, it was not unjustifiable given that it fell within the range of fees charged by Estate Agents in the local area. However, Mr Sasdev had no agreement from his client to charge for estate agency work. His did not make it clear to his client that he was acting in that capacity and she did not give her consent. His retainer given by his client was for him to undertake legal work. The Tribunal, as detailed above, found that Mr Sasdev had been deliberately obscure and misleading, so that his client would not understand that this was a fee being paid to the Firm. In

charging his client for estate agency services, without first obtaining her consent to act in that regard, the charges were unjustified and excessive.

Communicating with the SRA over his conduct & Liaising with his client in relation to the same

19.79 Mr Sasdev had claimed costs for the time spent communicating with the SRA about questions in relation to his conduct of the matter. In an email to Mr Sasdev dated 25 February 2016, the SRA asked him to address matters which, it had been submitted, clearly related to his conduct of the matter. Mr Sasdev was asked to provide "detailed information from you indicating what steps you have taken (if any) to allocate the monies in the former client account of [ADC]". When asked whether it ought to have been clear to him that this related to his conduct, Mr Sasdev explained that "subjectively" he did not think that this related to his conduct, but if he had been in error "objectively" he would "put his hands up".

19.80 Mr Sasdev also explained that he considered that the correspondence from the SRA in relation to his conduct was a "bluff" and that this was an amins officer from the SRA who was "shooting from the hip".

19.81 As regards the email of 28 April 2016, in which the SRA cited potential Principle and Outcomes breaches, Mr Sasdev stated that he did not think that this was a bluff and that he had taken it seriously. When asked whether it was clearly about his conduct, he replied "as drafted". He gave the same reply when asked if he understood it as being about his conduct.

19.82 Mr Sasdev stated that he thought that it was proper to bill his client for liaising with the SRA over questions relating to his conduct.

19.83 The Tribunal found that it was obvious (and that it was obvious to Mr Sasdev at the time) that charging for liaising with the SRA in relation to questions regarding his conduct of the matter was impermissible. Accordingly, the Tribunal found that in doing so, Mr Sasdev had charged costs that were excessive and unjustified.

19.84 Mr Sasdev had also claimed costs for liaising with his client about the SRA's investigation into his conduct. The Tribunal found that those charges were unjustified and excessive in circumstances where, it was found, Mr Sasdev knew that he was not able to charge his client for those attendances.

Text Messages

19.85 Mr Banyard opined that there was no generally accepted approach to charging for text messages – there was no crystallised practice. However, a charge at $1/10^{th}$ of the hourly rate per text was almost certain to result in an unreasonable and excessive charge. This was particularly the case given the brevity of some of the messages sent by Mr Sasdev. Mr Banyard further considered that a charge of $1/10^{th}$ of the hourly rate for messages received, was even less tenable than the same charge for messages sent by Mr Sasdev. He considered that an allowance of 15 seconds for each incoming text would represent a fair and reasonable allowance. He considered that if there was an appropriate standard charge for outgoing messages, it would be for 1 minute. In charging as he did,

Mr Sasdev had charged five times more than that which Mr Banyard considered to be reasonable.

19.86 Mr Sasdev explained that a number of the messages received necessitated him undertaking work. He would be required to think about the next steps, or would have to consider the content of the message and then respond. When he considered the appropriate charge for the messages, he had in mind routine calls where the charge was 1/10th for incoming or outgoing calls. Mr Sasdev confirmed that he had not charged any other client for text messages, as no other case had had as many messages as this one.

19.87 The Tribunal noted that the position on charging for texts was not settled. The Tribunal made no determination on the charging for text messages per se.

19.88 Mr Sasdev had charged for a number of messages that related to liaising with his client regarding the investigation into his conduct (for example, there were a number of messages where Mr Sasdev had advised his client not to answer calls from unknown numbers as they were likely to be emanating from the SRA). He had also charged for messages received that were clearly complaints relating to his conduct. The Tribunal found that, as with the charges for liaising and corresponding with the SRA (and his client) about his conduct, it was obvious (and was obvious to Mr Sasdev at the time) that he could not legitimately charge costs in relation to those messages. Accordingly, the Tribunal found that the charges for those text messages were excessive and unjustified.

Attending properties

19.89 The Tribunal noted that Mr Banyard considered that attending Property 2 before completion could be justifiable, in principle. The Tribunal noted that it was the evidence of both Ms R Idrees and her sister, that they left it all to Mr Sasdev, who they trusted to undertake the legal work. The Tribunal was not satisfied that there was no need for Mr Sasdev to attend Property 2. Accordingly, the Tribunal did not find that his charges for attending the property were unjustified and excessive.

Travel to Manchester to attend client

19.90 Mr Tankel submitted that the travel to Manchester related to his attendance upon his client so as to be present for the telephone call with the SRA. It was Mr Sasdev's evidence that he was asked to come by his client, and that he discussed the case and his impending retirement.

19.91 The Tribunal was not satisfied that the only reason for his travel was to be present for the telephone conversation between his client and the SRA. Nor was it satisfied that travelling by taxi to the location was excessive. Accordingly, the Tribunal did not find that charging costs for travel and attendance was unjustified and excessive.

19.92 The Tribunal determined that it was evident that in charging fees that were excessive and unjustified, Mr Sasdev had failed to act in his client's interests in breach of Principle 4 and had failed to protect his client's money and assets in breach of Principle

10. That such conduct failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6 was obvious.

19.93 Solicitors acting with integrity did not charge excessive and unjustifiable costs. In doing so, he had acted without integrity in breach of Principle 2.

Dishonesty

19.94 As detailed above, the Tribunal found that Mr Sasdev had knowingly and deliberately charged costs that were excessive and unjustified. It was his evidence that he was under pressure from his business partner to maximise and increase income to the business. He chose to do this by charging a commercial rent for a non-chargeable, or disbursement item. The rate he set was not agreed by his client, who was sensitive to the cost. Further, the respondent gave evidence that he did not consider that his client would challenge the costs charged, and that as the money was coming from the estate funds, his client was "not bothered".

19.95 Further, the estate agency fees were camouflaged from his client. His client had placed (and he knew she had placed) complete trust in him as her solicitor to act in her best interests. Mr Sasdev had taken advantage of her vulnerability and had charged for matters that he knew were not properly chargeable, were excessive and otherwise unjustifiable in circumstances where he knew that he would not be challenged. Such conduct, the Tribunal found, would be considered to be dishonest by ordinary and decent people

19.96 Accordingly, the Tribunal found allegation 1.1 proved on the balance of probabilities (save that it did not find that the travel/attendance on his client in Manchester and attending Property 2 proved), including that Mr Sasdev's conduct was dishonest.

20. **Allegation 1.2 - He failed to provide adequate or accurate costs information to Client A about the conduct of her matter, by failing to provide any or all of: (1.2.1) An estimate of the likely overall cost throughout the conduct of the matter where required; (1.2.2) Invoices, or adequate invoices, for interim costs; (1.2.3) Completion statements in relation to the sale of the two properties in Person MA's estate, which would have shown the amount of funds against which he was offsetting his costs; and thereby breached all or any of Principles 2, 5 and 6 of the Principles; failed (in relation to the costs estimate) to achieve Outcome 1.13 of the Code; and breached (in relation to invoices) Rule 17.2 of the SAR.**

The Applicant's Case

20.1 The 31 May 2012 client care letter did not contain any costs estimate. Instead, it said: "it is very difficult to estimate how many hours work will be necessary to complete the administration on your behalf".

20.2 As detailed above, Mr Sasdev raised 78 interim bills totalling £168,214.35 which he transferred from monies held in the client account for the estate to the Firm's office account. Additionally, three bills totalling £12,000 were raised on the Property 2 file, and one in the sum of £643.29 + VAT on the Property 1 file.

20.3 Mr Sasdev never sought payment directly from his client under the invoices. Instead, he offset the claimed costs from funds already on the estate's ledgers.

20.4 Each of the interim bills contained the following, identical, narrative:

> "Part rent for the occupation by ADC closed files of two floor levels at 261 Cranbrook Road, Ilford, Essex IG1 4TG.
>
> Part interim fees for acting for you in connection with the administration of the Estate of MA deceased."

20.5 Mr Tankel submitted that it was impossible to ascertain from the narrative what, if any, work was carried out.

20.6 The invoices did not particularise the breakdown between "storage costs" and work done; the storage period; the storage location; any bills for storage costs; the work done on the estate; and the billing period. It was impossible to ascertain how much of each bill was for purported "storage costs", and how much for legal costs.

20.7 The costs were not apportioned between the rent and administration of Person MA's estate.

20.8 Mr Banyard's report concluded (amongst other things), that:

- There was no reason at all why an estimate of costs could not have been provided once it was clear what work would be involved in administering the estate with the same being updated as and when further litigation became apparent.

- It was unclear whether the invoices raised by the Firm were intended as statute-compliant interim invoices or simply as requests for money on account although, on a balance of probabilities, they were probably intended to be the former.

- No client or third party could possibly ascertain the exact nature of the work being charged by each invoice from the perfunctory narrative given, particularly given that the same is identically replicated on all relevant invoices.

- Some were rendered particularly opaque by virtue of the inclusion of storage charges, and/or commission charges. Not only could a client not tell what work was being done, they could not even tell what proportion of the sums charged were for legal fees.

20.9 Both Ms R Idrees and Ms A Idrees stated that they never received any of the invoices nor any other costs information. Mr Tankel submitted that if, contrary to the above, the invoices were sent, then in any event they contained insufficient information for them to discern what work was being done in relation to the charges. As such, it was impossible for Ms R Idrees to keep track of what was being charged, for which work.

20.10 The fact that the payment of costs was offset against money in the estate was a further reason that Ms R Idrees was unable to keep track of the sums that were being charged.

20.11 Both Ms R Idrees and Ms A Idrees stated that they did not receive completion statements in relation to the sale of the estate's two properties. By not informing Ms R Idrees about the size of the proceeds of sale, Client A was kept even more in the dark as to the level of costs that she was being charged and the impact that that was having on the quantum of her interest in the estate.

20.12 It was the Applicant's case that Mr Sasdev's failure to provide any or all of the above costs information was deliberate, in order to conceal what he was doing. But even if it was not deliberate, it was nevertheless a breach of the Principles and SAR as alleged and had the effect that Ms R Idrees had no knowledge of the sums she was being charged.

20.13 Mr Tanked submitted that the Firm failed to provide ongoing information about costs; its invoices were opaque and were not provided to the client. In relation to document storage no comparison with market rates was provided. These problems were exacerbated by the length and relative complexity of the matter. Mr Sasdev's service was inadequate in breach of Principle 5.

20.14 The public would be alarmed by a solicitor who charged a vulnerable client six-figure sums, which were depleting her potential beneficial interest in her husband's estate, without providing any information about the sums being charged. In doing so Mr Sasdev had failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

20.15 Mr R Idrees was an unsophisticated client with very limited English. The sums that were being charged were very large and represented substantial portions of her interest in Person MA's estate (if any). The failure to provide adequate or any costs information meant that she had no knowledge of how much was being charged, or why, whilst any share she might have had in Person MA's estate was being largely depleted. In all these circumstances, a failure to provide Ms R Idrees with any or all of costs estimates, completion statements, or invoices with any meaningful breakdown of work, showed a lack of integrity, in breach of Principle 2.

20.16 Outcome 1.13 of the Code required that clients receive the best possible information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter. It did not set an absolute standard but recognised that estimates of costs were just that, i.e., estimates, and that what was required was the "best possible information" about the "likely overall cost". It must have been possible to provide at least some information, as appropriate, as the matter progressed. Mr Sasdev provided no information. Accordingly, he failed to meet this outcome.

20.17 Rule 17.2 of the SAR provided that, if you properly require payment of your fees from money held for a client in a client account, you must first give or send a bill of costs, or other written notification of the costs incurred, to the client or paying party. Both Ms R Idrees and Ms A Idrees stated that they did not receive any interim bills, and there was no evidence from the file that such bills were sent. Mr Tankel submitted that even if the bills had been sent, the information contained within the interim bills was inadequate and thus amounted to a breach of Rule 17.2.

