SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12290-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

KAREN NICHOLSON Respondent

Before:

Mrs L Boyce (in the Chair)
Mr U Sheikh
Mr C Childs

Dates of Hearing: 25, 28-29 September 2023, 2 October 2023

Appearances

Michael Collis, barrister of Capsticks LLP for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

Allegations relating to Ms Nicholson's employment by Jackamans Solicitors: (PROVED)

1.1. Whilst in practice as a solicitor at Jackamans Solicitors, between approximately February 2013 and August 2016 she:

1.1.1 instructed process servers other than in accordance with paragraphs 3.9 and 3.10 of the Legal Aid Agency Costs Assessment Guidance; and

1.1.2 instructed process servers with whom she had a pre-existing, personal relationship.

In doing so, she;

1.1.3 breached any or all of Principles 2, 3, and 6 of the SRA Principles 2011 ("the 2011 Principles");

1.1.4 failed to achieve Outcome 9.1 of the SRA Code of Conduct 2011 ("the Code").

Allegations relating to Ms Nicholson's employment by Levy & Co: (PROVED)

1.2. Whilst in practice as a solicitor at Levy and Co Solicitors, she:

1.2.1 in a meeting on 20 July 2017, falsely claimed that she did not have a personal relationship with a process server, Person T, and in doing so breached any or all of Principles 2 and 6 of the 2011 Principles.

1.2.2 Between 21 June 2017 and 18 July 2017, submitted inaccurate expense claims to Levy & Co for reimbursement of mileage expenses in relation to any or all of the clients and dates of visits set out in Schedule A when visits to those clients had not taken place, and in doing so breached any or all of Principles 2 and 6 of the 2011 Principles.

Allegations relating to Ms Nicholson's employment by Steed and Steed LLP: (PROVED)

1.3. Whilst in practice as a solicitor at Steed and Steed LLP, she:

1.3.1 between February 2018 and May 2018, conducted reserved legal activity through an unauthorised body, namely UK Family Law Group;

and, in doing so, she:

1.3.2. breached any or all of Principles 4, 5 and 6 of the 2011 Principles;

1.3.3. failed to achieve Outcome 1.2 of the Code.

1.3.4 between April 2018 and August 2018 failed to make Legal Aid applications on behalf of the following clients, despite instructions to do so:

1.3.4.1 Client P; and

1.3.4.2 Client Q;

and, in so failing she:

1.3.5 breached any or all of Principles 4, 5 and 6 of the 2011 Principles;

1.3.6 failed to achieve Outcome 1.5 of the Code.

1.3.7 between April 2018 and August 2018 made false claims to either or both of the following clients that Legal Aid applications had been made on their behalf:

1.3.7.1 Client P;

1.3.7.2 Client Q.

In doing so she:

1.3.8 breached any or all of Principles 2 and 6 of the SRA Principles 2011

1.3.9 between 19 May 2018 and 11 June 2018, submitted inaccurate expense claims to Steed and Steed LLP in relation to the following purported visits to Client R or either of them:

1.3.9.1 19 May 2018;
1.3.9.2 11 June 2018.

In doing so she

1.3.10 breached any or all of Principles 2 and 6 of the SRA Principles 2011.

Allegations relating to Client S: (PROVED)

1.4 Having been admitted as a Solicitor of the Senior Courts she:

1.4.1 failed to return Client S' marriage certificate;

1.4.2 provided misleading information to Client S in relation to the Notice of Severance for Property S;

1.4.3 inappropriately contacted Client S and told her she had no right to complain about her.

In doing so she

1.4.4 breached any or all of Principles 2, 4, 5 and 6 of the 2011 Principles;

1.4.5 failed to achieve Outcomes 1.5 and 1.11 of the Code.

Allegations relating to the provision of CVs: (PROVED)

1.5 Having been admitted as a Solicitor of the Senior Courts, she caused or allowed false and/or misleading CVs to be submitted to potential employers on or around the following dates (or any of them):

1.5.1 10 January 2018;
1.5.2 12 June 2018;
1.5.3 4 July 2018;
1.5.4 19 October 2018;
1.5.5 7 August 2019

and in doing so she

1.5.6 breached any or all of Principles 2 and 6 of the 2011 Principles.

Dishonesty (PROVED)

2. In addition, Allegations 1.2.1, 1.2.2, 1.3.7, 1.3.9, 1.4.2 and 1.5 above were advanced on the basis that Ms Nicholson's conduct was dishonest. Dishonesty was alleged as an aggravating feature of the misconduct, but proof of dishonesty was not required to establish the Allegations or any of their particulars.

Executive Summary

3. The Allegations against Ms Nicholson covered a period of six years in total and encompassed a wide range of types of professional misconduct, all of which the Tribunal found proved. Ms Nicholson was a solicitor who mainly handled domestic violence and family work.

4. The Allegations in relation to Jackamans related to Ms Nicholson's use of process servers with whom she had a pre-existing personal relationship. This resulted in her instruction of those individuals despite it being other than in accordance with the legal aid guidance in place at the time. When Ms Nicholson went to work at Levy & Co, she was asked whether she had a personal relationship with one of the process servers, Mr Bilotta and she falsely denied this.

5. While at Levy &Co, Ms Nicholson also submitted inaccurate expense claims, which the Tribunal found to have been done knowingly and dishonestly. Ms Nicholson also did this on two occasions while at Steed and Steed.

6. The period of Ms Nicholson's employment at Steed and Steed also saw Ms Nicholson conduct reserved legal activities through UK Family Law Group, a company owned by Mr Bilotta that was not authorised by the SRA. Several clients were required to pay monies to the UK Family Law Group for this work. Ms Nicholson further failed to apply for legal aid for two clients and then lied to them about having done so.

7. In respect of Client S, Ms Nicholson failed to return her marriage certificate to her, provided misleading information about having filed and served a Notice of Severance and then contacted the client to tell her she had no right to make a complaint.

8. Finally, on five occasions between January 2018 and August 2019, Ms Nicholson submitted false and misleading CVs to prospective employers.

9. Ms Nicholson did not attend the hearing – the circumstances of that are set out below in detail. In written submissions, Ms Nicholson made extensive reference to the difficult circumstances of her relationship with Mr Bilotta. This is also discussed below.

Sanction

10. The Tribunal ordered that Ms Nicholson be struck off the Roll.

Documents

11. The Tribunal considered all the documents in the case which were included in an electronic bundle.

Preliminary Matters

12. This matter was listed for a substantive hearing on 25 September 2023 with a time estimate of eight days. Ms Nicholson did not attend and was not represented.

Background to Proceedings

13. The background to these proceedings was lengthy and complex. The key developments were as follows:

13.1 The Rule 12 statement was dated 21 December 2021. The case was certified as showing a case to answer the following day and the substantive hearing was fixed for 20 – 29 April 2022.

13.2 Ms Nicholson was directed to serve her Answer by 19 January 2022. That date was varied on a number of occasions but as of 25 September 2023, no Answer had been served.

13.3 On 26 January 2022 the Tribunal listed a Non-Compliance Hearing following Ms Nicholson's failure to serve an Answer. Ms Nicholson provided a 'fitness to work' note and the Tribunal brought the Case Management Hearing (CMH) forward to 8 February 2022 in order to consider issues relating to Ms Nicholson's health.

13.4 At the CMH on 8 February 2022 directions were made for Ms Nicholson to be assessed by an expert instructed by the SRA. There then followed attempts by the SRA to arrange that assessment, the details of which do not need to be set out here. The assessment, with Dr Wilkins eventually took place on 9 December 2022. The substantive hearing fixed for 20 April 2022 was vacated.

13.5 On 9 June 2022 a further CMH took place. At that hearing the Tribunal had concluded that Ms Nicholson had been given every reasonable opportunity to produce medical evidence and had not done so. The Tribunal fixed a new substantive hearing for 3-12 October 2022.

13.6 On 25 August 2022 a further CMH was listed which, amongst other matters, dealt with Ms Nicholson's failure to comply with directions and the question of her willingness to attend an assessment and provide consent for the release of her medical records. It subsequently transpired that by the time this CMH took place, Ms Nicholson had attended an assessment with Dr Lawrence and Professor Lingam, experts instructed by her. The report following this assessment was served on the SRA on 15 September 2022.

13.7 On 29 September 2022 a further CMH took place. At that CMH the substantive hearing listed for 3 October 2022 was vacated and directions were made in relation to consent to release of medical records, service of medical reports and the timing of any applications that either party may wish to make.

13.8 On 10 January 2023 the SRA served the report, including an addendum, from Dr Wilkins. The Tribunal listed the next CMH for 16 March 2023.

13.9 On 15 March 2023 Ms Nicholson's barrister contacted the SRA's representatives to explain that the addendum report would not be ready by the next day. At the CMH on 16 March, the Tribunal was told that Ms Nicholson's further expert report obtained by her would be available within two weeks.

13.10 The Tribunal directed that a further CMH take place with a time estimate of one day so that both sets of experts could attend and discuss matters to see if an agreed position could be reached. This was to ascertain whether there would need to be a contested hearing to deal with the medical reports. The Tribunal made directions to enable the one-day CMH to be effective.

13.11 The parties were directed to provide their dates to avoid, including for their expert(s) by 21 March 2023. The SRA complied with this direction on 21 March. Ms Nicholson did not comply with that direction. The SRA's representatives sought to engage with Ms Nicholson's representatives in relation to the upcoming CMH but did not receive responses to various communications.

13.12 On 25 April 2023, the SRA notified the Tribunal and Ms Nicholson's representatives of its concern at the lack of engagement from Ms Nicholson and the potential impact on the CMH. No response was received from Ms Nicholson or her representatives.

13.13 On 24 May 2023, the SRA again brought the breaches of directions to the attention of the Tribunal and invited it to convert the CMH into a remote hearing. It had initially been listed as an in-person hearing to enable the experts to meet. No response was received from Ms Nicholson or her representatives.

13.14 On 26 May 2023 the Tribunal confirmed that the CMH would now take place remotely. The CMH took place on 15 June 2023. Ms Nicholson did not attend and her representatives had confirmed that the CMH could proceed in her absence. At this hearing the substantive hearing date was set for 25 September 2023.

13.15 Following that CMH the SRA's representatives attempted to engage with Ms Nicholson's representatives with little success. The firm acting for her, Rainer Hughes, confirmed as recently as 31 July 2023 that they were "taking instructions"

but no substantive engagement took place.

13.16 A further CMH took place on 24 August 2023. Ms Nicholson did not attend and neither did her representatives. Although they had contacted the SRA's representatives the day before referring to an incorrect date for the CMH, they had not contacted the Tribunal. The CMH proceeded and the Tribunal granted the SRA's application to stand down their witnesses and to add Schedule A to the Rule 12 Statement.

