

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12279-2021

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

ASHLEY PETER BARRY ATTWOOD

Respondent

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Before:

Mr A Ghosh (in the chair)

Ms B Patel

Ms J Rowe

Date of Hearing: 23 March 2022

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**Appearances**

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

David Barton solicitor advocate of David Barton Solicitor Advocate Ltd, Flagstones, High Halden Road, Biddenden, Kent TN27 8G for the Respondent. The Respondent did not attend.

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**JUDGMENT**

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## **Allegations**

1. The allegation made against Mr Attwood by the Solicitors Regulation Authority Limited (“SRA”) was that:
  - 1.1 On 18 August 2018 he sexually assaulted Person A by penetration and in doing so breached any or all of Principles 1, 2 and 6 of the SRA Principles 2011 (“the Principles”).

To access the Tribunal’s Findings – [click here](#)

## **Documents**

2. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):
  - Rule 12 Statement and Exhibit RN dated 13 December 2021
  - Respondent’s Answer and Exhibits dated 27 January 2022
  - Applicant’s Schedule of Costs dated 15 March 2022

## **Factual Background**

3. Mr Attwood was a solicitor having been admitted to the Roll in January 1998. At the material time, and since 1 January 2005, he was in sole practice trading as Attwood Solicitors. The Firm specialised in personal injury work. Mr Attwood was the COFA, COLP and MLRO at the Firm. The Firm closed on 28 February 2020, when it was acquired by another firm.
4. Mr Attwood remained on the Roll of Solicitors but did not have a current practising certificate. His most recent practising certificate was terminated on 3 December 2020, when Mr Attwood informed the Applicant that he would not be renewing his practising certificate for the practice year 2020/2021.

## **Witnesses**

5. None.

## **Findings of Fact and Law**

6. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with Mr Attwood’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.

## **Integrity**

7. 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”.

8. **Allegation 1.1 - On 18 August 2018 he sexually assaulted Person A by penetration and in doing so breached any or all of Principles 1, 2 and 6 of the SRA Principles 2011 (“the Principles”).**

The Applicant’s Case

8.1 The Applicant relied on Mr Attwood’s conviction in the Crown Court at Stoke on 16 April 2021 for the offence of sexually assaulting a female person 13 years of age or over by penetration and relied upon the findings of fact upon which that conviction was based as proof of those facts. The Applicant also relied on the sentencing remarks of HHJ Glenn.

8.2 On 16 April 2021, following his guilty plea, Mr Attwood was convicted of sexual assault by penetration under section 2 of the Sexual Offences Act 2003. He was sentenced to 5 years imprisonment, placed on the Sex Offenders Register indefinitely and the Barring List by the Disclosure and Barring Service.

8.3 The victim, (“Person A”), was the wife of Mr Attwood’s long-term friend. Mr Attwood had stayed at their house on 18 August 2018, as he had in the past, to save him driving back to his home. Person A went to bed soon after returning home and fell asleep. Mr Attwood stayed up drinking with Person A’s husband.

8.4 Person A was woken by Mr Attwood touching her sometime after 3:00am. The Judge stated:

“It seems to me that initially she probably did not appreciate what was actually happening. You moved her underwear to one side. You penetrated her vagina with your finger. When she moved, she describes it as flinching. You removed your finger and moved back from her. She describes herself as half asleep and in fact she managed to go back to sleep but she was woken a second time by you touching her again in the same manner, a little more forcibly, and on this occasion you put your other hand inside her bra, touching her breast. She turned over to see you hastily exiting the bedroom”.

8.5 Person A, in a state of shock, left it a few minutes before going downstairs to her husband, who was asleep in the dining room. Person A told her husband what had happened and Mr Attwood was told to leave. Mr Attwood pretended to be asleep. His jeans and phone were found in another bedroom. The Judge commented:

“Significantly you had taken your trousers off before going into the complainant’s room. To add insult to injury, it transpired that you had taken 11 photographs of the complainant. They were found on your phone, even though you had deleted the originals, in an obvious attempt to destroy evidence. You had recorded what had happened and it is quite plain that you were sexually

attracted to the complainant. You wanted to retain the images of her for your own purposes and this was all about you achieving some degree of sexual gratification regardless of the views and wishes of others.”

8.6 Mr Attwood was arrested on 19 August 2018 and interviewed by the police. He denied the offences and thereafter made no comment. Following his arrest his mobile phone was seized and forensically examined.

8.7 Mr Attwood was interviewed again in February 2019 and May 2019. By the time of the May 2019 interview, the police had recovered images from Mr Attwood’s phone. HHJ Glenn stated:

“In a defence statement issued on 6 July 2020 you continued to lie. By then you admitted taking photographs and touching the complainant, frankly by then you had no other option, but said the touching wasn’t sexual and that you did not penetrate the victim’s vagina.”