The Respondent's Case

20.18 In his Answer, Mr Sasdev suggested that the Senior Courts Costs Office was the appropriate venue for consideration of these matters. At the commencement of the hearing, Mr Sasdev accepted that the Tribunal had jurisdiction to deal with these matters.

20.19 Mr Sasdev submitted, in his Amended Answer that the SRA had made false representations of law to Ms A and Ms R Idees in that during the course of the retainer, Mr Sasdev had made transfers from client account to office account using the description "transfer as per client's instructions". The transfers, it was submitted, were inter ledger transfers which "were lawfully capable of being made by me under an authority from Client, implied from the relationship of solicitor client". By making such false representations of law "the Applicant falsely denigrated me to [my client and her sister] in order to bring [them] to [the Applicant's] side.

20.20 The Applicant also "falsely led [them] to believe that information required to be supplied by a solicitor to a client in relation to costs and related matters was unnuanced and that, if a client asserted that she had not received or agreed to the costs information or figures, then no costs would be payable."

20.21 Mr Sasdev further asserted that the Applicant had failed to provide the correct information, namely that "no costs information is required to be supplied by a solicitor where the client does not have a financial interest in the costs". Mr Sasdev referred to the position in criminal legal aid proceedings where, it was submitted, the solicitor's obligation to provide full costs information was reduced. In the matter of the estate, where the estate was insolvent and Ms R Idrees was not directly impacted by the quantum of costs, similar to the position in criminal legally aided proceedings, his obligation to provide costs information was reduced. Any reduction in his costs would not benefit Mr R Idrees as any sum accruing to the estate would go to the creditors.

20.22 The Applicant, it was submitted, had misled Ms Idrees into believing that there was a tension between Mr Sasdev's costs and her interest when no such tension existed. "By doing so the Applicant encouraged and motivated [his client and her sister] to change her previous evidence as to receipt of costs information and bills".

20.23 Mr Sasdev's position was that he had provided:

- A client care letter, which included all the Firm's hourly rates;
- Interim bills
- Letters regarding file maintenance charges
- Letters regarding estate agency fees
- Interim bills from which his client would have been aware of the total costs

20.24 Mr Sasdev submitted that as there was no financial prejudice to his client, "on a contractual analysis, the obligation to supply costs information deemed incorporated into my contract with [his client] were not fundamental terms, but warranties." Further, "even if it were found … that I did not send … costs information, the confirmation by [the client] of receipt would, on a contractual analysis, constitute a retrospective

authorisation from [the client] as principal, to me as agent, for me to hold the information in my possession on behalf of [the client].

20.25 Although he had undertaken a significant amount of work, Mr Sasdev did not prepare any bills until 16 December 2013. He considered the bill to be an interim bill as it only covered some of the work carried out. Mr Sasdev submitted that he wished to reserve the right to cost the file fully at the end of the matter. Further, the bill was an interim bill as it did not contain a narrative showing the work covered and did not contain an endorsement as to the client's right to require a detailed assessment of the bill. Mr Sasdev explained that it had been his practise over 20 years to prepare interim bills in that format, and to send them out by post. Each of the interim bills in this matter had been sent out by post in the usual way.

20.26 In evidence Mr Sasdev stated that he did not have a computerised time recording system. He knew, whenever he created an interim bill, that the work undertaken exceeded the cumulative amount of any bills, as he applied his mind to it and knew that the bills were justified. He was conscious of the amount of work done due to his many years of experience.

20.27 Mr Sasdev explained that he would decide on the amount to bill by determining the monies needed in office account to satisfy the Firm's liabilities. He would check what other fee earners were likely to bill and then request bills be drawn on other files. As regards what information the clients needed when being billed, Mr Sasdev considered that the clients "were not bothered" and that as long as the amount was reasonable, they left it to him.

20.28 When asked whether he had informed either his client or her sister of how much monies were held on client account, Mr Sasdev explained that he did not give them a figure of how much there was on account. By that time there was the estate as a client and Ms R Idrees as a client:

> "If it was a personal injury claim and costs were coming from the claim I would have been cautious to tell them what the running costs were. I was not forced into that discipline on this. By this time the estate appeared insolvent. The client did not seem that bothered. I did not tell her how much we hold in the client account. Some clients might be commercially minded and ask. She did not ask and I don't remember telling her. That did not occur to me".

20.29 As regards providing an estimate, Mr Sasdev stated that it was too difficult to provide an estimate.

The Tribunal's Findings

20.30 The Tribunal noted that there was no estimate of the likely overall cost provided by Mr Sasdev at any stage. That this was the position was not denied. Mr Sasdev stated during cross-examination, that it was too difficult to provide any estimate of costs as he did not know how long certain items of work were likely to take.

20.31 The Tribunal considered that by the end of 2013, Mr Sasdev ought to have been able to provide an estimate of the likely costs. By that time, he had received the letter of declinature and knew that he had to review the residual balances held on client account and deal with them appropriately. The Tribunal found that no estimate was provided as Mr Sasdev considered that his client "was not bothered" as long as the costs were reasonable. The Tribunal rejected the submission that no costs information was required to be provided to Ms R Idrees as she had no financial interest in the costs. This was plainly wrong. It was not the case that sufficient funds being held in the client account meant that the client had no interest in the amount of costs. Further, the fact that Mr Sasdev had chosen not to demand that she pay costs over and above the funds that he held in client account did not negate her interest in the amount of costs payable. Accordingly, the Tribunal found that Mr Sasdev had failed to provide an estimate of the likely overall cost throughout his conduct of the matter. It was thus plain that Mr Sasdev had failed to achieve outcome 1.13 as alleged.

20.32 The Tribunal found Mr Sasdev's evidence as regards how he calculated the amount to be charged in respect of the interim invoices to be not credible. During cross-examination he had explained that to provide a narrative on the invoices would have been "time consuming", and that if he provided a narrative "it would have implied a complete bill". He took the monies that he required to fund the practice in the knowledge that there were far more monies owed to him than he billed for. He billed in that way as it was like "savings"; he took a small amount so that there would be a large amount due at the end of the matter.

20.33 The Tribunal considered the narrative of the bills. The Tribunal found that it was impossible to determine what work had been carried out. The inclusion of the storage or commission charges with no breakdown between those fees and the legal fees meant that not only was it not possible to determine what work had been done, but it was impossible to determine how much was being charged for the work done. It had been Mr Sasdev's evidence that his client would not be bothered as long as the bills were reasonable. When asked by the Tribunal how his client would know whether the charges were reasonable without there being any narrative on the bills of the work undertaken, Mr Sasdev replied "In a sense, I was relying on the clients to trust me".

20.34 Having failed to send a bill or other written notification of costs to his client, Mr Sasdev, it was found, had breached Rule 17.2 of the SAR.

20.35 The Tribunal accepted the evidence of Ms R Idrees and Ms A Idrees that they had not received any of the interim invoices. It rejected as wholly unfounded Mr Sasdev's submission that they had changed their evidence following misrepresentations from the Applicant. The Tribunal found that it was plain on the face of the interim bills that Mr Sasdev had failed to provide adequate costs information. The interim bills were, it was determined, deliberately obscure so that Mr Sasdev could not be questioned on the amount that he had charged, allowing him to provide ex post facto justifications for those charges.

20.36 It had been the evidence of both witnesses that no completion statements were received in relation to the sale of the two properties. It was Mr Sasdev's evidence that Ms A Idrees knew how much money had been obtained in the sale of the properties and that she knew the amount of any outstanding mortgage. It has also been his evidence that

neither Ms A Idrees or her sister knew what monies were held in the client account. The Tribunal accepted the evidence of the client and her sister and determined that Mr Sasdev had not provided then with completion statements for the sale of either property. He did not consider that he needed to do so as he was "relying on the clients to trust me" in circumstances where he knew that they trusted him to act in their best interests and were relying on his expertise and standing as a solicitor to deal with the administration of Person MA's estate.

20.37 In (i) failing to provide an estimate of the likely overall costs, (ii) failing to provide interim invoices (which in any event were impenetrable due to the lack of narrative, and (iii) failing to provide any completion statements, Mr Sasdev failed to provide a proper standard of service in breach of Principle 5.

20.38 Members of the public would be extremely concerned to know that Mr Sasdev had failed to provide any meaningful information about costs to his client, including the amount of monies he was holding in the client account, but that he had charged a significant sum throughout his conduct of the matter without informing his client. Accordingly, the Tribunal found that Mr Sasdev's conduct was in breach of Principle 6 as alleged.

20.39 Mr Sasdev, the Tribunal found, had taken advantage of his vulnerable client by deliberately failing to provide any adequate costs information so that she was unaware of the costs being charged and transferred. He had done so knowing that his client trusted him and was unlikely to question what he did. In doing so, he had depleted the funds held on client account without any scrutiny from his client, who was not aware that he was depleting those funds. That such conduct lacked integrity in breach of Principle 2 was plain.

20.40 Accordingly, the Tribunal found allegation 1.2 proved on the balance of probabilities.

21. **Allegation 1.3 - He failed to wind up the estate of Client A's husband, Person MA, promptly, and in doing so breached Principles 4, 5 and 6 of the Principles.**

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

21.1 As detailed above, Mr Sasdev was instructed in this matter around December 2010. In a telephone conversation on 27 February 2012, Mr Sasdev stated that he was of the view that ADC was solvent and that much of the client account balance appeared to be unbilled work in progress rather than monies which required distributing back to clients.

21.2 During 2012-2013, seven professional negligence claims against ADC were notified to the Firm. These concerned alleged dishonesty by ADC in the conveyancing of seven properties in respect of which the mortgagors had now defaulted. An eighth such claim was also later notified.

21.3 On 30 May 2013, ADC's professional indemnity insurers (or, more accurately, their liquidators) declined insurance in relation to seven claims upon ADC, on the basis of ADC's alleged dishonesty.

21.4 On 6 August 2013, Mr Sasdev wrote to the SRA enclosing the letter of declinature. He stated:

> "We intend to write to the insurers in the foreseeable future with representations for the insurers to review their decision".

21.5 Those representations were not sent until 11 November 2015, over two years later.

21.6 During 2013, Mr Sasdev entered into a number of standstill agreements on behalf of Person MA's estate, postponing limitation in order to give the Firm time to try to resolve the professional indemnity insurance position. Between then and 30 September 2018, when Mr Sasdev retired, none of the threatened claims were substantially progressed. The claimant firms would write periodically complaining of Mr Sasdev's delays, or complete failures to respond, to their requests for updates.

21.7 Ms R Idrees and Ms A Idrees explained that they were kept reasonably well informed of progress on the matter, to the extent that there was any, until around 2014, at which point they received fewer if any updates until Ms A Idrees started chasing for updates in January 2018. The files also demonstrated that there were reasonably regular updates were provided until around 2014-2015, but then limited further correspondence until January 2018. Based on Mr Sasdev's correspondence with the SRA, it appeared that little if anything was in fact being done to progress the matter.

21.8 On 10 June 2014, a Regulatory Supervisor Officer ("RSO") of the SRA wrote to Mr Sasdev requesting an update as to the orderly winding down of ADC.

21.9 On 24 June 2014, Mr Sasdev wrote saying that the Firm's Mr Andrew Storer had suffered from two falls on 2 June 2014 and 20 June 2014, that he had had to take over Mr Storer's litigation caseload, and therefore that he was not in a position to provide a substantive response to the RSO's request. He sought an extension to 8 July 2014.

21.10 On 26 June 2014, the RSO threatened to intervene in ADC if a substantive response was not received but offered an extension to 8 July 2014.

21.11 On 1 July 2014, Mr Sasdev made a claim on the Financial Services Compensation Scheme ("FSCS"). The SRA did not know the outcome of that claim.

21.12 On 8 July 2014, Mr Sasdev stated that, amongst other things: "We are in the process of going through the files of the deceased's practice" with a view to recovering book debts not comprised within the client account. He also said that "we are in the process of preparing a letter to the insurers with representations that they review their declinature of indemnity".