13.17 On 21 September 2023 Ms Nicholson applied to adjourn the substantive hearing. In the application notice, Ms Nicholson wrote that:

> "An adjournment to the hearing listed Monday 25 September is requested. During the afternoon of Wednesday 20 September I was informed by my solicitor that he would no longer be acting for me. This has left me in a compromising position. [REDACTED] and whilst I have now been deemed fit to attend any hearing, I am not currently able to do so and also represent myself. Since July (2023) | have been placed on medical suspension as my health deteriorated to the point that only 1 week ago I deteriorated to the point [REDACTED]. I am not in a financial position to engage alternate counsel and in any event at this stage it is highly unlikely that my case would be taken on. If an AO [Agreed Outcome] is not achieved in the limited time available, an adjournment is sought to allow me time to prepare for the case myself, arrange for someone to attend with me for support, and arrange for my witnesses to attend, which I understand Rainer Hughes have failed to do. I am also a single parent and must arrange child care. To date I have been advised that an AO would be reached and so have not made any such arrangements."

13.18 Ms Nicholson provided five pages of further written submissions which expanded on the points raised above. In that document she confirmed that she sought an adjournment for 4-6 months and she also invited the Tribunal to make directions relating to service of witness statements out of time, permission to file and serve further medical evidence and a direction concerning the release of her file by Rainer Hughes. Ms Nicholson raised a number of complaints about how Rainer Hughes had handled her case prior to ceasing to act for her. Ms Nicholson also provided a fitness to work note from her GP, which stated that [REDACTED] she had been put on new medication as the previous medication had not been working. The GP supported her application for an adjournment and signed her off work for four weeks from 22 September 2023.

13.19 On behalf of the SRA, Capsticks responded to the application to adjourn. In short, the SRA opposed the application. The Tribunal was invited, however, to allow additional time to see if discussion between the parties could result in a proposed Agreed Outcome being presented to the Tribunal. This was dealt with at the outset of the hearing and is detailed below.

14. Summary of the Medical Reports

14.1 Dr Lawrence and Professor Lingam (instructed by Ms Nicholson)

14.1.1 The Tribunal had before it a number of medical reports.

14.1.2 The report from Dr Lawrence and Professor Lingam was dated 4 September 2022. In relation to diagnosis, Professor Lingam stated:

> "[REDACTED]"
>
> [REDACTED];
>
> [REDACTED]
>
> It is my expert opinion that as a result of her diagnosis that she is not fit to give instructions.
>
> It is my expert opinion that she is not fit to stand trial. It is my expert opinion that in the absence of these conditions, which are treatable within the NHS, I would not expect future misjudgements."

14.2 Dr Wilkins (instructed by the SRA)

14.2.1 The report by Dr Wilkins was dated 21 December 2022. In relation to diagnosis, Dr Wilkins stated:

> "[REDACTED]"

14.2.2 Dr Wilkins had provided answers to a number of questions put to him in his instructions. Among those questions and answers were the following:

> *"iv) Ms Nicholson's ability to provide instructions to her legal representative*
>
> Ms Nicholson clearly has the ability to provide instructions to her legal representative. The question is whether she is able to do so at present. She professes that she is not. At a common sense level I would suggest that if Ms Nicholson is capable of working within the restrictions placed upon her by the SRA, then she should be able to provide instructions to her legal representative if the incentive for her to do so is sufficient. It would be my very strong suggestion to Ms Nicholson that she needs to address her difficulties in relation to her problems with the regulator as soon as possible so that this factor can be eliminated from the equation. Therefore, I would consider Ms Nicholson able to provide instructions to her legal representative. She has the capacity to litigate in the terms set out in Masterman-Lister v Brutton [2002].
>
> *v) Ms Nicholson's ability to participate in the substantive hearing (if Ms Nicholson is currently too ill to participate in the substantive hearing (if Ms Nicholson is currently too ill to participate in a hearing, please indicate when we might sensibly request a medical appointment to review her health)*
>
> Ms Nicholson's ability to participate in the hearing is perhaps rather more questionable. Again, if Ms Nicholson is well enough to attend work, I consider her well enough to be able to participate in the hearing. [REDACTED]. Even

so, under the circumstances, I consider her able to participate in the substantive hearing.

vi) Any reasonable adjustments that could assist Ms Nicholson's ability to participate in the substantive hearing

My recommendation would be that the SDT should find a way in which Ms Nicholson feels able to engage in the hearing. That may include attending hearings remotely and that she be allowed not to attend hearings if she chooses not to where her presence is perhaps not crucial to the outcome of the hearing. I recognise that she may be required to give evidence in chief and under cross examination. Under these circumstances I would recommend that Ms Nicholson be given ample opportunity to take breaks and perhaps to have support with her while she is giving evidence. This may be a role for her boss who is currently giving her legal advice.

b. Whether Ms Nicholson is fit to participate in the disciplinary proceedings before the Solicitors Disciplinary Tribunal including by reviewing papers, instructing a medical expert if necessary, preparing a response to allegations, preparing any statement of agreed facts, engaging in Case Management Hearings, and/or instructing Counsel.

Again, assuming that Ms Nicholson is well enough to attend work and therefore to address paperwork etc in relation to that work, I consider her fit to be able to review papers, instructing her counsel and responding to the allegations. She may require significant support in doing so. It is also fair to say that her ability to do so may vary depending on other factors that are relevant to her life. Therefore, the SRA and the SDT should be [REDACTED] and how she may be able to engage with the legal proceedings.

c. Whether Ms Nicholson is fit to attend a hearing before the Solicitors Disciplinary Tribunal, including by giving evidence, being cross-examined and/or making submissions to the SDT including remote attendance via Zoom.

I consider that Ms Nicholson is, on balance, fit to attend a hearing before the SDT and that would include giving evidence in chief and being cross-examined. I would recommend that this is conducted remotely. However, I also recognise that her ability to attend a hearing remotely may vary and the SDT should take account of [REDACTED] in conducting the hearing."

Dr Wilkins' addendum report was dated 12 January 2023. This followed sight of Ms Nicholson's medical records. Dr Wilkins confirmed that this did not alter the conclusions reached in his report of 21 December 2022.

15. Application to proceed in absence

15.1 Ms Nicholson did not attend the hearing and was not represented.

15.2 As indicated above, at the outset of the hearing, Mr Collis invited the Tribunal to allow additional time for discussion with Ms Nicholson, who was engaging with Capsticks.

The Tribunal agreed to this. Mr Collis later informed the Tribunal that no agreement had been reached with Ms Nicholson on a proposed Agreed Outcome. He therefore applied to proceed in absence and for the Tribunal to refuse Ms Nicholson's application to adjourn. During the course of discussions, with Ms Nicholson's agreement, an unsigned and undated statement from her had been uploaded to CaseLines along with three letters. These had originally been served on the SRA on a 'without prejudice' basis in August 2023, but Ms Nicholson had now given permission for them to be served on the Tribunal. The Tribunal read all these documents before hearing Mr Collis' application.

15.3 Mr Collis took the Tribunal through the extensive history of the case, much of which is already set out above. Mr Collis accepted that Ms Nicholson suffered from genuine medical issues but noted that the conclusion of Dr Wilkins was that she was fit to participate in the proceedings.

15.4 Mr Collis submitted that the fitness to work note provided by Ms Nicholson did not meet the requirements as set out in the Tribunal's Guidance note on Health Issues (July 2021) or those set out in GMC v Hayat [2018] EWCA Civ 2796. The reference by Ms Nicholson to drowsiness was not supported by medical evidence.

15.5 In response to Ms Nicholson's submission that the conclusion as to her fitness to participate in proceedings did not consider her being self-represented, Mr Collis submitted that that to an extent, albeit limited, Dr Wilkins' report had considered the ability of Ms Nicholson to represent herself, including by way of making submissions, notwithstanding the fact that at the time the report was prepared, she was being represented by Rainer Hughes.

15.6 Ms Nicholson had also made reference to Mr Bilotta being under Police investigation into matters relating to his treatment of her during the course of their relationship, which was relevant to the Allegations. Mr Collis submitted that without a clear understanding of Ms Nicholson's defence, it was difficult to assess the impact that her accusations against Mr Bilotta, and the ongoing investigation into him, may have on the Tribunal's consideration of this case. Ms Nicholson had referred to an Answer having been provided to Rainer Hughes and witness statements having been taken. Mr Collis told the Tribunal that Capsticks had sought to obtain these but without success.

15.7 Mr Collis told the Tribunal that the SRA and its representatives had encountered difficulties in liaising with Rainer Hughes and he accepted that it may very well be that Ms Nicholson had not been well served by them in build up to this matter. However, it was clear that Ms Nicholson was aware of the date of the substantive hearing. Ms Nicholson was a Solicitor Advocate conducting advocacy in family law matters. She had been on medical suspension since 19 July 2023 and he submitted that she had had ample time and opportunity to read the case papers and prepare for the hearing whether she was expecting to represent herself or not.

15.8 Mr Collis accepted that it was unfortunate that Rainer Hughes had withdrawn at the stage they had, but even allowing for Ms Nicholson's health issues, he submitted that there was insufficient material in terms of medical evidence or the need to be afforded more time to prepare, that would justify adjourning rather than proceeding in absence.

The Tribunal's Decision

15.9 Application to proceed in absence

15.9.1 The Tribunal considered the representations made by Mr Collis and the written representations made by Ms Nicholson together with the medical evidence. Ms Nicholson was aware of the date of the hearing as she had referred to it in correspondence. SDPR Rule 36 was therefore engaged.

15.9.2 The Tribunal had regard to the criteria for exercising the discretion to proceed in absence as set out in R v Hayward, Jones and Purvis [2001] QB 862, CA by Rose LJ at paragraph 22 (5) which states:

> "In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case including, in particular:
>
> (i) the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;
> (ii) …;
> (iii) the likely length of such an adjournment;
> (iv) whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;
> (v) …;
> (vi) the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;
> (vii) …;
> (viii) …;
> (ix) the general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;
> (x) the effect of delay on the memories of witnesses;
> (xi) …;"

15.9.3 In GMC v Adeogba [2016] EWCA Civ 162, Leveson P noted that in respect of regulatory proceedings there was a need for fairness to the regulator as well as a respondent. At [19] he stated:

> "…It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage with the process. The consequential cost and delay to other cases is real. Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed".

15.9.4 Leveson P went on to state at [23] that discretion must be exercised:

> *"having regard to all the circumstances of which the Panel is aware with fairness to the practitioner being a prime consideration but fairness to the GMC and the interests of the public also taken into account".*

15.9.5 The Tribunal noted that the history of the case was characterised by consistent failures to comply with directions on the part of Ms Nicholson. This had resulted in there being no Answer provided to the Allegations even at this stage in proceedings.