8.8 On 2 March 2021, one month before the Trial, Mr Attwood pleaded guilty to the offence of assault by penetration under section 2 of the Sexual Offences Act 2003. In the Pre-Sentence Report he accepted full responsibility but claimed he could not recall the details. HHJ Glenn remarked:

“I am afraid I find that an uncomfortable stance because you had the presence of mind to go to the complainant’s room in the knowledge her husband was asleep, to partially undress yourself, to behave as you did, record what you did and delete the images when you realised you might be in trouble. Reference is made to deep remorse. I accept that is now the position but expressions of remorse carry far more weight when they are tendered at an early stage of the proceedings.”

8.9 HHJ Glenn referred to Person A’s personal statement. He considered that:

“...not a day goes by when she does not think about this, feeling upset on a daily basis; the effect on the family; attending counselling; problems with sleeping; feeling betrayed and being shocked beyond belief when she found out about the images which must have been a particularly humiliating experience for her”.

8.10 HHJ Glenn considered that Mr Attwood’s delay in accepting responsibility and acknowledging his guilt had caused further distress to Person A. He commented:

“I have had regard to delay in this case but much of the delay is attributable to your inability to accept your guilt, despite the strength of the evidence. The police had to conduct a significant investigation as a result of that. The case had to be set down for trial because you entered a not guilty plea in January of 2020 and that trial could not occur in September 2020 because this court had only resumed trials that month and prioritised custody time limit cases. The delay has increased the pressure on the victim who has had an agonising wait, not knowing whether she would be required to give evidence but to your credit you did use the delay in a positive way in the other respects that I have already alluded to.”

- 8.11 HHJ Glenn found that Mr Attwood’s offence was aggravated by a number of factors, including that:
- the offence took place in Person A’s bedroom, a place she was entitled to feel safe;
  - she was penetrated not once but twice showing a “degree of persistence” on the part of Mr Attwood;
  - the abuse of friendship;
  - the effect on Person A; and
  - Mr Attwood was under the influence of alcohol.
- 8.12 Mr Bullock submitted that by his guilty plea, Mr Attwood admitted that he committed the offence which was the subject of the proceedings in the Crown Court and his conviction on the basis of those admissions was conclusive proof that he was guilty of it by virtue of Rule 32 (1) Solicitors (Disciplinary Proceedings) Rules 2019.
- 8.13 The public would not expect a solicitor, who was an officer of the court, deliberately to impede or prevent, or to attempt to impede or prevent, the judicial process by deleting evidence, namely the 11 images of Person A he recorded on his mobile phone, which were highly relevant to the criminal investigation. As the Judge remarked this was an “obvious attempt to destroy evidence”. Such conduct was a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings. Furthermore, Mr Attwood failed to report his criminal conviction to the SRA. Mr Attwood thereby failed to uphold the rule of law and the proper administration of justice in breach of Principle 1.
- 8.14 By virtue of the offence Mr Attwood failed to act with integrity in that he had failed to act with moral soundness, rectitude and steady adherence to an ethical code. The duty to act with integrity applied not only to what professional persons say, but also to what they do. For the avoidance of doubt, it was the Applicant’s case that adherence to the ethical standards of the profession must and did include adherence to the wider law of the land, especially the criminal law, not least because solicitors were officers of the court.
- 8.15 In addition. Principle 2 expressly applied to conduct outside practice. A solicitor acting with integrity would not have committed such a heinous crime. The nature of the offence caused significant harm to Person A who was particularly vulnerable having been asleep in her own home at the time the offence was committed. She had suffered immeasurable distress. The gravity of the offence was reflected in the 5-year custodial sentence. A solicitor who had been found guilty of committing such a criminal offence had conducted himself in a manner lacking in moral soundness, rectitude and steady adherence to an ethical code/the ethical standards of the profession so as to lack integrity in breach of Principle 2 of the Principles. Mr Attwood therefore breached Principle 2 of the Principles.
- 8.16 Such conduct also amounted to a breach of the requirement to behave in a way which maintained the trust placed by the public in solicitors and in the provision of legal services. Solicitors were expected to abide by the law and a failure to do so diminished the reputation of the profession. The public would not expect a solicitor to be convicted of a serious crime. The public would not expect a solicitor to be given a 5-year prison

sentence, be placed on the Sex Offenders Register indefinitely, nor be placed on the Barring List by the Disclosure and Barring Service.