21.13 On 11 July 2014, the RSO wrote to Mr Sasdev pointing out a lack of progress in distributing ADC client account funds and stating "I am concerned that this amount of client money remains outstanding nearly four years after the practice has ceased trading. As a consequence please would you send to me a list of the clients that the money relates to, the amount of money held for each of them in the client account and whether you intend to issue a bill – as you have previously stated that the majority of the client account money relates to unbilled work." She sought a response by 25 July 2014. In a

response dated 28 July 2014, Mr Sasdev explained that the delays to date had been the result of the confusion regarding letters of administration, and the failure by ADC's banks to release the funds held on client account.

21.14 In August to September 2014, the Firm was the subject of an unrelated attempted FIO report concerning its conduct of immigration matters. The day before a scheduled visit on 20 August 2014, Mr Sasdev notified the FIO that he was unfit to work until 31 August 2014. The FIO's visit was rescheduled for his return to work but this was postponed to 11 September 2014. The FIO attended the Firm on 10 September 2014 to inspect the books of account but could not gain access to them because nobody had keys to the room containing the information. Mr Tankel submitted that these events, whilst not relevant to the instant allegations in their own right, were nevertheless part of a recognisable and consistent pattern on the part of the Firm of seeking to evade scrutiny by the regulator.

21.15 The Firm had been writing to ADC's bank for the transfer of the funds in ADC's client account since April 2012, but the bank had delayed in effecting the transfer. On 17 November 2014, the Firm finally received £279,807.53 in respect of the residual client balances of ADC, into client account.

21.16 On 5 February 2015, Mr Sasdev wrote to his client stating, amongst other things, "I will, in due course, deal with billing for work in progress of your late husband's practice and return of any monies refundable to clients to your late husband...I estimate that there are sufficient monies in the Estate to cover this work. If the position changes, I will let you know. If, at any stage, there are insufficient monies to cover these costs, we would need to notify the SRA..."

21.17 On 10 August 2015, the Firm entered into a Compliance Monitoring Plan with the SRA, by which it undertook to provide to the SRA, on a six-weekly basis:

> "1. Reconciliations compliant with the SAR...
> 2. Copy of the bank statements regarding the client money held on behalf of ADC
> 3. Copy of the cash book regarding client money held on behalf of ADC...
> 4. Copies of client ledgers regarding the client money held on behalf of ADC
> 5. Copies of any bills sent to clients of ADC prior to the transfer of money to the firm's office account.
>
> The information at points 1-5 will fall to be provided by 5pm on the following dates: 15 September 2015, 31 October 2015, 15 December 2015, 31 January 2016, 15 March 2016".

21.18 On 11 November 2015, Mr Sasdev finally made representations to the professional indemnity insurer's liquidators, having first told the SRA that he would do so in August 2013. Mr Tankel submitted that it was not at all obvious why, from the content of those representations, it should have taken over two years to prepare them. The file contained no response to those representations.

21.19 It was apparent, from a letter dated 7 October 2015 from one of the claimant firms, Rosling King, that Mr Sasdev was providing Rosling King with all the same excuses that he had been providing to the Respondent. Mr Sasdev's response avoided addressing the history of the matter.

21.20 On 25 February 2016, the RSO wrote to Mr Sasdev with a "pressing" and "grave" concern, recommending that he give it his "most urgent attention". She said:

> "...you have stated in your last four letters to me (dated 29 Jan 2016, 15 Dec 2015, 2 Nov 2015, and 18 Sept 2015) that work is being done to reduce the client balance and that this will be evident on the reconciliations going forward. I do not see any evidence of this despite the significant balance on the account and some of the significant individual balances.
>
> ...
>
> I now require detailed information and evidence from you indicating what steps (if any) you have taken to allocate the monies in the former client of ADC.
>
> Please supply me with the following:
>
> (1) Any letters that you have written to the former clients of ADC.
>
> ...
>
> (3) Any further evidence that indicates that you have attempted to trace or correspond with the former clients of ADC on behalf of the administratrix of the estate.
>
> (4) Your explanation for not having distributed the funds in accordance with the SRA Accounts Rules 2013...
>
> (5) In support of (4) please provide any evidence that you wish to rely on. Please treat this as a written notice from the Sra as a request for information and documents under 10.8 and 10.9 of the SRA Code of Conduct 2013.
>
> ...
>
> I look forward to hearing from you by Friday 4 March 2016. Please treat this request as a matter of priority. You may recall that my colleague...mentioned in her email of 13 March 2015 that, if necessary, the SRA would consider whether it is in the public interest to intervene into the former practice of ADC and I put you on notice that I may revisit this suggestion..."

21.21 On 4 March 2016, Mr Sasdev wrote to the RSO saying that he had been suffering from flu for the previous weeks and seeking an extension to 15 March 2016.

21.22 On 16 March 2016, Mr Sasdev wrote to the RSO saying that upon his return to the office on 8 March 2016, he had encountered an emergency in an ongoing piece of

litigation in another matter in the Court of Appeal. The emergency appeared to have been, in essence, that Mr Sasdev needed to prepare an application to vary a case management order made by the Court of Appeal in order to push back a hearing date. Mr Sasdev claimed that he "became obliged to devote all my time exclusively to the court case". Mr Tankel submitted that it was unclear why it should have taken him eight days to prepare such an application to vary (not least because some of the work on it would presumably have been done by counsel). Mr Sasdev sought an extension until 23 March 2016.

21.23 Mr Sasdev finally purported to provide a substantive response on 29 March 2016. The letter was, in essence, a series of excuses for delay in the work, with a promise that greater progress would soon be made:

- He had done "preparatory" work including "perusing client files, organising the files in boxes, preparing indices of the files in various boxes" and "communicating with a charity" regarding any client funds whose owners may not be traceable.

- "Contrary to my expectations, the above activities did not prepare the firm adequately to proceed to the next step of bringing about reductions in the balances."

- He had been distracted by other matters. He referred in particular to the Court of Appeal matter referred to above and to a two-day costs assessment in October 2015.

- He had previously considered taking on an ex-employee of ADC, but had had to be careful because ADC had been accused by some of its clients and by its insurers of potentially dishonest conveyancing practices.

- He pointed to some alleged shortcomings in the Compliance Management Plan: that it did not require any particular number of hours to be spend on the ADC matter; and that although the CMP required the supply of accounting documents on a six-weekly basis "there was no machinery for promoting, in a structured manner, uninterrupted work to reduce client balances".

- He had arranged for an associate, Mr Storer, to allocate two days each week to work on the ADC matter. He would be asked to prioritise the matter with a £41,000 balance and then any matter with a balance exceeding £1,000. He would also be asked to prioritise writing to the former clients of ADC.

21.24 Mr Tankel submitted that the Applicant did not accept the validity of any of the excuses detailed above.

21.25 In an email dated 28 April 2016, the RSO pointed out that Mr Sasdev had failed to answer Questions (1) and (3) of her email dated 25 February 2016. She asked for evidence of Mr Storer's attempts to trace or correspond with ADC clients (a month having now passed since he was said to have been appointed), and of any internal memorandum or instructions evidencing Mr Storer's appointment. She said that she was now considering whether to commence an investigation and whether to intervene in ADC. She asked Mr Sasdev to treat the matter as a priority and provide the information by 5 May 2016. She concluded: "I note that you have in previous

correspondence prioritised client matters over your response to the SRA and responded with an alternative date...I do not recommend that you take this approach to this email."

21.26 By letter dated 9 May 2016, Mr Sasdev said he would be able to respond within 14 days.

21.27 By email dated 16 May 2016, the RSO asked Mr Sasdev for Ms R Idrees' contact telephone number and postal address, and further asked him to treat this as a request for information and documents under Outcomes 10.8 and 10.9 of the Code.

21.28 By letter dated 25 May 2016, Mr Sasdev said he had been unable to respond in the available time "in view of the number, seriousness, and complexity of the issues raised and arising from your email dated 28th April 2016 (and further email dated 16th May 2016)". Mr Tankel submitted that in fact, there had been a number of limited requests for information, most of them dating back to 25 February 2016. Mr Sasdev nevertheless asked for an extension to 2 June 2016.

21.29 Mr Tankel considered that the contact information was not very difficult to provide. Nevertheless, it had not been provided by 26 May 2016. On that date, the RSO wrote again to ask for contact details to be provided by close of business 27 May 2016, or else she would have to issue a Section 44B Production Notice. The SRA eventually had to obtain Ms R Idrees' postal address for itself, which it did in August 2018. Mr Storer of the Firm finally provided her telephone number on 20 September 2018.

21.30 On 7 June 2016 (not 2 June 2016, as had been promised), Mr Sasdev supplied 68 pages of manuscript notes, said to evidence his work the ADC matter. The manuscript notes showed the status of each file i.e., whether the sum in client account was for unbilled work in progress, whether it was owing to the client, or whether further investigation was needed. On the whole, they showed either that the sums were for unbilled work in progress or that further investigation was needed.

21.31 The response of 7 June 2016 still did not provide an answer to any of the outstanding queries. Mr Sasdev asked for a further extension to 9 June 2016.

21.32 On 17 June, 4 July, and 22 August 2016, Mr Sasdev provided notes on a further approximately 76 files (totalling 84 pages) but still did not answer the outstanding queries. A solicitor to whom the files were later transferred considered that the notes were very basic and "not really worth anything".

21.33 The SRA planned to commence a Forensic Investigation of the Firm with a meeting with Mr Sasdev on 6 November 2017. The investigation was commissioned in response to the Firm's failure to submit an accountant's report. On that date, the Firm's Mr Fish sent a letter saying that Mr Sasdev had suffered a back injury following a fall. He sought to reschedule the visit to 21 November 2017. Mr Fish described himself as "an administrative assistant" and explained that he was assisting the Firm on a part-time basis. He further stated that he was "authorised to send this letter on behalf of Mr Sasdev." It was presumed that Mr Fish sent this, and all other letters under his name, at the direction of Mr Sasdev.

21.34 By return, the SRA sought answers to various questions before it would agree to a deferment of the investigation. Mr Fish provided a partial response by letter dated 21 November 2017 and sought an extension to 21 December 2017 to provide the remaining information.

21.35 On 30 November 2017, the FIO issued her first Forensic Investigation Report ("FIR").

21.36 On 7 December 2017, the RSO asked whether the Firm's professional indemnity insurers had been notified of the firm's temporary closure and asked for a response by 12 December 2017.

21.37 On 12 December 2017, the Firm said it would provide a substantive response by 15 December 2017.

21.38 On 14 December 2017, the RSO made a recommendation that there be an intervention into the Firm on grounds, amongst others, that the Firm had not provided accounting information, was not cooperating with the SRA, and that the fee-earners did not appear to have the capacity to do any work.

21.39 On 15 December 2017, the Firm said that the intervention report had superseded the request of 7 December 2017 and that a response would be provided by 2 January 2018.

21.40 On 2 January 2018, the Firm made representations about the recommendation. The SRA determined to instead, carry out a forensic investigation. However, the Firm also said that it had been unable to provide a complete response in the time available and sought an extension until 12 January 2018. The RSO allowed an extension until 5 January 2018.

21.41 On 5 January 2018, Mr Sasdev wrote saying he had dictated a letter, but it would not be available until 8 January 2018. Mr Sasdev finally submitted his representations in relation to the proposed intervention in two letters dated 8 January 2018, but again said that there had been insufficient time and sought a yet further extension to 12 January 2018.

21.42 On 12 January 2018, Mr Sasdev sought an extension to 16 January 2018. However, on 15 January 2018 the SRA decided not to intervene at that stage. Instead, an FIO would inspect the Firm to undertake a further investigation. The RSO said that Mr Sasdev's lack of cooperation may itself be grounds for further action.

21.43 On 16 January 2018, Mr Sasdev sought an extension to 19 January 2018, which the RSO granted.

21.44 Mr Sasdev finally responded on 22 January 2018.

21.45 The FIO visited the Firm on 7 February 2018 and interviewed Mr Sasdev. A further interview was scheduled for 22 March 2018.

21.46 On 21 March 2018, Mr Fish wrote to say that Mr Sasdev had been unwell. Upon GP examination on 20 March 2017, the GP had made a diagnosis and prescribed medication. Mr Sasdev's symptoms were said to "have incapacitated him and rendered

him substantially bedridden". The GP had signed Mr Sasdev off as unfit for work until 30 March 2018 and thus he would be unable to attend the interview scheduled for 22 March 2018. The office would be closed until 3 April 2018. Mr Fish sought to reschedule the interview to a date after 3 April 2018.