15.9.6 The medical evidence provided by Dr Lawrence and Professor Lingam was contradicted in its conclusion about Ms Nicholson's fitness to participate in proceedings by Dr Wilkins. The Tribunal had given every opportunity to Ms Nicholson to have that point argued and for the experts to meet to explore the possibility of an agreed position. Due to her repeated failure to comply with directions and her lack of engagement with the process of arranging such a hearing, this had not been possible. On 15 June 2023 the Tribunal had directed that the matter proceed on the basis of the conclusions and recommendations of Dr Wilkins.

15.9.7 Dr Wilkins' conclusion was that Ms Nicholson was fit to participate in the proceedings and to attend the hearing, subject to reasonable adjustments being made, as set out above. The Tribunal had accommodated those reasonable adjustments. The substantive hearing was listed as a remote hearing and the other adjustments would be available to Ms Nicholson at that hearing. Dr Wilkins had referred to Ms Nicholson having "support" but he had not advised that this needed to be professional representation. Although he had given the example of Ms Nicholson's employer, who was also acting for her in these matters at the time of the report, he had not advised that it needed to be that individual. The Tribunal was satisfied that Dr Wilkins' conclusions remained sound notwithstanding the fact that Ms Nicholson was now unrepresented. There had been no medical evidence served since that date that changed the position. The Tribunal also gave Ms Nicholson the opportunity to find an alternative person to support her at the hearing.

15.9.8 The Tribunal was therefore satisfied that that Ms Nicholson had voluntarily absented herself. Given the history of non-compliance, it was impossible to assess how long it would be before the matter would be re-listed if adjourned for a substantial period of time. There was a public interest in the matter being heard as soon as possible. The Allegations were serious and wide-ranging and went back several years. It was also in Ms Nicholson's interests that this matter be resolved sooner rather than later, although the Tribunal acknowledged that Ms Nicholson was seeking an adjournment.

15.9.9 The Tribunal was satisfied that it was in the interests of justice for the matter to proceed.

15.10 <u>Application to Adjourn</u>

15.10.1 The Tribunal moved on to consider Ms Nicholson's application to adjourn the hearing. In doing so it had regard to the Guidance Note to Rule 23 (Adjournments) and the Guidance note on Health Issues.

15.10.2 The adjournment application relied on health grounds and lack of readiness owing to recent loss of representation.

15.10.3 In respect of the health basis of the application, as noted above, the Tribunal had decided to proceed on the basis of Dr Wilkins's reports. Ms Nicholson's fitness to work letter did not meet the criteria of the reasoned opinion of an appropriate medical examiner stating that she was not fit to attend the hearing.

15.10.4 In respect of the representation, the general position was that lack of readiness and lack of representation was not a basis for an adjournment. The Tribunal's view was that there were no basis for a lengthy adjournment on this basis as there was no guarantee that Ms Nicholson would be able to obtain representation in the future and so an adjournment on that basis may not result in advancing this matter. Further, the medical evidence, as noted above, did not conclude that she required representation in order to be fit to participate in the hearing.

15.10.5 That having been said, the Tribunal accepted that the timing of the loss of representation was unfortunate, particularly in the context of Ms Nicholson's health issues. The matter had been listed for eight days on the basis of a large number of witnesses for the SRA. Those witnesses had been stood down following the previous CMH. The Tribunal therefore had the option of allowing Ms Nicholson further time to prepare for the hearing within the existing window.

15.10.6 The Tribunal decided that the fairest course of action was to stand the matter out until Thursday 28 September at 10am. This would allow Ms Nicholson two full days to prepare to represent herself for a hearing that would now last five days, spread either side of the weekend. This would also mean the hearing began a week after her representation ended.

15.10.7 The Tribunal therefore arranged for Ms Nicholson to be notified of this decision by email.

16. Further Application to Adjourn

16.1 On 26 September 2023, Ms Nicholson emailed the Tribunal and Capsticks requesting a further adjournment for a longer period.

Respondent's Submissions

16.2 In that email, Ms Nicholson indicated that she would provide a further letter from her doctor, which she duly did and is referred to below. Ms Nicholson again referred to the distinction between being fit to participate with and without representation and described side-effects of her current medication which meant she was "unable to function" for periods of time. Ms Nicholson also referred to the need to find someone to attend the hearing with her by way of support, which she stated was "impossible" at such short notice. Ms Nicholson further stated that she had three witnesses that she intended to call and that she still did not have her full file of papers from Rainer Hughes.

16.3 Ms Nicholson stated:

> "For the reasons presented above I invite the tribunal to reconsider their decision of yesterday. [REDACTED]. Any extension in time allowing me to prepare and make necessary arrangements must be reasonable and realistic. Failure to do so may amount to disability discrimination. I believe that the tribunal would agree that I am entitled to a fair trial that would include me being medically fit to present my case in a rational manner and also allow my witnesses to attend. However as it stands this will not be the case. I ask that the tribunal reconsider their decision and adjourn the matter for at least 4-6 weeks allowing my long-term medication to become effective without me having to depend on the short-term medication rendering me incapable of carrying out tasks. The additional time will allow me time to arrange support to attend the hearing with me and also for witnesses to be available. The tribunal is aware that Rainer Hughes made no such arrangements despite providing their statements to the SRA albeit on a "without prejudice" basis."

16.4 Ms Nicholson told the Tribunal that a close family member had been helping her write the emails, but this individual was unable to attend the hearing with her due to their own health issues.

Applicant's Submissions

16.5 Mr Collis opposed the application and submitted that many of the points raised were the same as those considered on 25 September. In so far as any new points arose, Mr Collis made brief submissions as summarised below.

16.6 Mr Collis referred to the letter from Ms Nicholson's doctor dated 26 September 2023. This letter confirmed that Ms Nicholson was on new medication as of 22 September. It stated that it could cause drowsiness but did not state that it was having that effect on Ms Nicholson. Mr Collis submitted that there had not been an explanation as to why, on 22 September, it had been felt appropriate to start a new course of medication that could have the side effects set out in that letter. Mr Collis suggested that Ms Nicholson was potentially "seeking to weaponise" the health problems that did exist in order to "hold at bay" the conclusion of this case. Mr Collis submitted that the medical evidence continued to fail to meet the criteria for such evidence set out in Hayat.

The Tribunal's Decision

16.7 The Tribunal read Ms Nicholson's submissions and the letter from the GP carefully.

16.8 The Tribunal remained of the view that the medical evidence fell short of what was required to justify an adjournment. There was no evidence that Ms Nicholson was suffering from drowsiness or that she was unable to function. The former was described as a possible symptom of the medication. There was therefore no evidence to suggest that Dr Wilkins' conclusion that she was fit to participate in the hearing with reasonable adjustments was now in doubt. The Tribunal had made, and would continue to make, reasonable adjustments to enable Ms Nicholson to participate. This would include, but not be limited to, regular breaks if she attended.

16.9 The Tribunal did not consider that the suggestion that Ms Nicholson was "weaponising" her health was within the bounds of what was reasonable and did not make that finding.

16.10 Ms Nicholson had provided no evidence that she had attempted to instruct new legal representatives during the period between 25 and 28 September. There was also no detail in her submission that nobody could attend to support her. In those circumstances there was no basis to conclude that an adjournment would lead to any change to the situation in several weeks or months' time. The public interest remained in hearing the matter and the Tribunal further noted that it was in Ms Nicholson's interests, having regard to her health, to have these matters resolved without further delay.

16.11 The Tribunal therefore refused the further application to adjourn.

17. Application to amend the Rule 12 Statement

17.1 Mr Collis applied to Amend Allegation 1.1 to read "February 2013" instead of "May 2013". This proposed amendment had been notified to Ms Nicholson on 26 September 2023 by email, on the basis that it was correcting a typographical error. Ms Nicholson had not responded to the point.

17.2 The Tribunal was satisfied that the amendment reflected the Allegation as pleaded in the body of the Rule 12 Statement and that there was no prejudice to Ms Nicholson. It therefore granted the application.

18. Further documents submitted by Ms Nicholson

18.1 On 28 September 2023, Ms Nicholson submitted an unsigned, undated Answer to the Allegations, together with a letter from Rainer Hughes to Capsticks addressing the allegation of dishonesty.

18.2 Mr Collis told the Tribunal that the SRA was neutral as to whether the documents should be considered at this late stage, in circumstances when the Tribunal had gone into retirement to deliberate. He submitted that if the Tribunal did agree to consider the documents, it should attach limited weight to them having regard to the fact that these documents had been served late in the proceedings and their contents could not be tested in cross-examination.

18.3 The Tribunal was mindful that Ms Nicholson had health difficulties and was unrepresented. In the circumstances the appropriate course of action was to allow the documents to be admitted. The Tribunal would consider the documents and would attach such weight to them as it felt appropriate when considering the Allegations. The Tribunal noted that although it had gone into retirement late the previous afternoon, it had not yet commenced its deliberations at the point when these documents were uploaded to CaseLines.

19. Anonymity

19.1 Mr Collis sought anonymity for all Ms Nicholson's former clients, partners of former clients and an address for a former client. The Rule 12 statement had also initially anonymised Mr Bilotta and Mr Harrison. Mr Collis no longer sought anonymity in respect of either of them.

19.2 Mr Collis referred the Tribunal to SRA v Williams [2023] EWHC 2151 (Admin), which made clear that legal professional privilege could not be overridden by the principle of open justice. The partners of the former clients and the property address, if disclosed, could result in 'jigsaw' identification.

19.3 There were also three children on the schedule and Mr Collis sought anonymity for them on the basis that one was still a child and the other two had been children at the time of the alleged misconduct.

19.4 In respect of Mr Bilotta, Mr Collis noted the position that there was a criminal investigation ongoing into him but left it to the Tribunal to decide if an anonymity order was appropriate in the circumstances.

The Tribunal's Decision

19.5 The starting point was the principle of open justice, as emphasised in Lu v SRA [2022] EWHC 1729 (Admin).

19.6 In relation to the former clients of Ms Nicholson, Williams was clear at [63] in relation to legal professional privilege:

> "63. Second - and this was the SDT's main error - a claim for LPP does not involve the balancing of competing interests against a client's right to the confidentiality of communications with his solicitor, e.g. whether the broader interests of justice require disclosure, LPP either applies to a communication, or it does not. Where it applies, then it is absolute unless it is waived by the client. It follows that the SDT's consideration in [8.16] of its reasons whether the Firm's clients had been asked to comment, or whether they had particular sensitivities or vulnerabilities, was unnecessary and completely beside the point. The facts of the Derby Justices case are striking, and well illustrate the absolute nature of the LPP. They throw into sharp focus the SDT's principal error in this case."

19.7 The Tribunal therefore granted anonymity in respect of the former clients of Ms Nicholson and any other individuals or property that could have led to 'jigsaw identification' of those former clients.