8.17 The trust and confidence the public could place in Mr Attwood, in solicitors and in the provision of legal services was likely to be undermined by virtue of his conduct and conviction. Mr Attwood therefore breached Principle 6 of the Principles.

8.18 Mr Bullock referred the Tribunal to SRA v Farrimond [2018] EWHC 321 (Admin):

“The need to maintain among members of the public “a well-founded confidence that any solicitor they instruct will be a person of unquestionable integrity, probity and trustworthiness” is the paramount consideration for the Tribunal and this court. In my view, that objective would be undermined by an order that had the effect of keeping Mr Farrimond’s name on the Roll during the currency of a term of imprisonment for an offence of attempted murder. The only appropriate sanction was that his name be struck off from the Roll.

...

In my judgment, it is beyond argument that a solicitor sentenced to any substantial term of imprisonment should not be permitted to remain on the Roll even if suspended indefinitely. The difference between indefinite suspension and strike off might be limited to the period of time before which an application to restore (or resume) can be made and it may be that the conditions suggested by the Tribunal, if satisfied, might permit Mr Farrimond to make an application to be restored to the Roll if he feels that such an application is appropriate and sensible given the mental state into which he had descended prior to the attack. It is simply inconceivable that a prisoner, serving a sentence of 6 years’ imprisonment, should be able to describe himself as a solicitor and officer of the court albeit suspended from practice.”

#### The Respondent’s Case

8.19 Mr Attwood admitted the allegation.

#### The Tribunal’s Findings

8.20 The Tribunal found the allegation proved on the facts and evidence. The Tribunal found Mr Attwood’s admissions to be properly made.

#### **Previous Disciplinary Matters**

9. None.

#### **Mitigation**

10. Mr Barton submitted that Mr Attwood was now 52 years old. He had no previous adverse regulatory history. At the hearing before the Crown Court, Mr Attwood expressed his remorse, accepting that there was no excuse or justification that could explain his behaviour. Mr Attwood considered that his conduct was such that he did

not deserve to call himself a solicitor anymore. Mr Barton explained that the medical report written on behalf of Mr Attwood was before HHJ Glenn and was also before the Tribunal. It was clear that HHJ Glenn placed limited weight on the content of the report. The report made it plain that Mr Attwood had been suffering from a number of undiagnosed medical condition at the time he committed the offence.

11. Mr Barton submitted that Mr Attwood recognised that his offence was undoubtedly serious. He accepted the adverse effect such an offence had on the reputation of the profession. Mr Attwood was horrified by the offence and was fully remorseful. Mr Barton submitted that Mr Attwood accepted that the sanction the Tribunal would impose in the circumstances was inevitable and he did not seek to dissuade the Tribunal from that. Mr Barton had appeared on Mr Attwood's behalf as Mr Attwood was keen to avoid there being any discourtesy to the Tribunal by his non-appearance.

### **Sanction**

12. The Tribunal had regard to the Guidance Note on Sanctions (9<sup>th</sup> Edition – December 2021). 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.
13. The Tribunal considered that Mr Attwood was completely culpable for his misconduct. He had caused significant harm to Person A and to the reputation of the profession. The Tribunal had regard to the comments made in Farrimond (detailed above).
14. The Tribunal determined that Mr Attwood's conduct was aggravated by the commission of a serious criminal offence. He had tried to conceal his misconduct, by deleting images from his phone. His conduct was deliberate, calculated and repeated. He had taken advantage of Person A who was vulnerable at the time, having been asleep. Mr Attwood knew that his conduct was in material breach of his obligation to protect the public and the reputation of the profession.
15. The serious nature of his misconduct was such that sanctions such as no order, a reprimand, fine, or suspension did not adequately reflect its seriousness. The Tribunal considered that Mr Attwood's misconduct was so serious that the only proportionate and appropriate sanction was to strike Mr Attwood off the Roll.

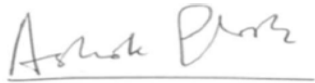
### **Costs**

16. Mr Bullock claimed costs in the sum of £3,131, subject to a modest adjustment given that the hearing time was less than that estimated in the schedule.
17. Mr Barton submitted that the sum claimed was not challenged either in principle or in the amount.
18. The Tribunal considered that costs in the sum of £3,000 were reasonable and proportionate and accordingly ordered costs in that sum.

**Statement of Full Order**

19. The Tribunal Ordered that the Respondent, ASHLEY PETER BARRY ATTWOOD, 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 £3,000.00.

Dated this 19<sup>th</sup> day of April 2022  
On behalf of the Tribunal



**JUDGMENT FILED WITH THE LAW SOCIETY**  
**19 APR 2022**

A Ghosh  
Chair