21.47 On 18 April 2018, Mr Fish wrote to the Applicant to say that Mr Sasdev was not recovered and had been signed off by his GP until 17 May 2018, thus Mr Sasdev would not be able to attend the interview as scheduled. The Firm would be closed until 21 May 2018 when Mr Sasdev would be able to return to work. Mr Fish sought to reschedule the interview until a date after 21 May 2018. The FIO wrote to Mr Sasdev on the same date to say that she could not postpone her report any further and invited him to address an attached list of questions.

21.48 On 17 May 2018, Mr Fish wrote referring to various medical matters, including an unfit to work note through 15 June 2018 and saying that Mr Sasdev would be able to respond on 25 June 2018.

21.49 On 21 May 2018, the FIO again wrote to Mr Sasdev inviting him to send comments in respect of the issues under investigation. No comments were received. On 19 June 2018, the FIO issued her second FIR.

21.50 On 27 June 2018, Mr Fish wrote setting out Mr Sasdev's medical complaints, seeking an extension of time for responding to the Applicant's list of questions dated 18 April 2018 from 25 June 2018 to 23 July 2018. The IO did not agree to the extension of time and warned Mr Sasdev regarding the Applicant's powers under s.44B of the Solicitors Act 1974.

21.51 On 9 July 2018, the Applicant served a section 44B notice and inviting a response by 17 July 2018. On 17 July 2018, Mr Fish wrote saying that he had dictated a response to the 18 April 2018 questions and to the s.44B notice which would be sent the following day. He received the IO's out of office. On 18 July 2018, Mr Fish referred to the out-of-office response, said he expected "developments" in the coming days, and said that he would add these to the letter which he would now return by 23 July 2018. On 23 July 2018, Mr Fish said that the "developments" had happened but only very recently and as such he would respond by 24 July 2018.

21.52 On 24 July 2018, Mr Fish sent two letters purporting to respond to the Applicant's list of questions dated 18 April 2018 and to the s.44B production notice dated 9 July 2018. The response referred at some length to Mr Sasdev's medical complaints. It said that the Firm had appointed a locum solicitor, Mr Storer, to prepare a response to the questionnaire of 18 April 2018. His expected start date had been 9 July 2018, but this was delayed to 20 July 2018 due to Mr Storer's personal difficulties. There was no contract between the Firm and Mr Storer but Mr Sasdev would produce one by 3 August 2018. Mr Storer would respond to the list of questions and to the production notice by 9 August 2018. Finally, in view of all of the above, an extension was sought generally until 9 August 2018. The IO did not agree the request for an extension.

21.53 The contract between the Firm and Mr Storer was evidenced by a written agreement dated 1 August 2018. On 9 August 2018, Mr Storer wrote saying that he had prepared a part-response which would be available by 13 August 2018, with further answers and documents to follow.

21.54 On 13 August 2018, Mr Storer wrote saying that Mr Sasdev had been unwell and so had had to cancel an appointment with Mr Storer that was due to have taken place that morning. Mr Tankel noted that the time for the appointment was well past the deadline for responding. Mr Storer's response would therefore be delayed until 15 August 2018. The IO sought a response by 15 August 2018.

21.55 On 17 August 2018, Mr Storer wrote stating that Mr Sasdev's medical complaints were ongoing and that as a result he would not be in a position to respond until 23 August 2018.

21.56 On 23 August 2018, Mr Storer wrote again referring to Mr Sasdev's ongoing medical complaints and saying that he would respond by 28 August 2018. On that date, Mr Storer wrote two letters purporting to respond to the list of questions dated 18 April 2018 and the production notice dated 9 July 2018. Of note, Mr Storer stated that:

- There would be further delays in providing a response, owing to Mr Sasdev's ongoing medical complaints.

- By 18 September 2018, he would be able to respond with proposals for completing the Ms R Idrees' matter after 30 September 2018, an estimate of timescales for finalising the matter, and an estimate of costs. He confirmed that it would not be completed by 30 September 2018.

- The matter had been delayed as a result of Mr Sasdev's medical complaints and pressures from (unspecified) other work. As this matter involved the administration of an estate rather than a successor practice, it was a matter between Ms R Idrees as executrix of the estate and the Firm; not between the Firm and the regulator. Ms Idrees as executrix of the estate had consented expressly or impliedly with these delays.

- The bills shown on the ledgers for the sale of Properties 1 and 2 also included work on the general administration of the estate.

- In addition to the sale of Properties 1 and 2, the Firm had carried out "considerable other work on the matter", including: perusing and considering numerous files where monies are held on client account and/or bills needed to be rendered; preparing notes on these files; considering and corresponding regarding a number of professional negligence claims; instructing counsel to issue proceedings against HSBC regarding release of ADC's client account funds; liaising and corresponding with previous accountants of ADC; making an application to Court regarding the competing grant of letters of administration; corresponding regarding repudiation of liability by ADC's insurers; and liaising with the client.

21.57 Mr Storer considered that owing to Mr Sasdev's ongoing medical complaints and difficulties in obtaining relevant documents, a fuller response could not be provided at this time and an extension was sought until 18 September 2018. The IO did not agree the request for an extension.

21.58 Mr Tankel noted that the correspondence from Mr Sasdev, Mr Fish, and Mr Storer, bore striking similarities. The inference to be drawn was that Mr Sasdev was, in fact, a principal author/contributor to the representations being made on his behalf. During the course of his evidence, Mr Sasdev confirmed that he was the author of those letters.

21.59 The Firm closed on 30 September 2018.

21.60 From January 2017 until September 2018, Ms R Idrees (by her sister) started to send Mr Sasdev a number of chasers asking for him to complete the work. He often did not respond but, when he did, rather than completing the work, he said that he expected to be able to complete the work by a given date. As detailed above, he never provided a substantive update on the work done to date. He missed all the deadlines that he set for himself and ended up having to transfer the file to another firm upon his retirement on 30 September 2018, some approximately eight years since contact had first been made with regards this matter. The claimant firms in the claims against ADC would also periodically chase Mr Sasdev for updates on the claims. Again, he generally failed to provide substantive responses but provided excuses instead.

21.61 Mr Tankel submitted that the excuses given by Mr Sasdev to all parties throughout this period were implausible, both individually and when viewed in the round. Especially when viewed in the round, they appeared to show a deliberate pattern of evasion. The obvious inferences to be drawn were that (a) he had not carried out any, or any adequate, work on the matter; and (b) he was seeking to conceal that fact from the regulator, the client, and others with a potential interest in the estate.

21.62 Mr Tankel submitted that the winding up of the estate involved five principal strands of work, namely:

1. Dealing with contested probate;

2. Transferring client funds form Person MA's bank;

3. Selling the properties;

4. Dealing with the negligence claims bought against ADC, all of which were similar in nature;

5. Going through the residual balances on client account in order to ascertain what was owed to the Estate (for example for work done), and what was owed back to clients (for example funds paid on account for work not yet done at the time of Person MA's death; undistributed proceeds of sale; undistributed inheritances). Mr Sasdev's plan (to the extent that he had one) was to manually check each client file in order to ascertain the position.

21.63 Mr Tankel submitted that Mr Sasdev had completed items 1–3 reasonably promptly, however, as detailed above, items 4 and 5 were subject to extreme delay and never completed. As regards the negligence claims, Mr Sasdev had delayed for 2½ years from the date of declinature before making brief submissions to the insurer. Mr Sasdev did almost nothing for a period of 6 years in relation to the residual client balances. It was not until 2016, following repeated requests from his client and the SRA that he started to go through the files. He went through approximately 150 of those files.

21.64 He was evasive when responding to the SRA about the work undertaken and had caused so much delay that the SRA commissioned a forensic investigation report dealing solely with those delays.

21.65 Mr Tankel submitted that it was in Ms R Idrees' best interests for Person MA's estate to be wound up promptly because, amongst other things: it was in her interest to obtain access to any potential residue in the estate as quickly as possible; delay costs money, for example in storage costs or interest; delay would make it harder in general to trace ADC clients and collect in any book debts; and because the delay has caused Ms R Idrees and her sister considerable distress. In failing to wind up the estate of Person MA promptly, Mr Sasdev had failed to act in his client's best interests in breach of Principle 4.

21.66 Mr Sasdev had the matter for between six and eight years. There were long stretches of time, even years, when he did not progress matters. He provided no costs information. Even then, he did not complete the work, which had to be transferred to another Firm, before the SRA eventually intervened. It was over 3 years after his retainer was terminated that Mr Sasdev produced his final bill. Mr Tankel submitted that it was unarguable that Mr Sasdev had failed to provide a proper standard of service in breach of Principle 5.

21.67 The public would be alarmed by a solicitor who spent between six and eight years working on the administration of an estate on behalf of a vulnerable and unsophisticated client, charged £160,000 for it, provided no proper explanation for the sums charged, and had nothing substantive to show for it at the end. Thus, it was submitted, Mr Sasdev had breached Principle 6.

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

21.68 Mr Sasdev submitted that this allegation was misconceived in circumstances where his client had agreed to further extensions of time to wind up the estate.

21.69 It became clear, following the liquidator's refusal, that any delay in the administration of the estate, would not cause any financial loss to Ms R Idrees.

21.70 Mr Sasdev submitted that as regards the administration of the estate (and in particular the distribution of the residuary balances), the Applicant, in serving notices upon Mr Sasdev had acted unlawfully. Mr Sasdev considered that "the only proper explanation for the Notices was that the Applicant were persisting in seeking to pressurise me to distribute the residues".

21.71 Mr Sasdev considered that it was relevant to recall that the Applicant - after threatening that they had an entitlement to intervene into ADC - did not proceed to exercise that power, and the 'threat' to do so was a "bluff" to put pressure on Mr Sasdev to wind up the estate.

21.72 Mr Sasdev referred to the difficulties he was experiencing at the time, both in relation to his own health and that of his business partner. He referred the Tribunal to a letter dated 14 October 2016, in which his client noted the progress being made, and that she understood that due to the commencement of building works, he would continue to peruse the files on 21 October 2016 and report further by 31 October 2016.

21.73 Mr Sasdev explained that over the subsequent years he continued to have a number of personal difficulties which delayed his progress of the matter. He noted that between 2012 – 2018, Ms R Idrees had not made a complaint to the Applicant, on the contrary, it was the Applicant that had specifically sought out Ms R Idrees.

21.74 Mr Sasdev noted:

> "It is relevant for me to point out that the fact that the Applicant did not apply for intervention regarding Solicitor MA's practice (I represented [the client] for 6 years) even though the Applicant had on many occasions complained about the time being taken to deal with the residues, and even though they had threatened intervention, evidences that the Applicant were aware that the residues were preserve-residues, that they did not have the right to intervene in Solicitor MA's practice and that all the disciplinary notices served by them, and threats of intervention, were not capable of being lawfully implemented, and were being used only to further the Applicant's self-interest".

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

21.75 The Tribunal found that Mr Sasdev had failed to substantively address the reason for the delay in winding up the estate. In a letter dated 27 June 2013, Mr Sasdev referred to the letter of declinature dated 30 May 2013, and stated that he would be taking his client's instructions within the to write to the insurers within the next 28 days. However, as at 8 July 2014, Mr Sasdev was "in the process of preparing a letter to the insurers with representations that they review their declinature of indemnity". When asked why the letter had not been prepared over one year later, Mr Sasdev explained that it took time to prepare the letter and that he needed to look at each point. The Tribunal considered the letter sent to Mr Sasdev by Rosling King dated 7 October 2015, which is detailed in full:

> "We are disappointed to note your apparent lack of engagement in these matters ... You Informed us on 27 June 2013 that you were investigating the matter and were preparing a letter of representation to ADC's insurers' liquidators requesting that the liquidators reverse their declinature of indemnity (the "Letter of Representation"). In light of this, our client entered into Standstill Agreements on each matter with your client, extending the limitation period for three months, in order to allow you sufficient time to investigate the matter in detail and prepare the Letter of Representation.