19.8 In respect of the individuals who had been children at the material time, the Tribunal considered that it was not in the public interest to name them given their ages at the time of the events in question.

19.9 In respect of Mr Harrison, he was not a former client and there was no other basis advanced on which the Tribunal could justify making an anonymity order under Rule 35(9) of the SDPR 2019, namely exceptional harm or exceptional prejudice.

19.10 In respect of Mr Bilotta, again he was not a former client. There was no detail about any criminal investigation into him and so no evidence as to how he would suffer exceptional hardship or exceptional prejudice by having Ms Nicholson's assertions recounted in the hearing or in the Judgment.

20. Sitting in Private

20.1 The Tribunal sat in private to hear matters relating to the detail of Ms Nicholson's ill-health. The Tribunal did so as it was satisfied that there was no public interest in revealing the specific details as to her health problems and to do so would be an unjustifiable breach of her right to privacy. The vast majority of the hearing, including all the details of the Allegations themselves, were heard in public. This written Judgment has been redacted where appropriate to avoid reference to the details of Ms Nicholson's health issues.

Factual Background

21. Ms Nicholson was admitted to the Roll on 15 July 2011. At the time of the hearing, she held a practising certificate, which was subject to conditions imposed by the SRA.

22. The SRA's investigation into Ms Nicholson began in February 2019 as a result of a report from Ash Peachey of Steed and Steed LLP in July 2018.

23. Allegation 1.1 (Jackamans)

23.1 Ms Nicholson was employed by Jackamans from 1 May 2012 until 19 May 2017.

23.2 The Forensic Investigation Officer (FIO) contacted Paul McGrath, a partner at Jackamans, on 23 September 2019. During the course of their telephone conversation, Mr McGrath alleged that Ms Nicholson had used two process servers, Mr Harrison and then Mr Bilotta, and that they had travelled too far to the required locations. This was followed up by Mr McGrath providing further information in November 2019 in which he told the SRA that Ms Nicholson's instruction of those two process servers had resulted in excessive costs as local servers would have been more cost effective.

23.3 Jackamans had paid both process servers even though the full amount could not be recovered from the Legal Aid Agency (LAA). The firm had not used Mr Harrison or Mr Bilotta for process serving work prior to Ms Nicholson's employment. Mr McGrath told the SRA that no other staff at the firm used these process servers, except on one or two occasions when files were transferred to different fee earners and these process servers had already carried out work on the matter.

23.4 Mr Harrison was the father of two of Ms Nicholson's children, born in July 2003 and July 2004. Mr Bilotta was the father of Ms Nicholson's child born in August 2017.

23.5 Six cases were identified where the firm had suffered loss due to the LAA reducing process servers' invoices on assessment due to the fact that a local process server should have been used. The total loss to the firm was £2,129.08. This was made up of instructions to Mr Harrison on seven occasions between 27 February 2013 and 28 May 2016, and an instruction to Mr Bilotta on 10 August 2016.

23.6 The LAA Costs Assessment Guidance for use with the 2013, 2014 and 2015 Standard Civil Contracts stated, at paragraph 3.9:

> "Non-fee earner enquiry agent work should be claimed as a disbursement. Such work will include the service of process, including a subpoena or witness summons, tracing witnesses, taking statements, surveillance work etc. The relevant questions will be:
>
> a. was the work done by the agent reasonable in the light of the fee-earner's knowledge at the time of instruction? and
> b. is the charge a reasonable one?

23.7 Paragraph 3.10 of the same Guidance stated:

> "One particular amount to consider is the charge for the enquiry agent's travelling time and expenses. It will seldom be reasonable to instruct an enquiry agent except in the locality where the work is being done."

24. Allegation 1.2 (Levy & Co)

24.1 At the beginning of 2017, Levy & Co were contacted by Mr Bilotta, who told them that he worked in a recruitment business and that his friend, Ms Nicholson, was looking for employment. He stated that he was approaching Legal Aid firms in Essex who might be interested in taking on an experienced domestic abuse practitioner.

24.2 As a result of this contact, an interview was arranged with Ms Nicholson by Ms Sadler, a partner, which took place on 14 March 2017. Ms Nicholson asked if she would be able to continue using her own process servers. Ms Sadler informed her that the firm did not have a single process server that they had been using. Ms Nicholson told Ms Sadler, of her preferred process servers:

> "…she had used them both for years and they would go the extra mile for her and they had an excellent working relationship, and she would therefore like to carry on using them".

24.3 On 19 May 2017, Ms Nicholson commenced employment at Levy & Co Solicitors as a solicitor in their family department. She was based in the firm's head office in Witham CM8 1DY. Ms Nicholson resigned on 25 August 2017.

24.4 The only two process servers used by Ms Nicholson during her time at Levy & Co were Mr Harrison and Mr Bilotta. Ms Sadler noticed that an invoice from one of the process servers seemed to be high. Steven Levy, the senior partner and owner, also queried some of the invoices from the process servers on the basis that the amounts

seemed too high and they did not contain information about where the process server had travelled to and from.

24.5 On 6 July 2017, Mr Bilotta collected a letter addressed to Mr Harrison from the firm's offices. When it was realised that Mr Bilotta should not have collected the letter, he was asked to return to the office. That evening, Ms Nicholson telephoned Ms Sadler in tears, complaining that Mr Bilotta had been accused of theft.

24.6 As a result of this incident, a decision was made by Levy & Co that Mr Bilotta should no longer be used as a process server. This decision was communicated to Ms Nicholson in a meeting held on 20 July 2017, which was attended by Ms Nicholson, Ms Sadler and Ms Hicks, another partner at the firm. In the course of the meeting, Ms Nicholson was asked about her relationship with Mr Bilotta. The Attendance Note from the meeting recorded the following:

> "I asked KN about her professional relationship with WIL – she said he had used him but that's all. I asked if she sees him socially and she said no, she had never met him socially, she does not know him outside of the office".

24.7 Less than three weeks later, Ms Nicholson gave birth to her child, the father of whom was Mr Bilotta.

24.8 In Ms Sadler's report to the LAA following Ms Nicholson's departure from the firm, she identified that there were occasions where it seemed that Ms Nicholson had claimed travel expenses for visits either to court or to a women's refuge when she had not in fact travelled to those locations. The FIO inspected the relevant documents and identified seven occasions between 21 June 2017 and 18 July 2017, totalling £280.01, relating to Clients I, J, K and L.

24.9 In the case of Client I, the Office Chit submitted by Ms Nicholson requested payment for £41.41 in relation to travel alleged to have taken place on 21 June 2017. The narrative for this claim, read:

> "Travel to Refuge [redacted] To Meet With Client"

24.10 This expenses claim was authorised by the firm on 23 June 2017.

24.11 An Attendance Note dated 21 June 2017 referred to 60 minutes spent discussing the case with the client but did not specify a fee earner or the location of the discussion. Client I subsequently told the firm that while she may have spoken to Ms Nicholson on that date, she had never met her. Ms Sadler provided the FIO with a printout of Ms Nicholson's diary entries. In relation to 21 June 2017 there were two matters, neither of which referred to Client I.

24.12 On 20 December 2019, Lauren Sadler provided the FIO with a printout of Ms Nicholson's Outlook Diary entries from 22 May 2017 to 31 July 2017. The entries in Ms Nicholson's diary for 4 July 2017 were:

- In respect of Client J the Office Chit submitted by Ms Nicholson requested payment for £28.90 for travel alleged to have taken place on 4 July 2017. The narrative for this claim read:

  "Travel To Court At 52 Miles and Parking at 5.50"

This expenses claim was authorised by the firm on 14 July 2017.

- An Attendance Note on the client file recorded 12 minutes on that date for, "Considering and perusing attendance note from Counsel Alex Scott-Phillips and the draft order." No reference was made in the Attendance Note to attendance at the court for the hearing. Mr Scott-Phillips told the FIO in a witness statement that:

  "The hearing was a straightforward matter which the respondent [Client J] did not attend, and I did not have any solicitors attend with me."

Client J also confirmed that she had never met anyone from Levy & Co.

24.13 Also on the matter of Client J, on 1 August 2017, Ms Nicholson e-mailed Victoria Young, the firm's Legal Cashier, with the heading, "RE: July expenses". This e-mail contained the following:

"Can you please put through for July please:

[Client J]
Travel to refuge – 84 miles - £37.80
5 July 2017"

24.14 As noted above, Client J stated she never met anyone from Levy & Co and there was no entry in Ms Nicholson's diary, and no Attendance Note, to suggest that she had travelled to a refuge to visit Client J.

24.15 The circumstances surrounding expenses claims in respect of Clients K and L were very similar.

25. <u>Allegations 1.3 and 1.4 (Steed and Steed LLP and Client S)</u>

25.1 Ms Nicholson was employed as a solicitor in the firm's Family Department at their Sudbury office from 1 February 2018 to 22 June 2018, when she was dismissed. The firm's COLP, Mr Peachey, raised concerns with the SRA on 9 July 2018. These concerns were expanded upon in a letter to the SRA dated 1 November 2018. This letter identified occasions when Ms Nicholson had provided legal services to clients, yet they had then been invoiced by, and paid funds to, a company called 'UK Family Law Group'. The 'UK Family Law Group' was not and is not a regulated law firm.

25.2 The FIO identified five clients who had received invoices from 'UK Family Law Group' for legal work carried out by Ms Nicholson whilst she was employed by Steed and Steed LLP, all of whom had made payments. These were Clients O (£1,440), P (£600), Q (£600), R (£1,080) and S (£5,280).

25.3 *Client O*

25.3.1 Client O was homeless and had been referred to Steed and Steed by a domestic abuse charity. Contact with Ms Nicholson was initially via email at an AOL email address, before moving mainly to text message.

25.3.2 On 11 May 2018, Client O received an e-mail from Mr Bilotta, from the e-mail address of will@ukfamily-law.com Mr Bilotta described himself as "Group Managing Director, UK Family Law Group & East Anglia Process Servers". Attached to this e-mail were two invoices and the e-mail read:

> "Further to your conversation with Karen, please find attached your invoices as discussed.
> Please could you let either myself or Karen know once you have made payment.
> If you have any questions, please feel free to drop me an email or give Karen or I a call."

25.3.3 Both of the invoices attached to the 11 May 2018 e-mail emanated from a company referring to itself as "UK Family Law Group (inc EAPS)". Both invoices contained the Invoice Number UKFLAPC405 and were dated 11 May 2018. The payment information provided in both invoices read as follows:

> "PLEASE MAKE PAYMENT BY BANK TRANSFER OR BACS TO
> Account Name: East Anglia Process Servers Sort Code 20-19-97
> Account Number 10144169
> Please make cheques payable to East Anglia Process Servers
> Part of UK Family Law Group
> Proprietor [Mr Bilotta]"

25.3.4 The first of these two invoices requested payment of £960, including VAT. The description of the work read as follows:

> "Take instructions to prepare all papers for non-molestation order and occupation order. Attending initial hearing and service of all papers on the Respondent."

25.3.5 The second of the two invoices requested payment of £480, including VAT. The description of the work to which the invoice relates reads as follows:

> "Representation at return hearing for non-molestation and occupation orders. Further service of any papers if required by court."

25.3.6 Client O paid £1,440 on 11 May 2018 by way of bank transfer to the account details specified in the invoices.

25.3.7 Following the conclusion of Court proceedings, Client O was attempting to arrange collection of her belongings from her former partner. In the course of this she had cause to contact Steed and Steed on 11 July 2018, as she had not heard from Ms Nicholson. At this point she was informed by Ms Johnson of Steed and Steed that they had no record of Client O being a client of theirs. Client O's evidence was that

throughout her dealings with Ms Nicholson she believed her to be working at Steed and Steed.

25.3.8 Steed and Steed confirmed to the FIO that there was no Legal Aid or ledgers for Client O with their firm as they were never opened by Ms Nicholson. On 30 April 2019, Mr Peachey confirmed to the FIO that Steed and Steed did not have a client file for Client O, but they were aware that Ms Nicholson had sent emails in relation to the case using her firm's e-mail address.

25.4 Client P

25.4.1 Client P was also referred to Ms Nicholson by a domestic abuse charity. The initial contact was via text, telephone and e-mail. The e-mail address she initially used for Ms Nicholson was her Steed and Steed e-mail address, but she also used the AOL e-mail address.

25.4.2 At the outset, Ms Nicholson told Client P that she would not qualify for Legal Aid and so would have to pay a £600 fee upfront. On 14 April 2018, Client P received an e-mail from Mr Bilotta, using a willbil79@icloud.com e-mail address attaching an invoice for £600 of the same date. As with the invoices sent to Client O, this invoice was also from UK Family Law Group (inc EAPS) and the payment details provided were also the same. The description in the invoice read as follows:

> "Advising and preparing for Children Act Proceedings (Child Arrangement Order) on 8th May 2018"

25.4.3 At the time the invoice was sent, as far as Client P was concerned, no actual work had been carried out in respect of her case. Client P had been told that Ms Nicholson was using the insurance of Steed and Steed, but was trying to go out on her own as UK Family Law Group.

25.4.4 On 16 April 2018, Client P transferred £600 to the account provided in the 14 April 2018 e-mail.

25.4.5 On 8 May 2018, Client P received a second invoice from Mr Bilotta from the will@uk-family-law.com e-mail address. This second invoice, dated 8 May 2018, contained the same company and payment details as the first. It requested payment of £720, including VAT. Client P did not recall paying this second invoice.

25.4.6 On 11 and 21 May 2018, Client P e-mailed Ms Nicholson (at the Steed and Steed e-mail address) to indicate that she was struggling financially. Ms Nicholson replied that Client P was receiving a discount and that she needed to pay the costs up front.

25.4.7 Client P continued to request that Ms Nicholson apply for Legal Aid on her behalf, despite being told that she would not be eligible. Ms Nicholson informed Client P that she had applied for her but was never able to provide Client P with an update on that application.

25.4.8 Client P eventually contacted the LAA herself and was told that they were unable to find a record of an application being made on her behalf. Client P was informed that she would be eligible for Legal Aid and was advised to speak to Ms Nicholson. Client P did so and was told by Ms Nicholson that a Legal Aid application had been submitted and that she would supply a reference for it. After that exchange, communication between Ms Nicholson and Client P became scarce. On 13 June 2018, Barnett Family Court sent an e-mail to Client P. Client P was informed that the hearing on 14 June 2018 had been vacated. Furthermore, the e-mail stated:

> "Following a conversation with Karen Nicholson at Steed and Steed LLP I understand that they are not acting for you in this matter".

25.4.9 Client P was granted Legal Aid with another solicitor. Her personal and financial circumstances were the same when she successfully obtained Legal Aid with the new solicitor as they were when she was being represented by Ms Nicholson.

25.5 Client Q

25.5.1 Client Q had previously instructed Ms Nicholson at Levy and Co. As a result of the service she had received from Ms Nicholson in that matter, Client Q sought her out when she moved to Steed and Steed in order that Ms Nicholson could handle her divorce and child contact case. Client Q instructed Ms Nicholson to apply for Legal Aid on her behalf.

25.5.2 Client Q repeatedly chased Ms Nicholson for an update on the Legal Aid position and also contacted a domestic abuse support charity, who also emailed Ms Nicholson.

25.5.3 Client Q stated that she was telephoned by Ms Nicholson the day before her 5 April 2018 hearing and told that Legal Aid had not been granted, and that she would have to pay privately. On 3 April 2018 she had received an email from Mr Bilotta using the will@ukfamily-law.com e-mail address attaching an invoice from UK Family Law Group (inc EAPS) for £600. The company and bank details were the same as they had been in relation to Clients O and P. Client Q paid the requested amount of £600 by making a cash deposit into the account details specified in the invoice.

25.5.4 Ms Nicholson attended court on 5 April 2018 and represented Client Q at the hearing. Following the hearing, Client Q informed Ms Nicholson that she could not afford to pay privately and that Legal Aid would need to be arranged. From that point, Client Q described Ms Nicholson as being unhelpful towards her. Ms Nicholson did not attend the next two hearings.

25.5.5 In a text message to Client Q on 25 June 2018, Ms Nicholson indicated that she was starting at a new firm that day and that Legal Aid would be transferred so that Ms Nicholson could continue representing her.

25.5.6 In an email to the FIO on 1 April 2019, Ms Laupretre of Steed and Steed confirmed that there had been no Legal Aid application made on behalf of Client Q until the one made by Ms Laupretre on behalf of Mr Peachey after Ms Nicholson had left the firm. A letter provided by the LAA, dated 24 January 2019, confirmed the date of this application and that Legal Aid had been granted to Client Q.

25.6 Client R

25.6.1 Client R was also referred to Ms Nicholson at Steed and Steed by a domestic abuse support charity. The circumstances of her engagement with Ms Nicholson and Mr Bilotta were similar to Clients O, P and Q in relation to requests that she pay privately and the issuing of invoices by UK Family Law Group. Client R was told that while she qualified for Legal Aid, it would not cover all aspects of the work, hence the invoices, which were issued by Mr Bilotta with the same details given as had been to the other clients.

25.7 Client S

25.7.1 Client S was also referred to Ms Nicholson by a domestic abuse support charity.

25.7.2 Ms Nicholson telephoned Client S on 26 January 2018 at around 8:30pm. Client S was distressed and Ms Nicholson said she would send Mr Bilotta to collect her and take her to a refuge, which he did. Client S subsequently returned home but it remained her intention to leave her husband. She was advised by Ms Nicholson that she could not assist until Client S had in fact left her husband, at which point she would need to apply for a Non-Molestation Order, which would cost around £1,500. Client S informed Ms Nicholson that she wanted to proceed with obtaining such an Order in anticipation of leaving. Ms Nicholson agreed to this approach.

25.7.3 On 9 February 2018, Client S received an invoice for £1,200 from Mr Bilotta at the will@ukfamilylaw.com e-mail address. The e-mail stated:

> "Further to your conversation with Karen, please find attached your invoice in respect of non-molestation relief application. This invoice will cover all aspects of the non-molestation application, including Karen representing you at both the initial and return hearings, all associated paperwork regarding the application and service of the order on the Respondent.
>
> Please could you let me know once payment has been made so we can get things started."

25.7.4 Upon receipt of the invoice, Client S contacted Ms Nicholson to query the company name as she understood her to work for Steed and Steed. Ms Nicholson told her that UK Family Law was just where the money was paid and that it was connected to Mr Bilotta's company. Client S accepted this explanation. The invoice was paid on 27 February 2018 and proceedings subsequently commenced. Client S continued to receive invoices throughout her dealings with Ms Nicholson.

25.7.5 The first hearing for the Non-Molestation Order was scheduled to take place on 21 March 2018. Ms Nicholson attended to represent Client S, but the case was adjourned until 26 March 2018. Ms Nicholson and Mr Bilotta then took Client S for a dinner at a café and Client S provided Ms Nicholson with a copy of her marriage certificate.

25.7.6 On 26 March 2018, Client S attended court, and the Non-Molestation Order was granted. That same day, Ms Nicholson asked Client S if she had considered obtaining

a Notice of Severance, on the basis that, as joint tenants of the marital home, Client S' husband would "get everything" if Client S died. Client S confirmed that she would like to get a Notice of Severance arranged.

25.7.7 By August 2018, Client S had not heard anything further from Ms Nicholson in relation to the Notice of Severance, nor received any paperwork in relation to it. She contacted Ms Nicholson, who informed her that the Notice of Severance was complete and a copy had been served on Client S's husband by Mr Bilotta.

25.7.8 Client S asked for a copy of the Notice, but she was told that she did not need one. Client S contacted the Land Registry on a number of occasions to enquire if they had received the notice and was told that nothing had been received. Client S contacted Ms Nicholson and informed her that she required a copy of the Notice to prove that it had been completed and served and she said she would contact Steed and Steed if she was not provided with this.

25.7.9 Shortly after this conversation, a document was hand-delivered to Client S' sister's house, where Client S was still staying at that point. This was an A4 piece of paper, which had the following typed on it:

> "I [Client S], joint owner of [Property S] hereby serve upon [Person S] this notice to sever the joint tenancy herby [sic] resulting in us holding the property as tenants in common in equal shares."

25.7.10 The document was dated 2 May 2018 and underneath the signature it read, "Signed by solicitor on behalf of [Client S]"; Ms Nicholson did not provide any evidence that the documents had been served or sent to the Land Registry. The Land Registry also had no record of a Notice of Severance being received in relation to Property S.

25.7.11 The divorce proceedings, Client S believed, were continuing. At Ms Nicholson's invitation, Client S attended her home address on 16 September 2018. Client S describes asking about a date for the divorce and Ms Nicholson changing the subject.

25.7.12 Later that month, Client S was contacted by Mr Peachey. He informed Client S that Ms Nicholson was no longer working at Steed and Steed and the firm had no record of Client S being a client of the firm. Client S asked Mr Peachey if he could deal with her divorce and he agreed. After this discussion with Mr Peachey, Client S made numerous attempts to contact Ms Nicholson to request a refund. When Ms Nicholson did eventually respond, she refused to provide Client S with a refund.