Despite the additional time afforded to you, and numerous chasers by us, you failed to send the Letter of Representation to the insurers' liquidators prior to expiry of the Standstill Agreement. Further, you failed to give adequate reasons for the delay in sending the Letter of Representation to the insurers' liquidators and were unable to confirm whether it had even been produced at this stage. Nevertheless, our client agreed a further, indefinite, extension of the limitation period to allow you further time to finalise the Letter of Representations.

Following the extension of the limitation period, we contacted you on numerous occasions requesting updates and confirmation that the Letter of Representation had been sent to the insurers' liquidators. However, the fee earner with conduct at your offices was either unavailable or inexplicably unable to provide an update on the progress of the Letter of Representation.

On 3 June 2014, you finally confirmed that you had sought your client's instructions to produce and send the Letter of Representation to the insurers' liquidators (one year after you advised us that you were preparing the Letter of Representation). You Informed us that the paperwork which had been received from the deceased's offices were not in order, and that collection of the documentation had taken longer than you originally anticipated. You confirmed that the Letter of Representation had been prepared in draft, but that you had not yet been able to finalise it for despatch. You reassured us that you were in the process of finalising the Letter of Representation and were expecting to forward this to the insurers' liquidators by 30 June 2014.

On 1 July 2014, however, you informed us that you still had not been able to finalise the Letter of Representation and that you had prioritised the submission of the application for compensation to the Financial Services Compensation Scheme instead. You informed us that the Letter of Representation would be delayed yet again and that you would forward this to the insurers' liquidators on 15 July 2014.

Despite the reassurances in your letters of 3 June 2014 and 1 July 2014, we did not receive a copy of the Letter of Representation by 15 July 2014. On 28 August 2014, you finally informed us that only half of the letter had been drafted at this stage and that you were now awaiting key information from the accountant. However, you assured us that we should receive the letter a week later, i.e., by 5 September 2014. Disappointingly, this deadline passed without any further correspondence from you.

We attempted to contact you on 10 September 2014, 23 October 2014 and 30 October 2014, however, without success.

On 31 October 2014, over a month after we were last promised the Letter of Representation, you finally contacted us to inform us that you had now received the outstanding information from the accountant and that you now had all the necessary documents to finalise the Letter of Representation. However, the handwritten draft letter had been lost and you required an additional two weeks to prepare the Letter of Representation.

Again, the deadline which you had set passed and you informed us on 25 November 2014 that you were expecting further delay. On 3 December 2014, you informed us that you have made no progress due to the fee earner being unwell, we sent you an email on 8 December 2014 requesting an update on the position. You responded on 10 December 2014 and informed us that you were requesting further information. Further, you informed us that you were still in the process of reviewing the documents, despite the fact that you confirmed six weeks earlier that you now had all information that was required to finalise the Letter of Representation.

Following this, we did not hear from you for nearly four months until 27 March 2015, when you 'informed us that you were still in the process of reviewing the documentation received and that you would provide a draft Letter of Representation shortly.

Again, we were not provided with a Letter of Representation and attempted to contact you for an update on your position on 7, 15, 16, and 29 April 2015. Each time we were informed that the fee earner dealing with the matter was either unavailable, unwell, or on sick leave, or our calls simply rang through. On 1 May 2015, you finally informed us that the Letter of Representation was now half finished (which was your position on 28 August 2014, some eight months earlier). Accordingly, it appeared that no further work had in fact been undertaken on the Letter of Representation since August 2014. Further, you have been unable to provide us with a copy of the draft letter, even though you confirmed in a telephone conversation on 5 May 2015 that you would send us an outline of the work done so far by 7 May 2015. Again, this deadline passed without any further correspondence from you.

We attempted to contact you on 8, 11, 12, 14, 18 and 21 May 2015, each time requesting an update on the position. Each time, again, we were informed that the fee earner dealing with the matter was unwell and/or could not be reached for an update despite your attempts to contact him. On 27 May 2015, you confirmed that the fee earner had been absent from the office for a long period of time due to an accident and now needed to catch up on urgent work and prepare for hearings. You confirmed that you had set aside the last week of June and the first week of July 2015 to finalise the Letter of Representation. Further, you assured us that work was being done on this matter on a daily basis, yet you were still unable to provide us with a draft letter or simple update detailing the progress that had been made.

On 5 June 2016, you contacted us and informed that the fee earner in charge had now confirmed that two weeks was an unrealistic time frame in which the Letter of Representation could be finalised. You further noted that the fee earner was the only person who was able to deal with this matter. We note that, by this point, you had purportedly worked on the Letter of Representation for two years. We fail to understand why you were unable to finalise it in this time. Unfortunately, you were unable to explain the reasons for your excessive delay in any detail.

We again contacted you on 8 and 11 June 2016 and you were still unable to provide either an update or an explanation for the delay in providing us with the Letter of Representation.

On 15 June 2015, you informed us that the representations had 'not, as yet, been prepared' and that you were therefore unable to specify the contents of the Letter of Representations. Nevertheless, you confirmed that the fee earner in charge would start drafting the Letter of Representation on 25 June 2015 and would provide us with an update by 7 July 2015. We were surprised by this, as you previously, repeatedly, stated that you were in the process of preparing the Letter of Representation and that the matter was being worked on a daily basis. Please explain your contradictory position.

On 8 July 2015, you informed us that the fee earner had been engaged in other pressing matters from 24 June 2015 onwards, but that he had been working on this matter from 1 July 2015. You stated that you had discovered a discrepancy in the deceased's accounts that you needed to resolve. However, you had informed us on 31 October 2014, some eight months previously, that you had received the outstanding key information from the accountant. We therefore do not understand why any discrepancy had not been discovered or investigated between October 2014 and July 2015. Please explain why this was the case.

Again, we continued to chase you for an update on 16 July 2015 and 12 August 2015, when you informed us that the background work was still ongoing. On 24 August 2015, you informed us that over the last year you 'prepared drafts of initial material for representations' which have been "superseded by fuller notes of material for the intended letter'. Further, you noted that another member of your firm was to look into the seven files referred to by the liquidator. Accordingly, it appears that no real draft of the Letter of Representation had yet been started nor had the paperwork in respect of the claims referred to by the liquidators been reviewed, despite having been received by you over a year ago. Please explain why the paperwork had not been reviewed in detail until August 2015, even though it was received by you between June and October 2014, and despite your confirmation to us on 10 December 2014 that you were in the process of reviewing the information.

We further tried to contact you on 28 and 29 September 2015 and have left messages requesting that you return our calls. However, we have not heard further from you.

Despite the fact that we were promised a copy of the Letter of Representation by 30 June 2014, we are still yet to receive this. As detailed above, you have failed to draft the Letter of Representation in the past two years, despite being instructed to do so by your client in 2013. Further, you have failed to comply with any of the deadlines set by us (or you) and have been unable to provide a satisfactory explanation for the delay.

In light of the above, your conduct of this matter has been entirely unacceptable. As the above summary shows, we have repeatedly received contradictory information from you over the past two years.

> Our client is no longer prepared to allow those matters to lag. We are therefore instructed to take steps to bring the claims directly against the estate …. unless we receive a copy of the Letter of Representation in 14 days, i.e., by 21 October 2015. Please note that no further extension of this deadline will be agreed."

21.76 The Tribunal found that the letter epitomised the delay and excuses proffered by Mr Sasdev for his delay in winding up the estate. The Tribunal found that there was no excuse for Mr Sasdev's failure to wind up the estate within a reasonable time.

21.77 It was clear that there had been significant periods of time where no work was being conducted on the winding up of the estate. Further, Mr Sasdev had failed to complete the winding up. The Tribunal had no hesitation in findings that Mr Sasdev's conduct had fallen well below the proper standard of service to his client in breach of Principle 5. Mr Sasdev, in failing to promptly wind up the estate, had failed to act in his client's best interests in breach of Principle 4. The Tribunal noted the impact that these failings had had on both his client and her sister. Ms R Idrees stated that she had full trust in Mr Sasdev and thought that he was acting in her best interests. Instead, he turned out to be "dishonest, controlling and coercive, corrupt, manipulative, cunning and an opportunist. She considered that he had "deliberately delayed the case for 10 years for his own benefit" and had targeted her because she was "a vulnerable woman, a widow with a young child who spoke very little English". Ms R Idrees stated that she could no longer trust solicitors and that her perception of them had changed. She felt betrayed and psychologically exhausted, and she was "shocked how he could get away with what he has done to me".

21.78 Ms A Idrees described that she had been caused "significant distress" and that she was still confused as to what had happened. She had no more energy to deal with these issues and that she did not want to deal with Mr Sasdev anymore. He had manipulated and controlled them. They had placed their trust in him, and he had abused that trust.

21.79 The evidence of the client and her sister detailed above demonstrated, the Tribunal found, that Mr Sasdev had failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

21.80 Accordingly, the Tribunal found allegation 1.3 proved on the balance of probabilities.

22. **Allegation 1.4 - He failed to deal with the SRA in an open, timely and cooperative manner, by doing either or both of the following: (1.4.1) Failing, timeously or at all, to provide substantive responses to enquiries by the SRA's regulatory supervisors and investigation officers, whether in writing or by way of interview; (1.4.2) Seeking to prevent Client A and her sister, Person C from providing information to the SRA; and in doing so breached Principles 2 and/or 6 of the Principles (in relation to seeking to prevent Client A and/or her sister from providing information to the SRA) and Principle 7 of the Principles (in relation to both sub-allegations). In addition, he failed to achieve one or all of Outcomes 10.7, 10.8, 10.9, 10.10 of the Code in relation to these matters.**

The Applicant's Case

22.1 Mr Tankel relied on the matters detailed at allegation 1.3 above as regards Mr Sasdev's failure to provide timeous and substantive responses to enquiries made by the SRA. In addition, it was submitted that Mr Sasdev took positive steps to interfere in the SRA's investigation.

22.2 In 2016, the SRA asked Mr Sasdev to provide it with Ms R Idrees' contact details. Mr Sasdev did not provide them. On 24 August 2018, the SRA wrote directly to Client A. It had obtained her address from copy correspondence sent by Mr Sasdev to Client A and which he had then submitted to the SRA.

22.3 Ms R Idrees provided that letter to Mr Sasdev. Ms A Idrees explained that Mr Sasdev had tried to prevent them from involving the SRA on the basis that if the SRA became involved, it would delay the administration of the estate by a number of years. Their evidence was also that, after having pushed them off for several years, Mr Sasdev now started to communicate with them much more assiduously, including by sending many texts and WhatsApp messages and arranging a number of in-person meetings in their hometown of Manchester.

22.4 On 20 September 2018, Mr Storer finally provided Ms R Idrees' telephone number to the SRA, over two years after the Firm was first asked for it.

22.5 Further, when his client and her sister did communicate with the SRA, Mr Sasdev tried to tell them what to say:

- On or around 19-20 September 2018, he instructed them not to pick up a phone call if they thought it was from the SRA;

- He drafted, or assisted in the drafting of, a letter from Ms R Idrees to the SRA dated 15 September 2018. In evidence Ms A Idrees explained that Mr Sasdev had drafted letters to the SRA and Mr Storer which were sent for signature. They did not read the letters but signed and returned them as instructed. Text messages sent at around that time evidenced that the letters had been received. Mr Sasdev requested that photos of the signed letters be provided to him by text or WhatsApp. The letter repeated some of Mr Sasdev's excuses for the delay, for example it stated that she understood there have been a number of delays owing to his illnesses and to other litigation. Mr Sasdev also asked Ms R Idrees to sign a letter dated 20 September 2018, purportedly from her to Mr Storer.

- Mr Sasdev was present for the call, which he put onto speakerphone. He told Ms R Idrees what to say.

- Ms A Idrees scheduled a telephone interview with the Investigating Officer on 28 September 2018. Mr Sasdev sought to join her at the interview, presumably so that he could tell her what to say as well. In the event, she refused to allow Mr Sasdev to join her for the call.

22.6 He knew that his client and her sister were key to the SRA's investigation, and yet he sought to prevent them from giving their fair accounts to the SRA. All this was to frustrate the SRA's investigation. Accordingly, he breached Principle 7. There was the additional inference that Mr Sasdev was seeking to conceal his misconduct.