25.7.13 Following this conversation, Client S blocked Ms Nicholson's number on her phone. Ms Nicholson then contacted her using a different number and stated that she needed Client S to sign some documents in respect of the divorce. Client S informed her that Steed and Steed were now representing her and that she no longer wanted Ms Nicholson to deal with anything on her behalf. Client S, again, requested a refund and also asked for the return of her marriage certificate, which had been provided on 26 March 2018. Client S never received a refund, nor was her marriage certificate returned to her. Client S had to pay to obtain a replacement copy of her marriage certificate.

25.7.14 In February 2019, Ms Nicholson telephoned Client S and asked why Client S had contacted her employer and reported her. Client S stated that Ms Nicholson told her that she had no right to do this.

25.8 Expense Claims

25.8.1 On the file of Client R there was an attendance note dated 19 May 2018 which recorded that Ms Nicholson had travelled to the client to taken instructions. A disbursement of £51.30 was claimed. An attendance note dated 11 June 2018 recorded similar work and travel with a disbursement of £53.10 for mileage. Both expense claims were paid to Ms Nicholson. However, Client R had stated that the only time she met Ms Nicholson was at the hearing at Chelmsford Family Court on 4 July 2018.

26. Allegation 1.5 (CVs)

26.1 CV provided to Steed and Steed

26.1.1 Ms Nicholson provided a copy of her CV to Law Consultants, who in turn provided it to Steed and Steed on 10 January 2018.

26.1.2 The SRA's case was that the CV contained misleading information in two respects:

- It indicated that Ms Nicholson worked at Jackamans from May 2012 to June 2017, rather than until May 2017; and

- There was no reference to Ms Nicholson's employment at Levy and Co Limited from 19 May 2017 to 25 August 2017.

26.2 CV provided to City Solicitors T/A Farani Taylor

26.2.2 This CV was provided on 12 June 2018 by Law Staff Legal Recruitment on behalf of Ms Nicholson.

26.2.3 The SRA's case was that the CV contained misleading information in the following respects:

- It indicated that Ms Nicholson worked at Jackamans from May 2012 to September 2017, rather than until May 2017;

- There was no reference to Ms Nicholson's employment at Levy and Co Limited from 19 May 2017 to 25 August 2017;

- There was no reference to her employment at Steed and Steed LLP from 1 February 2018;

- It suggested that Ms Nicholson's current employer was Hayes Law Solicitors, despite her employment at that firm ending on 31 January 2018.

26.3 CV provided to Orion Legal Ltd

26.3.1 The SRA's case was that this CV contained the following misleading information:

- It indicates that Ms Nicholson worked at Jackamans from May 2012 to September 2017, rather than until May 2017;
- There was no reference to her employment at Levy and Co Limited;
- There was no reference to Ms Nicholson's employment at Steed and Steed LLP from 1 February 2018 until 22 June 2018; and
- There was no reference to her employment at Powis and Co, which commenced on 25 June 2018.

26.4 CV provided to Landons Solicitors

26.4.1 The SRA's case was that this CV contained the following misleading information:

- It indicates that Ms Nicholson worked at Jackamans from May 2012 to September 2017, rather than until May 2017;
- There was no reference to her employment at Levy and Co Limited;
- It indicated that Ms Nicholson ceased working at Hayes Law in April 2018 rather than January 2018;
- There was no reference to Ms Nicholson's employment at Steed and Steed LLP from 1 February 2018 until 22 June 2018; and
- There was no reference to her employment at Powis and Co, which commenced on 25 June 2018;
- It suggested that Ms Nicholson's current employer was Orion Solicitors, despite the fact that her employment there ended on 14 September 2018.

26.5 CV provided to Rainer Hughes

26.5.1 The SRA's case was that this CV contained the following misleading information;

- It indicates that Ms Nicholson worked at Jackamans from May 2012 to September 2017, rather than until May 2017;
- There was no reference to her employment at Levy and Co Limited;
- It suggested that Ms Nicholson worked at Hayes Law from September 2017 until May 2018, rather than January 2018;

- There was no reference to Ms Nicholson's employment at Steed and Steed LLP from 1 February 2018 until 22 June 2018; and

- There was no reference to her employment at Powis and Co, which commenced on 25 June 2018 and ended on 6 July 2018;

- It suggested that Ms Nicholson's worked at Orion Solicitors from June 2018 to December 2018, rather than July-September 2018;

- There was no reference to her employment at City Solicitors T/A Farani Taylor from 12 September 2018 to 12 October 2018;

- There was no reference to Ms Nicholson's employment at Landons Solicitors from 2 November 2018 to 12 December 2018;

- It suggested that Ms Nicholson had commenced work at ST Solicitors LLP in January 2019 and was still there working there, when in fact she had worked there from 1 April 2019 to 29 July 2019.

Findings of Fact and Law

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

28. **Allegation 1.1 (Jackamans)**

Applicant's Submissions

28.1 Mr Collis submitted that Ms Nicholson's instruction of process servers that were outside of the locality of where the work was being done, and thus outside the LAA Costs Assessment Guidance, had caused a loss to Jackamans of £2,129.08 when the claim to the LAA for the cost of the process servers was not met. Ms Nicholson would or should have known of the guidance provided by the LAA. Ms Nicholson was also expressly informed by her employer not to use process servers that were not local. Mr Collis invited the Tribunal to infer that Ms Nicholson acted as she did due to the pre-existing personal relationship she had with both Mr Harrison and Mr Bilotta, and in order to provide financial benefit to them.

28.2 Mr Collis submitted that Ms Nicholson had allowed her independence to be compromised, representing a breach of Principle 3 and a failure to achieve Outcome 9.1 of the Code.

28.3 Mr Collis submitted that Ms Nicholson had lacked integrity and referred the Tribunal to the test in Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366, in which it was said that integrity connoted adherence to the ethical standards of

one's own profession. He therefore submitted that Ms Nicholson had breached Principle 2 as well as Principle 6.

Respondent's Submissions

28.4 Ms Nicholson had provided the following documents to the Tribunal.

- Unsigned and undated witness statement (containing references to events in August 2023, so presumably finalised in or around that month);

- Unsigned and undated Answer – this took the form of instructions to her former solicitor. Ms Nicholson had specifically asked for this document to be placed before the Tribunal;

- Letter from Rainer Hughes to Capsticks dated 28 August 2023. This letter had been sent 'without prejudice' but Ms Nicholson had specifically asked for this document to be placed before the Tribunal.

28.5 In addition, the Tribunal had regard to Ms Nicholson's submissions in response to the SRA's Forensic Investigation Report dated 28 May 2020.

28.6 A key aspect of Ms Nicholson's defence to the majority of the Allegations was the nature of her relationship with Mr Bilotta. This is summarised below.

28.7 In her witness statement, Ms Nicholson described meeting Mr Bilotta for the first time in 2016. They began a relationship and, around the time Mr Bilotta moved to Ipswich, "he started to talk to me about his process serving business saying that I should offer more support for this endeavour and instruct him. He went on to say that solicitors, as a matter of course would instruct barristers that they are related to and could not understand why I was not following suit and instructing him."

28.8 Ms Nicholson described the situation as follows:

> "In short, he was relentless. He talked about it all the time, intimating that if I did not do as he asked he would end the relationship. Sadly, I capitulated and agreed. The instruction was to come from my colleagues in the offices. This is when he told me how lucky that I was to have found him and if it wasn't for him I would be on my own with my children. Put simply I believed him."

28.9 Ms Nicholson went on to describe Mr Bilotta becoming "overly attentive" towards her and always wanting to know her whereabouts. If Ms Nicholson did not answer his telephone calls she would be "bombarded" with text messages. She described Mr Bilotta as having coerced her into selling her car, which restricted her movements further, on the basis that he had persuaded her that her driving was poor.

28.9 Ms Nicholson stated that Mr Bilotta was often short of money and she found herself supporting him financially. Ms Nicholson went on to describe a number of examples of controlling and paranoid behaviour, which she stated Mr Bilotta had engaged in.

28.10 Ms Nicholson described how Mr Bilotta introduced her to Levy & Co:

> "Will started calling around law firms to see if there were any positions for me available. He spoke to Levys and arranged a meeting with them. I was offered the job and the first thing that he said was 'I'm doing the process serving. I found you this job and it is only fair'."

28.11 Ms Nicholson gave a further example of Mr Bilotta's behaviour while she was working at Levy & Co:

> "Even though the job was in at Levys was in London, WM would drive me to and from work. When I started to take the train, WM would take me to and from the station and make sure he knew the times of the trains. If I had a night away for work, he would join me with the dog and our [child]. There was an occasion where he drove me to York when I had a court hearing. He made it clear that I would not be going on my own and that if I had to go then he would be with me. On the way he had arranged to stop off to buy an amplifier. He parked outside and told me that we were not leaving until I transferred the money to him to buy it."

28.12 Ms Nicholson described having to support Mr Bilotta financially and with his health issues. She also described how he pressured her into changing jobs and going to work for Steed and Steed.

28.13 Ms Nicholson stated that she ended the relationship in December 2020, though contact was still necessary as they had a child together. Ms Nicholson reported Mr Bilotta to the Police in relation to these matters in July 2023. Ms Nicholson set out in detail the impact on her mental and physical health caused by the nature of her relationship with Mr Bilotta.

28.14 Ms Nicholson had provided three letters written by individuals working at a domestic abuse charity, which was the same one that had been involved in referring clients to her. The overall tenor of these letters was that Ms Nicholson was a highly regarded solicitor, that her work suffered around the time she was involved with Mr Bilotta (one letter referred to 2018).

28.15 The Answer and the letter from Rainer Hughes both referred to the nature of the relationship by reference to the witness statement, summarised above. The latter was mainly relating to an invitation to the SRA to withdraw the allegation of dishonesty, which was denied, on the basis of the information provided about the coercive relationship.

28.16 In relation to Allegation 1.1 specifically, in relation to process serving work, which Mr Bilotta was currently undertaking for Jackamans at this time, Ms Nicholson stated as follows:

> "It was around this time that the head of family implemented a system where any process severs instructed would have to sign an agreement agreeing that their invoices would be paid once payment was received from the LAA. WM went into a rage. He was telling me that as head of my department I should not

be controlled in this way and that I should make a stand. He convinced me that this was an attempt to micromanage me and that I needed to make more of an effort to move. From this moment on he started to look for jobs for me."

28.17 In her Answer, Ms Nicholson stated as follows:

"I have addressed this within my statement.

- Mark Harrison did process serving and this was never an issue. Mark was originally instructed by Jackman's by Tim Owers and not me. I understand that Jackman's had a disagreement with Mark when they asked him to amend documents so that they could be paid, which Mark refused to do as it was false.

Will Bilotta

- Will walked into the office numerous times and would walk past reception, up the stairs and into my shared office. Colleagues were aware that I was in a relationship with him and they would instruct him directly. Will marked his territory and made sure that everyone knew that I was in a relationship with him.

- He drove me to work and dropped me off at the office door, came to meet me each lunchtime when he came into the office and collected me from work.