22.7 Members of the public would be alarmed by a solicitor who sought to interfere with witnesses to an SRA investigation, putting them in fear of the regulator and seeking to conceal his own wrongdoing. In doing so, Mr Sasdev was in breach of Principle 6 of the Principles.

22.8 Mr Tankel submitted that solicitors acting with integrity would not interfere with witnesses to an SRA investigation. In doing so, Mr Sasdev had acted in breach of Principle 2.

22.9 He also failed to achieve Outcomes 10.7 and 10.10 of the Code, in that he sought to prevent his client and her sister from speaking to the SRA and failed to provide permission for information to be given to enable the SRA to seek verification of matters from clients or others.

22.10 He also failed to comply promptly with written notices from the SRA and failed to produce or provide all documents and information requested. In doing so Mr Sasdev failed to achieve Outcomes 10.8 and 10.9 of the Code.

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

22.11 In his Answer, Mr Sasdev explained that his client and her sister were well aware of how to complain to the SRA; they did not want to have any contact with the SRA. When a letter was received from the SRA, Mr Sasdev was informed by them of receipt of that letter, of their own volition. This, it was submitted, was a continuing affirmation of the confidence his client had in him. Mr Sasdev asserted that the SRA were only able to make contact by making baseless allegations, namely that his client did not exist and by threatening intervention into his Firm.

22.12 Mr Sasdev explained that he received a message from Ms A Idrees on 17 May 2016 in which she stated that she had received a call from the Applicant asking for Ms R Idrees' number. She had informed the SRA to contact the solicitors who were dealing with the probate as they would have all of the information. Mr Sasdev submitted that having been contacted by Ms A Idrees about the call, he considered that she preferred to liaise with the SRA through him, rather than having direct contact.

22.13 On 26 May 2016, the SRA threatened to issue a Section 44B Notice requiring Mr Sasdev to provide contact details for Ms R Idrees. Mr Sasdev considered that a Section 44B Notice was only applicable if there had been professional misconduct, and that there was no evidence of professional misconduct. On 19 October 2016, he sent a letter to the SRA, signed by his client, which stated that she was in agreement with the time being taken to deal with the residues. Mr Sasdev submitted that the letter was notification to the SRA that he did not agree with the SRA's assertion that it was entitled to his client's contact details.

22.14 Mr Sasdev stated:

> "If the Applicant did, honestly, believe that they were entitle to the name and telephone number [of his client], they would have proceeded to issue the Production Notice. The fact that they did not so proceed evidenced that they knew that they were not entitled to issue the Notice. This also evidences that the Applicant knew that the representation of law impliedly made them, that they were entitled to a Production Notice, was false i.e., they knowingly made a false, and misleading, statement of law."

22.15 Mr Sasdev considered that against "the background of unlawful notices, and false statements of law issued by the Applicant" and after liaising with his client and her sister, in conjunction with his client and her sister, he considered it proper to arrange and send confirmation to the SRA that his client had received bills and costs information from him and that they were satisfied. Further, "within the background of the Applicant's previous unconventional efforts" to contact his client, and his "consciousness that there was a conflict of interest between [his client's] legal rights and the Applicant's self-interest (i.e. the Applicant wanting tracing of residuaries)", Mr Sasdev "considered it proper to assist with drafting the communications relating to costs information" from his client to the SRA.

22.16 Mr Sasdev submitted that he was informed of the letter sent to Ms R Idrees and thereafter received a text requesting advice on the letter. In the subsequent days, he arranged and attended his client and her sister. At the meeting he prepared handwritten drafts of letters to be sent to the SRA and the Firm.

22.17 It had been agreed that Ms R Idrees would not speak to the SRA until she had met with Mr Sasdev in person "so she could obtain legal advice from me and clarification on aspects of this matter where she needed". The messages advising her not to accept any calls from unknown numbers was to apply pending her meeting with Mr Sasdev. He went to Manchester and was present with Ms R Idrees when she spoke to the Applicant.

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

22.18 Outcome 10.7 of the Code required:

> "You do not attempt to prevent anyone from providing information to the SRA or the Legal Ombudsman"

22.19 Outcome 10.8 of the Code required:

> "You comply promptly with any written notice from the SRA"

22.20 Outcome 10.9 of the Code required:

> "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; and

(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."

22.21 Outcome 10.10 of the Code required:

"You provide any necessary permissions for information to be given, so as to enable the SRA to:

(a) Prepare a report on any documents produced and
(b) Seek verification from clients, staff and the banks, building societies or other financial institutions used by you.

22.22 The Tribunal noted that there were many facts that were not in dispute:

- Mr Sasdev agreed that he had been contacted by the Applicant in 2016, requesting contact details for his client and he had not provided them;
- Mr Sasdev accepted that following his failure to provide the requested information, the SRA had warned him that it was considering issuing a Section 44B Notice;
- The letter to the SRA dated 19 October 2016 was drafted by him and signed by his client;
- He had been informed of the letter sent to his client from the SRA by his client and/or her sister;
- He had advised his client and her sister not to answer any calls from a withheld/unknown number as this was likely to be the SRA;
- He had been present with his client when she spoke to the SRA;
- He had intended to be present with Ms A Idrees when she spoke to the SRA;
- He had drafted letters to the Firm and to the SRA which were signed by his client.

22.23 During cross-examination, Ms A Idrees stated that the letters of 15 September 2018 had not been drafted on instructions, nor was the letter drafted at the meeting with Mr Sasdev at the meeting in September 2018. Mr Sasdev had drafted the letters, told her to ensure that Ms R Idrees signed them, and told her to message him to confirm that they had been signed. At that stage they still considered that Mr Sasdev was acting in their best interests. When she received the letters, she went to her sister for them to be signed. She did not read the letters and did not explain the contents to her sister.

22.24 Ms A Idrees explained that Mr Sasdev wanted to be present for her call with the SRA but she became uncomfortable. Both on the day before she was due to speak to the SRA and on the day, she received numerous calls from Mr Sasdev. When she spoke to the SRA she was extremely stressed and worried. Some of the things she said were not correct; she had been told by Mr Sasdev what she should say.

22.25 Mr Sasdev had told her that if the SRA became involved, things would take much longer and there would be nothing left for her sister; the SRA would prolong the matter and everything in the estate would be eaten up if there was an intervention.

22.26 During her evidence, Ms R Idrees confirmed that she had not written the letters of 15 September 2018 to the SRA or to the Firm.

22.27 In his evidence, Mr Sasdev stated that he considered the communications from the SRA requiring his client's contact details were the SRA's way of applying pressure for him to conclude the administration of the estate. When asked whether he had told his client that there would be further delay if the SRA became involved, Mr Sasdev explained that that was implicit. The fear was that there would be an intervention which would prevent the Firm from dealing with the residual balances. Mr Sasdev stated that even though his Firm was closing at the end of September 2018, he was not going to resign from the matter, and would have continued to work on the case.

22.28 With regards to telling his client and her sister not to answer any calls that might be from the SRA, Mr Sasdev explained that he needed to see them first to clarify any issues and avoid them saying anything to the SRA that might spark an intervention into ADC. Mr Sasdev explained that he believed the letters were reflective of his client's instructions. When asked why he did not write to the SRA directly saying that his client had provided him with an extension to complete the matter, Mr Sasdev stated that he had not fully grasped the issue and that he had "judgement issues" around that time.

22.29 Mr Sasdev stated that he had specifically travelled to Manchester to be present for the call with the SRA, that he had asked Ms R Idrees to put the phone on speaker, that he had not told the SRA that he was present listening to the call and that he had only intervened during the call to guide her but that the guidance was the truth.

22.30 As regards the 11 missed calls from him to Ms A Idrees around the time that she was due to speak to the SRA, Mr Sasdev explained that he thought there might be "something wrong with her phone" or that "maybe she was unwell". He expected that if she did not want to talk to him that she would have told him not to contact her. He stated that he had not told Ms A Idrees what to say to the SRA but had advised her to tell the truth and had spoken to her about the "true position". Ms Idrees did know what to say to the SRA and did not want to "make a mess of the matter". When asked if he had advised Ms A Idrees to tell the SRA that the conversations with Ms R Idrees had been in Urdu, Mr Sasdev explained that he had done so as speaking to Ms A Idrees instead of the client would be a breach.

22.31 Mr Sasdev confirmed that he had not informed the SRA that he had drafted correspondence to the SRA on behalf of his client. The reason for that was that he had not engaged fully with all the issues.

22.32 The Tribunal accepted the evidence of both Ms A and Ms R Idrees. Mr Sasdev, it was determined, had deliberately and knowingly sought to prevent his client and her sister from providing information to the SRA. He had failed for a period of over 2 years to provide contact details for his client so to avoid his client having any direct contact with the SRA. He had caused his client and her sister to believe that SRA involvement would be detrimental to them, and that it would substantially delay the progress of the matter. Further, he had stated that SRA involvement would deplete all of the assets in the estate such that Ms R Idrees would receive no payment. The Tribunal noted that, in fact, Mr Sasdev had depleted all the monies held in client account on behalf of the estate in the costs charged and transferred.

22.33 Mr Sasdev had ensured that he was present during Ms R Idrees' call to the SRA so that he could monitor what was said and tell her what to say. The Tribunal found that the motivation for his attendance on the call between Ms R Idrees and the SRA was not to protect his client's position, but to protect his own position, ensuring that nothing was said that would cause him any difficulties. That this was the case was plain even on his own account. He had advised Ms A Idrees to tell the SRA that conversations with his client had taken place in Urdu as he was concerned that taking instructions from Ms A Idrees instead of his client was a breach for which he could be criticised.

22.34 He had drafted letters to the SRA, purportedly from his clients, that were designed to protect him from investigations into the substantial delay that he had caused on the matter. The Tribunal found that he had taken advantage of his client's vulnerabilities and had put the protection of his position before the best interests of his client.

22.35 Mr Sasdev had repeatedly failed to comply promptly with written notices requesting documents or information from the Applicant. He had sought to prevent his client and/or her sister from providing information to the Applicant. It had taken over 2 years for Ms Idrees' number to be provided. Further, he had advised them not to answer any calls which might have been from the Applicant. Such conduct failed to achieve Outcomes 10.7, 10.8, 10.9 and 10.10 of the Code.

22.36 Mr Sasdev had deliberately sought to prevent the SRA from investigating his conduct, by failing to provide the documents or information requested and had sought to prevent his client and her sister from having any direct communication with the Applicant. That such conduct was in breach of Principle 7 was plain.

22.37 Members of the public would be extremely concerned to know that a solicitor had sought to prevent the provision of information to the Applicant by his client or other third parties. They would be even more concerned to know that this was done in an attempt to frustrate an investigation into that solicitor's conduct and that in order to protect his own position, a solicitor had led his client to be fearful of any interaction with the Applicant. In doing so Mr Sasdev had failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

22.38 A solicitor acting with integrity would have complied with his duty to comply with written notices from the Applicant. Further, a solicitor acting with integrity would not have sought to prevent his client or other third parties from contacting the Applicant in order to frustrate an investigation into that solicitors conduct. Still less would he have surreptitiously been present when his client spoke to the Applicant, telling his client

what to say, in order to protect his own position. In doing so, Mr Sasdev had acted without integrity in breach of Principle 2.

22.39 Accordingly, the Tribunal found allegation 1.4 proved on the balance of probabilities.

23. **Allegation 1.5 - Between 17 November 2014 and 30 September 2018, he failed to distribute or otherwise deal with residual client balances (relating to Person MA's firm) totalling approximately £279,807.53, and thereby breached Rules 14.3 and 14.4 of the SAR and/or Principle 6 of the Principles.**

The Applicant's Case

23.1 On 27 September 2018, after disclosure of the SRA's intervention report to Mr Sasdev, his legal representative informed the SRA that the matter had been transferred to Woodford Wise Solicitors ("WWS") to complete the administration of Person MA's estate. Mr Sasdev transferred the client money (£279,807.53) plus the remainder of the money left from the sale of the two properties (£20,052.98) and the files, items and documents to WWS. Soon afterwards, Ms R Idrees terminated WWS's retainer. For several months, WWS therefore simply stored the physical files and held the client funds in its client account.