- Tim Owers, the Family Partner, asked me if I was in a relationship with him and told me that it did not matter if I was. I recall that we were in the front meeting room when we had this conversation. I confirmed that we were. Jackamans were made aware by me that I was pregnant and that Will was the father. As the months progressed they could see that I was pregnant.

- Will and I socialised with another partner of the firm alongside other colleagues in the family team who instructed Will.

- This particular partner attended Wills birthday meal, with other colleagues.

- Prior to me being pregnant with [child], [redacted]. When we discovered that I was pregnant, Will asked this particular partner to be godfather to the child. I recall this conversation as it was the night of Wills birthday meal.

- It is not true that I did not disclose this relationship.

- It is worth noting that Jackaman's were not happy when I decided to leave as I had a large LA following and they lost an entire team and future billing.

- They owed a significant amount of money to the LAA (via the PI department where they allegedly over claimed a large sum) and everything that my team billed went to reducing this debt to the LAA. Not sure what happened with this after I left. My team did the majority of the LA work, The Family Partner (Tim Owers) did some which I would refer to him. Tim mainly undertook the private work. What I am saying here is that the LA work would have dried up significantly.

- If the SRA are of the view that I benefitted financially - this could not be further from the truth. I funded Will and he left me in debt which I am still dealing with."

28.18 In the submissions made to the SRA in response to the Forensic Investigation Report, it had been started on Ms Nicholson's behalf that:

> "During the period mentioned, KN was still working at Jackamans and no concerns were raised with her during this time. KN can state however, that there have been no occasions when she has instructed a process server in circumstances that are not in accordance with legal aid agency costs guidelines. Any process server instructed was done so in accordance with the legal aid hourly rate at the specific time."

The Tribunal's Findings

28.19 The Tribunal took into account all that Ms Nicholson had adduced. This included the letters from the domestic abuse charity, which all spoke highly of Ms Nicholson. The Tribunal took this into account both in terms of propensity and the credibility of her explanations.

28.20 Ms Nicholson had relied heavily on the circumstances of her relationship with Mr Bilotta between 2016-2020 in her defence to these Allegations, all of which she denied. The nature of this relationship was set out in her witness statement, her Answer and the letter from Rainer Hughes to Capsticks. The difficulty the Tribunal had was that the witness statement and the Answer were unsigned, unsworn documents. Ms Nicholson did not attend the hearing and had therefore not given evidence. The result was that her account had not been tested in cross-examination. There was no evidence before the Tribunal that Mr Bilotta had been charged or convicted in relation to these matters. The Tribunal did have the letters from the domestic abuse charity, which certainly indicated that Ms Nicholson was having personal difficulties at what appeared to be during the time of her relationship with Mr Bilotta. The descriptions of Mr Bilotta's behaviour were consistent with the existence of a toxic relationship. However, these individuals had also not attended to give evidence and their letters were not witness statements. Ms Nicholson had had ample opportunity to arrange for witnesses to attend the hearing and had not done so.

28.21 This did not mean that Ms Nicholson had not been in a coercive, controlling relationship with Mr Bilotta. What it meant was the Tribunal was unable to make a determination either way on that issue. It certainly did not discount the possibility that Ms Nicholson was in such a relationship between 2016-2020 and the Tribunal

approached the Allegations on this basis. The question the Tribunal asked itself in each instance was whether there was a clear link between that relationship and the alleged misconduct.

28.22 In relation to Allegation 1.1 specifically, the first question (Allegation 1.1.1) was whether Ms Nicholson had instructed Mr Harrison and Mr Bilotta other than in accordance with the LAA Guidance. The relevant paragraphs are quoted above in the factual background. It would seldom be appropriate to instruct outside the locality where the work was being undertaken. The fact that the LAA rejected those claims, and that the firm did not challenge those rejections, was indicative of the fact that they were out of scope. In his witness statement, which was not challenged by Ms Nicholson, Paul McGrath, Managing Partner at Jackamans, described how he had raised concerns about the use of Mr Harrison at the outset of Ms Nicholson's employment at the firm in relation to travel and distances. Ms Nicholson had reassured him, but ultimately it turned out that Mr McGrath's concerns were well-founded as the LAA reduced/rejected a number of process server disbursement claims.

28.23 The Tribunal noted that Ms Nicholson had told the SRA in her submissions following the Forensic Investigation Report that the invoices referred to related to work undertaken by one of her paralegals. This explanation was contradicted by Mr McGrath's witness statement, however, which made clear that Ms Nicholson had been the individual instructing the relevant process servers.

28.24 The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had instructed process servers other than in accordance with paragraphs 3.9 and 3.10 of the LAA Guidance.

28.25 The next question (Allegation 1.1.2) was whether Ms Nicholson had a pre-existing relationship with the process servers that she instructed. In circumstances where Mr Harrison and Mr Bilotta were the fathers of Ms Nicholson's child(ren), it was quite clear that there was a pre-existing relationship. The Tribunal found this proved on the balance of probabilities.

Principle 2

28.26 In considering whether Ms Nicholson had lacked integrity, the Tribunal applied the test set out in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366. At [100] Jackson LJ had stated:

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

28.27 The Tribunal noted that five of the six invoices referred to in this Allegation related to work done by Mr Harrison. There was no suggestion that Ms Nicholson's relationship with Mr Harrison was coercive or controlling. The link between Ms Nicholson's relationship with Mr Bilotta and her conduct in relation to instructing

process servers, in breach of LAA Guidance, with whom she had a personal relationship, was not made out. Ms Nicholson had demonstrated that she had acted in this way even in the absence of a relationship with Mr Bilotta. It therefore followed that it was not the difficulties in the relationship that caused Ms Nicholson to act in the way she did – she had been acting in that way for approximately three years before she even met Mr Bilotta.

28.28 Ms Nicholson was dealing with public funds. She therefore had a duty to protect those funds by following LAA Guidance. Instead, Ms Nicholson had instructed process servers with whom she had a pre-existing personal relationship, in contravention of that guidance. In doing so she put public funds at risk and/or those of the firm. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had lacked integrity when instructing Mr Harrison and Mr Bilotta on these occasions.

Principle 3 and Outcome 9.1

28.29 The fact of the pre-existing relationship was such that the Tribunal was satisfied that Ms Nicholson had allowed her independence to be compromised. The result of Ms Nicholson's actions were that Mr Harrison and Mr Bilotta benefitted financially from her decision to contravene the LAA Guidance. The Tribunal found the breach of Principle 3 proved on the balance of probabilities. It followed that Ms Nicholson had also failed to achieve Outcome 9.1.

Principle 6

28.30 The public would expect a solicitor to adhere to LAA Guidance and not to breach it by instructing process servers with whom they had a pre-existing relationship. The Tribunal therefore found that Ms Nicholson's actions undermined the trust the public placed in the provision of legal services and found the breach of Principle 6 proved on the balance of probabilities.

29. **Allegation 1.2 (Levy & Co)**

Applicant's Submissions

29.1 Mr Collis submitted that the interview on 20 July 2017 took place as a direct result of the incident on 6 July 2017 involving Mr Bilotta. In the course of that interview, Levy and Co were trying to ascertain the true nature of the relationship between Ms Nicholson and the process server that she was instructing. Mr Collis submitted that a solicitor acting with integrity would not provide false or misleading information to their employer. On that basis, a breach of Principle 2 of the 2011 Principles was alleged. In addition, the provision of false information to an employer in those circumstances was liable to damage public trust in the profession, in breach of Principle 6.

29.2 Mr Collis further submitted that Ms Nicholson had been dishonest. He relied on the test for dishonesty set out in Ivey v Genting Casinos [2017] UKSC 67.

29.3 Mr Collis submitted that there was no question that Ms Nicholson had a personal and social relationship with Mr Bilotta, given that she was less than three weeks away from giving birth to their child at the time of the interview. It therefore followed that Ms Nicholson knew this was a false declaration. The only plausible explanation for the provision of false information was that she wanted to conceal the true nature of that relationship. Mr Collis submitted that the provision of false information in those circumstances would be considered dishonest by the standards of ordinary decent people.

29.4 In relation to the expenses claims, Mr Collis relied on the evidence of the lack of Attendance Notes, the absence of diary entries and the accounts provided by the clients and/or barristers in order to establish that the expense claims were false.

29.5 Mr Collis submitted that submitting false expense claims was a breach of Principles 2 and 6. He further submitted that Ms Nicholson knew the claims were false and that, as such, her conduct would be viewed as dishonest by ordinary decent people.

Respondent's Submissions

29.6 In her witness statement, Ms Nicholson described the incident when Mr Bilotta attended the office having collected the wrong envelope as follows:

> "Around June 2017 I received a frantic call from one of my colleagues who told me that WM had been in the office and taken an envelope addressed for another process server without permission. He said that I had agreed to him collecting this. I called WM immediately and he was in a rage, screaming at me for the firm using another process server. I told him to calm down, to turn around and take the document back as they were threatening to call the police. He refused telling me that I told him he could collect it saying that I was too stressed to remember. I believed him.
>
> The following morning, I received an email from the office saying that WM was not allowed to attend the offices anymore and that he was not to be instructed. When I told him he went mad, saying that they were doing this on purpose and trying to control me."

29.7 In her Answer, Ms Nicholson stated as follows in relation to Levy & Co:

- "I do not recall the specifics of the meeting on 20 July 2017 or if any meeting took place on this date, however I recall that there were several meetings in relationship to work load and lack of administrative support and how we were coping with the sheer volume.

- My colleague, who was also present in the meetings with me, came with me from Jackamans and she was fully aware of the relationship between Will and I. She socialised with us, visited us in our home and stayed overnight. If I had been asked the question, there would be no reason for me not to answer truthfully.

- This colleague took the day off work and helped Will and I move from Ipswich to Colchester.

- Colleagues saw Will bring me and also my colleague (from Jackamans) into the office. Will would take me everywhere with work, to court and legal surgeries. There was no secret that we were in a relationship and I did not disguise this.

- When I started having early contraction on June 2017, I was in the office and Will came in and collected me to take me straight to hospital!

- Again if the SRA are of the view that I benefitted financially this could not be further from the truth - I funded Will and he left me with debt - having falsified my signature and not leaving the house. I am dealing with all of this.

- I was under a great deal of stress whilst at Levys and a great deal of the time I was not thinking straight. I was heavily pregnant, unwell and was advised by my consultant to stop work however Will did not allow me to - he was at every medical appointment with me. I kept a diary of expenses which were to be claimed however there were times when I forgot to log them. I may have accidentally claimed expenses incorrectly but cannot recall doing so. There were times when I could not recall specifics and as Will took my everywhere and knew my every move I would ask him and he would help me.

- In total, I only had 2 weeks off maternity leave as I had to get back to work so that Will was busy. Even during this time I did still speak to clients. I was exhausted.