23.2 On 25 May 2019, the SRA intervened into ADC and took custody of the remaining files and the funds held by WWS. Following the intervention into the Firm, the SRA's Intervention Officer has identified that there were approximately 7,659 ADC files, items and documents with WWS.

23.3 The SRA produced a report proposing the distribution of funds recovered (then held as statutory trust money), dated 16 January 2020, which included a distribution list. The list showed that, of approximately 1,129 matters with funds held on ADC's client account, approximately 1,009 were below £500 and therefore able in principle to be transferred to charity without further application to the SRA, to the extent that the conditions in Rule 20.2(a) and (b) of the SAR were able to be made out.

23.4 In respect of sums above that amount, Mr Sasdev could have applied to the SRA to withdraw the funds to be transferred to charity. Indeed, on the intervention into ADC, the SRA itself decided that, in undertaking its statutory trust procedures, it would be proportionate and appropriate to proactively attempt to distribute only those residual balances exceeding £1,250 (a total of 33 balances – with all those below that figure averaging £159.23 per balance). In the event, by this stage none of the potential clients could be traced and/or provide satisfactory evidence of entitlement. On 23 January 2020, a Senior Adviser at the SRA authorised the full amount of client funds being transferred to the Compensation Fund. The funds remaining from the sale of the two properties was ring-fenced further to a Compensation Fund claim made by Ms R Idrees.

23.5 Mr Tankel submitted that it was accepted that when some of the residual client balances arose, there was no express Accounts Rule requiring solicitors to distribute funds within any particular period, and that there were no relevant transitional provisions dealing with residual client balances that arose prior to the introduction of an express Accounts Rule.

23.6 It was the Applicant's position that the then new Accounts Rules imposed a duty on Mr Sasdev to deal with all residual client balances promptly, irrespective of when they arose. In the alternative, the then new Accounts Rules imposed a duty on Mr Sasdev to deal with those residual balances which arose after the introduction of the then new Accounts Rules promptly.

23.7 In any event, the residual balances were still client monies subject to the retainer with Ms R Idrees. Rule 14.3 of the SAR required solicitors to distribute residual client balances to clients, or other persons on whose behalf the money is held, promptly at the end of a matter (or when there was no longer a proper reason to retain those funds). Rule 14.4 required Mr Sasdev to write to clients or other persons on whose behalf the money was held every twelve months with updates as to their residual balances. These rules, it was submitted, applied directly to Mr Sasdev because he was holding money on behalf of "other persons", i.e., clients of ADC or others, even if they were not his own clients.

23.8 In addition or alternatively, the same principles applied indirectly to Mr Sasdev by virtue of Principle 6 because the public would expect a solicitor in Mr Sasdev's position to conduct himself in accordance with the principles set out in those rules. Alternatively, if the conditions in Rule 20.2(a) and (b) of the SAR were made out, then it would have been open to the Respondent to withdraw the funds from client account pursuant to Rule 20.1(j), or to apply to withdraw the funds from client account pursuant to Rule 20.1(k).

23.9 Mr Tankel submitted that the case had been put in these alternatives so that all possible eventualities are covered; Mr Sasdev ought to have taken at least one of the available options (and advised his client of the position). By contrast, he impermissibly held the funds on client account without substantive progress for a period of almost four years. In so doing, Mr Sasdev failed to promptly distribute residual client balances in breach of Rule 14.3 and failed to provide 12 monthly updates to anyone in breach of Rule 14.4.

23.10 The funds in the client balance belonged to ADC's former clients, the estate, or were potentially able to be made available to charity. One of the sums was for over £40,000, and forty matters were for over £1,000. The public would be alarmed by a solicitor who failed to promptly restore, or make substantive reasoned attempts to restore, these funds to their rightful owners (whoever their rightful owners may be). The public would expect a solicitor in Mr Sasdev's position to conduct himself in accordance with the principles set out in the relevant Rules. In failing to do so, Mr Sasdev had breached Principle 6 of the Principles.

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

23.11 In his Amended Answer, Mr Sasdev submitted that the 1992 Accounts Rules did not contain a duty to distribute client ledger balances within any period of time. Therefore, the duty on Person MA was to preserve the residues until a bill was rendered to the relevant residuary, and the residue was either transferred to the office account as monies owed to ADC or returned to the owner of the residue. Therefore, the 1992 Accounts Rules resulted in a preserve-duty (only) in relation to residues.

23.12 As the residual balances which arose in the period 1995 to 1998 were governed by the 1992 Accounts Rules, the Applicant was not lawfully able to compel Person MA to distribute those residual balances. Further, the Applicant was not lawfully able to threaten Person MA with intervention on the ground of any period of time (delay) taken by him to distribute the residual balances, whether to himself (as costs) or to the residuaries.

23.13 The 1998 Accounts Rules did not contain a duty to distribute residual balances within any period of time, with the effect that Person MA continued to be lawfully entitled to hold the residual balances indefinitely.

23.14 Although the annual Accountant's Reports of ADC brought the residual balances to the attention of the Applicant, the Applicant was unable, lawfully, to take enforcement action, and/or did not take enforcement action.

23.15 Mr Sasdev submitted that "the Applicant delayed until 2008 in introducing an express duty to trace the residuaries and pay over residues ("trace-duty"). The trace-duty came into effect from 14th July 2008, and was applicable to residues arising after that date, i.e., the trace-duty was introduced prospectively". However, even in the 2008 Accounts Rules, the Applicant failed to introduce transitional provisions to deal with pre-14 July 2008 residues. The consequence of this failure in relation to Person MA's residual balances was that: (a) he continued to remain entitled to hold the 1995-2008 residues indefinitely (preserve residues) and (b) for residual balances post 14 July 2008, Person MA was legally obliged to distribute those residues as costs for himself or balances to the residuaries.

23.16 Mr Sasdev submitted that at the time of Solicitor MA's death, ADC had 1131 residual balances. That number was "evidence that, at least in relation to Solicitor MA, the Applicant had failed as a legislator, and/or regulator, and/or supervisor, and/or educator".

23.17 Mr Sasdev estimated that "almost 90% of the residues were preserve-residues, and that the balance, 10% were trace-residues". This, it was submitted "would explain why, even after SAR 2008, e.g., in 2009, the Applicant was unable to, and/or did not, take legal action against Solicitor MA. With 90 % of the residues being preserve-residues, the Applicant was unable to take action against Solicitor MA in the Tribunal and/or lawfully threaten intervention against him".

23.18 As the executrix of the estate, Ms R Idrees was a general trustee of the residual balances and was not bound by the SAR. The only duty owed by her was a preserve duty; she was under no obligation to trace the rightful owner of any residual balance.

23.19 Mr Sasdev submitted that he had been instructed as his client's agent. Accordingly, "on the basis of the legal principle that a principal is liable for acts or omissions of the agent that result in financial loss, [the client] was liable for acts and omissions of mine (subject to indemnity from me). (i) It followed that if a third party suffered loss as a result of my acts or omissions, or had a grievance, the third party's remedy, via me as agent, was against the principal".

23.20 It was also submitted that:

> "The Applicant knew that the (further) relationship between me and the Applicant, arising from the instruction of me as solicitor for the administrator, was as a third party, i.e., a relationship other than that of regulator and regulate".
>
> (i) This would be similar to a situation where I acted for a client (e g Mr X) in selling a property to the Applicant (who were acting for themselves). It would not be open to the Applicant to demand sight of the file, or progress reports of the transaction, on the ground that, separately, the Applicant was also my regulator.
>
> (ii) In this matter the residuaries, being potential beneficiaries of a separate trust (the residues being held in a separate bank account) and being entitled to make a claim against the Estate, in respect of, and to the extent of, such of the residues as were due to the residuaries, were quasi-creditors rather than full-creditors (who would be entitled to claim against the Estate generally)."

23.21 Mr Sasdev submitted that "the Applicant was only entitled to demand from me, the agent of the administrator, bank statements to satisfy the Applicant that the residues were safe (preserved), or copies of bills/refund-notifications if the residues were distributed".

23.22 Further, the Applicant knew that Ms R Idrees "only had a preserve-duty (but not a trace-duty)" in respect of all the residual balances. As her solicitor, Mr Sasdev's obligation was to "advise and assist in observing her preserve-duty in relation to the residues".

23.23 As the residual balances did not belong to clients of the Firm, Mr Sasdev considered that he owed no duty to the residuaries of ADC, save that he owed a preserve duty as his client's agent.

23.24 Mr Sasdev submitted that in his letter to the Applicant dated of 28 January 2015, he made a number of references which made it clear that he did not consider the residual balance clients as his clients:

- Mr Sasdev explained that he wrote "as a matter of courtesy" as he did not consider that he owed any obligation under the SAR.
- He explained that he would keep the ADC accounts "separate from this firm's accounts". This was a clear indication that he did not treat the residual balance clients as his own clients.
- He stated that it was "difficult to give a timeframe". This, it was submitted, was a further indication that he did not consider himself bound by the SAR in relation to the residual balances. He was aware that a solicitor holding client money was obliged under the SAR to follow various rules promptly and thus would not be entitled to use phrases such as "difficult to give a timeframe" in relation to compliance.

23.25 Mr Sasdev explained that he considered that the only action the Applicant could take as regard the residual balances, was to intervene into ADC.

23.26 In addition, Mr Sasdev considered it was relevant that prior to his instruction, the Applicant had taken no action, and that despite threatening to intervene into ADC, the Applicant had not done so. Mr Sasdev believed that in those circumstances, any "threats" made by the Applicant were "empty threats".

23.27 In circumstances where Person MA had no obligation to distribute the residual balances in relation to 90% of such balances held and given that the clients were not clients of the Firm, Mr Sasdev submitted that he considered that he had no duties under the SAR. He was fortified in this belief by the Applicant's failure to issue a production notice or use its internal fining powers.

23.28 To the extent that allegation 1.5 was based on a failure to comply with his client's instructions, Mr Sasdev submitted that any deadline imposed by his client had been extended by her, thus he had not failed to comply with her instructions in a timely manner.

The Tribunal's Findings

23.29 The Tribunal referred to the client care letter sent by Mr Sasdev to Ms R Idrees. In that letter, Mr Sasdev confirmed her instructions:

> "Your instructions to us are to act on your behalf in connection with the administration of the estate of your late husband … You have instructed us to … deal with the closure of his solicitors practice, organised transfer of client balances held in the name of you late husband and deal with return of monies to clients or render bills where appropriate".

23.30 Mr Sasdev confirmed that: "We are prepared to act in the administration of the estate, including: … return of monies held in client account and refundable to clients".

23.31 The Tribunal found that by virtue of his instructions and his confirmation of the work he would undertake, Mr Sasdev was bound to deal with the residual balances. The Tribunal found (indeed it was not disputed) that Mr Sasdev had failed to distribute or otherwise deal with any or the residual balances throughout the time of his instruction.

23.32 The Tribunal did not accept that those balances were not subject to the SAR. The monies were client monies and were held by him in his client account. Whilst the clients were not clients of his firm, the monies either belonged to the estate (which was his client) or they belonged to the former clients of ADC (whose administration he had been retained to deal with).

23.33 The monies were received by Mr Sasdev when the SAR were in force. The Tribunal considered that he could not avail himself of previous iterations of the Accounts Rules to defend his failure to act in accordance with the SAR. Nor was it permissible for him to determine that because at the time the residual balances were created the rules were less onerous, he would act in accordance with the old Accounts Rules and not in accordance with the then current Accounts Rules. The Tribunal dismissed his

suggestion that as the agent for Ms R Idrees, any acts or omissions by him were attributable to her, as wholly without merit. Mr Sasdev, as a solicitor, was subject to the Code and the SAR; his client was not. On Mr Sasdev's case, he would have been entitled to retain the residual balances in his client account indefinitely without breaching his compliance duties; that was plainly not the case.

23.34 The Tribunal found that in failing to distribute the residual balances promptly or at all, and in failing to write to the clients or Ms R Idrees (as the executrix of the estate) every 12 months with updates regarding the residual balances, Mr Sasdev had breached Rules 14.3 and 14.4 of the SAR as alleged.

23.35 Members of the public would not expect a solicitor to fail to carry out the work that he was expressly retained to do. The Tribunal thus found that in doing so, Mr Sasdev had failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

23.36 Accordingly, the Tribunal found allegation 1.5 proved on the balance of probabilities.

24. **Allegation 1.6 - Between 31 January 2017 and 28 February 2018, he failed to: (1.6.1) Obtain and deliver accountant's reports for 2015/2016 and 2016/2017 on time, in breach of Rule 32A.1 of the SRA Accounts Rules 2011; (1.6.2) Provide timeous answers to the SRA's investigator, in breach of Principle 7 of the SRA Principles 2011.**

The Applicant's Case

24.1 Mr Tankel submitted that for the 2015/2016 accounting period, the Firm sought a large number of extensions, for various different reasons:

Date	**Event**
31 January 2017	Due date for accountant's report for Y/E 31 July 2016. Mr Sasdev requests an extension to 28 February 2018, citing the absence of the Firm's cashier.
28 February 2017	Mr Sasdev explains that the cashier went abroad to care for a family member who required "a number of complex surgical procedures …" A temporary replacement cashier was recruited, to start on 22 March 2017. An extension to 30 April 2017 was sought.
10 March 2017	Mr Sasdev wrote to the SRA explaining that building works at the Firm's offices had resulted in the distribution of files around the office and that only the cashier was easily able to find them. He said he had not previously raised building works as an excuse for lateness because it had been thought that the cashier would return and deal with the issue.
8 May 2017	Mr Sasdev explained that the temporary cashier was "unable to locate any of the accounting documents" and "found it difficult to work with our accounting package" He left the firm on 5 April 2017

Date	Event
	without completing the work. In addition, due to issues with the return of the Firm's cashier, an extension to 31 May 2017 was sought.
26 July 2017	Mr Sasdev explained that the Firm's cashier reported that the builders had "moved file-boxes that many boxes had been broken, and that many documents had been separated and dislocated from their original boxes/files. Upon further enquiries, I was informed by the builders that there had been a water leak in one storage area which had necessitated urgent movement of boxes/files from the waterlogged area to other parts of the building." A newly appointed building contractor would help retrieve boxes from the rubble. The cashier had now been able to retrieve some documents "including a bank reconciliation statement dated 31 August 2015". An extension to 31 August 2017 was sought to allow remaining boxes to be retrieved.
17 August 2017	Mr Sasdev explained that retrieval was taking longer than expected because "during the movement of files following the water leak, accounting documents became mixed with archived client files, going back over twenty years, which were awaiting confidential destruction".
22 August 2017	Mr Sasdev explained that 5 months' worth of documents had been retrieved but that 7 months of documents still had not. Further, that due to a grudge between the former building workers and their employer and, the building workers "out of recklessness or vengeance, following the water leak, threw around, in disorderly manner, boxes, files and papers many of which became mingled with the building rubble." The new contractor needed 14 days to retrieve remaining documents from the rubble. An extension to 13 September 2017 was sought.
24 August 2017	The SRA sought the last three months bank reconciliations and the last two months bank statements by 4 September 2017.
5 September 2017	Mr Sasdev explained that he has suffered an injury as a result of which he had been signed off as unfit for work for 2 weeks. His administrative assistant would be in touch by midday on the following day.
6 September 2017	Mr Fish wrote to say that reconciliations were not available online. As a result of staffing issues, the Firm would close until 19 September 2017.

Date	Event
	Mr Fish sought an extension to 26 September 2017 to provide bank reconciliations and bank statements.
20 September 2017	Mr Fish wrote to the SRA to state that a further three months of accounting documents had now been retrieved, leaving a further three months outstanding. Mr Sasdev was still unable to return to work and had been signed off for another week. The Firm would remain closed until 28 September 2017. Mr Fish sought an extension to 5 October 2017 to provide accountant's report and other accounting documents.
3 October 2017	Mr Fish wrote to the SRA to say that the contractor had retrieved the last three months' accounting documents. Mr Sasdev remained injured and the GP had signed him off sick until 9 October 2017. The Firm would remain closed until 10 October 2017. Mr Fish sought an extension to 17 October 2017.
23 October 2017	Mr Fish explained that the accountant has not yet been able to issue his report as further documents were required. Mr Fish sought an extension to 7 November 2017.
10 November 2017	The SRA served a section 44B Notice seeking, amongst other things, client account reconciliation statements 1 November 2016 to 1 November 2017 inclusive; client account and office account bank statements 1 November 2016 – 1 November 2017. The SRA's covering letter stated: "It is extremely important that you instruct someone to act on your behalf to send the accounting documents to me. I note that your staff include at least 2 paralegals …The SRA were informed in a letter dated 6 September 2017, that the client account reconciliations had been printed and filed. I see no reason why a member of staff cannot be instructed to send these to me."
21 November 2017	Mr Fish purported to provide a response to s.44B notice including one client account reconciliation for February 2017, and bank statements showing transactions for 30 January 2017 to 8 March 2017 and 30 August 2017 to 2 November 2017. He explained some ongoing difficulties and requested an extension to 21 December 2017.
15 February 2018	Accountants report for year end 31 July 2016 finally submitted to SRA, with qualifications, over a year late.

24.2 Mr Tankel submitted that the excuses given by Mr Sasdev were implausible, both individually and when viewed in the round. When viewed in the round, they appeared to show a deliberate pattern of evasion and failure to cooperate with the regulator. The SRA did not accept the excuses provided.

24.3 The Firm's accountant's report for the year ending 31 July 2017 was due to be provided to the SRA on 31 January 2018 but was not received until 27 February 2018. That report was also qualified.

24.4 Mr Tankel submitted that by failing to provide accountant's reports on time, Mr Sasdev breached Rule 32A.1 of the SAR, which required qualified accountant's reports to be provided to the SRA within 6 months of the end of the relevant accounting period.

24.5 Further, once the SRA started to ask questions about the failure to provide the accountant's report, Mr Sasdev failed to provide substantive answers to the questions and sought instead to evade doing so by providing excuses. In doing so, he breached Principle 7 of the Principles.

The Respondent's Case

24.6 Mr Sasdev submitted that the 2016 report had been lodged 9 months late. However, this was a technical breach with no loss or prejudice arising to any client. As regards the 2017 report, he had received an extension for filing the report to 28 February 2018. Accordingly, having filed the report on 27 February 2018, the report had not been filed out of time.

The Tribunal's Findings

24.7 Rule 32A.1 required:

> "Subject to rule 32A.1A, 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:-
>
> a) obtain an accountant's report for that accounting period within six months of the end of the accounting period; and
>
> b) if the report has been qualified, deliver it to the SRA within six months of the end of the accounting period.
>
> This duty extends to the directors of a company, or the members of an LLP, which is subject to this rule."

24.8 The Tribunal noted that Mr Sasdev accepted that the 2016 report had been filed out of time. Mr Sasdev had not taken the Tribunal to any correspondence from the SRA showing that he had been granted an extension of time for filing the 2017 report, nor were the Tribunal able to find any evidence that such an extension had been granted. Accordingly, and failing any evidence to the contrary, the Tribunal found that Mr Sasdev had failed to deliver the accountant's reports on time in breach of Rule 32A.1 of the SAR.

24.9 The Tribunal accepted that the events detailed by the Applicant in its submissions above, accurately reflected the extension requests and the reasons advanced. The Tribunal found that Mr Sasdev had failed to provide any substantive answers to the questions asked as regards the delivery of the reports, and instead had provided

numerous reasons for his failure to comply with his duties. The Tribunal found that in doing so, Mr Sasdev had failed to deal with the SRA in an open, timely and co-operative manner in breach of Principle 7.

24.10 Accordingly, the Tribunal found allegation 1.6 proved on the balance of probabilities.

Previous Disciplinary Matters

25. None.

Mitigation

26. Mr Sasdev submitted that the misconduct arose from a single client matter. It was over a short duration (the marketing fee and storage fee being over a period of 4 months). This was a one-off and the likelihood of future misconduct was negligible. He left it to the Tribunal to consider the appropriate sanction.

Sanction

27. The Tribunal had regard to the Guidance Note on Sanctions (10th Edition – June 2022). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

28. The Tribunal found that Mr Sasdev motivated by his desire for personal financial gain. He was being pressured by his partner to bring more income into the Firm. He had charged for matters that he knew he was not entitled to charge for as he knew that his client was unlikely to challenge the charges imposed. His conduct was carefully considered. He had acted in flagrant breach of the trust that he knew his client had placed in him. He was directly and solely responsible for the circumstances giving rise to his misconduct. He was an extremely experienced solicitor who had sought to deliberately mislead the regulator and other parties in relation to the progress made in the administration of the estate.

29. He had caused immense harm to his client and her sister, as attested to by them both in their oral evidence and their witness statements. Client A instructed the Respondent following the untimely death of her husband. At the time she was caring for a two year old child, had to administer her husband's estate and deal with the orderly wind-down of his practice which was itself complicated by a number of issues. Client A did not speak English as her first language and relied upon her sisters practical and emotional support.

30. The harm caused was foreseeable. Mr Sasdev denuded the estate's funds in a calculated and deliberate manner; when challenged about the time taken to administer the estate he prevaricated and procrastinated. Further, he had impacted on the trust that his client placed in the profession and had thus brought the profession into disrepute

31. Mr Sasdev's conduct was aggravated by the Tribunal's finding of dishonesty, which was in material breach of his obligation to protect the public and maintain public confidence in the reputation of the profession; as per Coulson J in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 Admin:

> "34. There is harm to the public every time that 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"."

32. His conduct was deliberate, calculated and repeated. He had targeted his client's vulnerability, praying on her lack of English. He had caused her to fear the SRA so that she would not make any contact with them, or voice any complaint about his conduct; he had coerced his client into not communicating with the SRA. It was a pattern of behaviour that had continued throughout his retainer and had continued thereafter with the delivery of his Final Bill. The Tribunal rejected the submission that the misconduct had lasted for a period of 4 months.

33. Given the serious nature of the allegations, the Tribunal considered and rejected the lesser sanctions within its sentencing powers such as no order, a reprimand or restrictions. The Tribunal had regard to the case of Bolton v Law Society [1994] 2 All ER 486 in which Sir Thomas Bingham stated:

> "…. Lapses from the required standard (of complete integrity, probity and trustworthiness) …. may….be of varying degrees. The most serious involves proven dishonesty…. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced by the solicitor, ordered that he be struck off the roll of solicitors."

34. The Tribunal did not find any circumstances (and indeed none were submitted) that were enough to bring Mr Sasdev in line with the residual exceptional circumstances category referred to in the case of Sharma. The Tribunal decided that in view of the serious nature of the misconduct, in that it involved dishonesty, the only appropriate and proportionate sanction was to strike Mr Sasdev off the Roll of Solicitors.

Costs

35. Mr Tankel applied for costs in the sum of £69,233.30. The Applicant had succeeded on all allegations. The matter had consisted of a 6-day substantive hearing and 3 case management hearings. Capsticks fixed fee of £48,500 included the fee for Mr Banyard, the fee for the interpreter for Ms R Idrees's and counsel's fees. Taking those disbursements into account, the notional hourly rate was just over £2 per hour. If the disbursements were not taken into account, the notional hourly rate was £86.95 per hour which, it was submitted, was low.

36. Mr Sasdev made no submissions on either the principle or the quantum. He submitted that he would leave it to the Tribunal to determine the appropriate order for costs.

37. The Tribunal examined the costs schedule. It did not find any items that it considered had been unreasonably incurred. It determined that Mr Banyard's expertise had assisted the Tribunal when considering the question of costs. The Tribunal found that the costs

claimed were reasonable and proportionate considering the matters to be determined. Accordingly, the Tribunal ordered Mr Sasdev to pay costs in full. The Tribunal did not make any reduction to the costs ordered as a result of Mr Sasdev's means as Mr Sasdev had not provided any documents in relation to his means, nor had he made any submissions as regards his means.

Statement of Full Order

38. The Tribunal Ordered that the Respondent, JAYESH SASDEV, 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 £69,233.30.

Dated this 5th day of October 2022
On behalf of the Tribunal

D Green
Chair