- When I left Levys Will insisted that I raise a grievance against them due to their behaviour and treatment of me, [redacted references to health issues]. Will drafted this for me. Levys were not prepared for the amount of work that I brought with me to the firm and did not have the support to cover the volume. This is where the problem started. The Family Partner did acknowledge that one of the partners treatment toward me was not acceptable and could see the pressure that I was under and the effect that it was having on me.

- The SRA have been provided with a copy of this letter of grievance which sets out my time with them. I do not recall even getting a response."

29.8 In the submissions made to the SRA in response to the recommendations of the Forensic Investigation Report, it was submitted that no concern had been raised about her expense claims while at Levy & Co. It was denied that Ms Nicholson had made any expenses claims that were inaccurate.

The Tribunal's Findings

29.9 Allegation 1.2.1 (20 July 2017 meeting)

29.9.1 The Attendance Note of the meeting on 20 July 2017 contained the following:

> "We spoke of WIL [Mr Bilotta] behaviour at WS with GM. KN states that she knew that WIL was attending the WS office but had no idea why. I asked KN about her professional relationship with WIL - she said he had used him but that's all. I asked if she sees him socially and she said no, she had never met him socially, she does not know him outside of the office."

29.9.2 This was palpably untrue as Mr Bilotta was the father of the child that Ms Nicholson was weeks away from giving birth to.

29.9.3 Ms Nicholson's explanation that she had no reason to answer untruthfully and her denial that she had done so was contradicted by this Attendance Note, which was a contemporaneous document. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson's denial of a personal relationship with Mr Bilotta was false.

Principle 2

29.9.4 The Tribunal noted that the context of the question Ms Nicholson was being asked was Mr Bilotta's conduct at the office, at a time when he was doing process-serving work for the firm. Ordinarily, a question about who an employee was in a relationship with would be likely to be inappropriate. However in this situation there was a legitimate reason for Ms Nicholson's employers to ask the question and there was an obligation on Ms Nicholson to answer truthfully. Ms Nicholson instead chose to lie in a professional meeting. She went so far as to say that she had "never met him socially" and so not only was she falsely denying that she had a personal relationship with Mr Bilotta but she gave the impression that she did not know him outside work. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had lacked integrity.

Principle 6

29.9.5 The public would expect a solicitor to answer a legitimate question from their employer in a truthful and accurate manner and not to lie. The Tribunal found the breach of Principle 6 proved on the balance of probabilities.

Dishonesty

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

> "the test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: ….. When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The

> reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledgeable belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

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

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

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

29.9.8 In assessing Ms Nicholson's state of knowledge, the Tribunal found that she knew precisely what she was being asked by her employer and why she was being asked it. Ms Nicholson was aware of the true nature of her relationship with Mr Bilotta and so she was aware that her answer in that meeting was untrue.

29.9.9 There was no clear suggestion by Ms Nicholson that the reason she gave the false answer in this meeting was due to coercion by Mr Bilotta – indeed her case was that she had no reason to give a false answer and had not done so. There was therefore no link between the two matters and so the Tribunal was satisfied on the balance of probabilities that giving an untrue answer in the circumstances described would be considered dishonest by the standards of ordinary decent people. The allegation of dishonesty was therefore proved.

29.10 Allegation 1.2.2 (Expenses)

29.10.1 Ms Nicholson's position on this issue appeared to be that she denied making any inaccurate expenses claims, but if she had done so it was accidental.

29.10.2 In each of the seven claims, Ms Nicholson's case that she had not made any inaccurate claims was disproved by the contemporaneous evidence from her diary entries as well as evidence from clients, which had not been challenged. The lack of attendance notes to support the claims added further weight to the SRA's case. Ms Nicholson had not addressed that evidence directly. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had made inaccurate claims as alleged.

Principle 2

29.10.3 In determining, applying an objective test, whether Ms Nicholson had lacked integrity it was relevant to consider whether the inaccurate claims had been made accidentally rather than deliberately. The reason for this approach was that it did not automatically

follow that every inaccurate expense claim would necessarily result in a solicitor being found to have lacked integrity. As noted in Wingate, solicitors were not expected to be "paragons of virtue" and honest mistakes happened. Whether it was a lack of integrity would depend on the circumstances in each case.

29.10.4 In this case, the Tribunal noted that there were seven inaccurate expenses claims submitted in the four-week period. In addition, the inaccuracy was a complete one in that it wasn't a case of the expenses claim being for the wrong amount, rather the claim should never have been made at all. Some of the claims related to meeting clients who never met Ms Nicholson at any time. The Tribunal also noted that the claims were submitted almost immediately after the disbursement had purportedly been incurred. By way of example, the claim on the Client I matter related to an attendance on 21 June 2017 and was authorised on 23 June 2017, only two days later. This would indicate that Ms Nicholson submitted the claim, at most, two days after incurring the expense. In the event that Ms Nicholson had been unsure whether she could claim or not, the appropriate course of action would be not to submit a claim at all unless and until she had satisfied herself that she was fully justified in doing so.

29.10.5 All of these factors pointed away from a plausible explanation that Ms Nicholson had submitted them in error. Ms Nicholson could not, at the time she submitted the claims, have believed that she had incurred the expense she was claiming for or undertaken the work that lay behind that expense.

29.10.6 The Tribunal again found no link between these matters and the nature of Ms Nicholson's relationship with Mr Bilotta. Ms Nicholson's defence was that she either did not make the inaccurate claims or, if she did, that it was accidental. She did not advance a case that she had been coerced into doing so.

29.10.7 The Tribunal rejected Ms Nicholson's case that any inaccurate claims were accidental. Making inaccurate expense claims knowing them to be so was a lack of integrity and also undermined the trust the public placed in a solicitor who acted in this way. The Tribunal found the breaches of Principles 2 and 6 proved on the balance of probabilities.

Dishonesty

29.10.8 The Tribunal, for the reasons set out above, found that Ms Nicholson's state of knowledge was that she knew she had not incurred the expenses that she was claiming and that she was therefore not entitled to any of the monies. In that knowledge, Ms Nicholson nevertheless submitted the claims. The Tribunal was satisfied on the balance of probabilities that this would be considered dishonest by the standards of ordinary decent people and the allegation of dishonesty was therefore proved.

30. **Allegation 1.3 (Steed and Steed)**

Applicant's Submissions

30.1 Mr Collis submitted that Ms Nicholson had conducted reserved legal activities in relation to Clients O, P, Q, R, and S. Those clients were all charged by, and paid

money to, UK Family Law Group for the services provided by Ms Nicholson, despite UK Family Law Group being an unauthorised body.

30.2 Mr Collis referred to Section 12 of the Legal Services Act 2007, which defined "reserved legal activities" as including the exercise of a right of audience and the conduct of litigation. He submitted that the services provided to these clients included both of these activities.

30.3 Mr Collis submitted that the lack of client files held by Steed and Steed, the fact that the clients made payments to UK Family Law Group and the use of a UK Family Law Group email address all supported the SRA's case.

30.4 The result of this was that the five clients would not have benefitted from the protection of their solicitor being covered by any professional indemnity insurance. The proprietor of that unauthorised body was Mr Bilotta.

30.5 Mr Collis submitted that in providing legal services through an unauthorised body, Ms Nicholson had failed to protect her clients' interests and had failed to achieve Outcome 1.2 as alleged. The consequent exposure of the clients meant that she had also breached Principles 4 and 5. The impact on public trust in the profession was such that there had been a breach of Principle 6.

30.6 In relation to the alleged failure to apply for Legal Aid for Clients P and Q, Mr Collis reminded the Tribunal that both clients were successful in their applications for Legal Aid when their cases were taken over by different solicitors, which suggested that had Ms Nicholson submitted such applications on their behalf they would have been granted at that stage.

30.7 Mr Collis submitted that failing to make Legal Aid applications in respect of vulnerable clients who were seeking assistance in difficult family law matters represented a deficient level of service and that as such Ms Nicholson had failed to achieve Outcome 1.5 of the Code. It also represented a failure to provide a proper standard of service or to act in their best interests and so this was a breach of Principles 4 and 5. Again, Mr Collis submitted that there was also a breach of Principle 6.

30.8 Mr Collis went on to submit that the assertions made by Ms Nicholson that she had applied for Legal Aid, when she had not, were clearly false. Making false statements to a client was a breach of Principles 2 and 6 and was also dishonest.

30.9 In relation to the expense claims on the matter of Client R, Mr Collis relied on the evidence of Client R that the only time she met Ms Nicholson was at Court on 4 July 2018. Mr Collis submitted that it therefore followed that the two claims of 19 May and 11 June were false. His submissions in relation to the breaches of Principles 2 and 6 and in relation to dishonesty were on the same basis as in relation to the expense claims at Levy and Co.

<u>Respondent's Submissions</u>

30.10 In her witness statement, Ms Nicholson stated the following, presumably in relation to UK Family Law Group:

"WM told me that he had spoken to the SRA and that he was informed that he could act for clients but could not give them advice as such. He told me that he wanted to expand his business. I often got referred clients who did not qualify for legal aid but could not afford legal fees. This sounded like a solution. He started to work with clients. I was not involved in his business in any way. WM persistently would ask for more work and would become angry threatening to leave if I didn't have work to pass him. He would threaten to take [child] from me as he considered himself to be more of the main carer as he was at home more."

30.11 In her Answer, Ms Nicholson stated the following paragraphs were of particular relevance:

- "When I was at Hayes Law (now NLS), Will discussed a bundling service with them and I knew that he had meetings with them to progress this further. When I started at Steed and Steed, Will asked me to speak to Ash Peachy about this which |I did and he agreed that we could use Will. I had a large following and administratively it was an assistance. Will was obsessed with expanding his business and told me that he had spoken to the SRA and was given authorisation by them to carry out certain work which he stated to do through his business. This is when I was placed under pressure from him to give him clients who were not eligible for LA however could not afford full legal fees. He told me that it would be supporting the clients and also that I would be supporting him as my partner. When Will wanted something there was no way that he would ever let go until he got what he wanted and would be on me constantly, threatening to leave and take [child] with him. I was trapped with him as I had nowhere else to go and financially I was tied to him as I had a tenancy and debts which he deliberately tied me to.

- I had no involvement with anything that Will did with his business. Occasionally I would speak to a client who he was assisting and would give them pro bono advice however I did not have anything to do with Wills business nor did I benefit financially in any way financially through his business."

- "The main bulk of my caseload was emergency non molestation orders and [domestic abuse charity] were my main referrer. I would assess the clients and would often apply for funding using devolved powers. Clients were always made aware that whilst they had emergency funding for the initial application and hearing, I would need further information from them if they wished for their LA to continue and I may have to apply to vary their certificate to carry out additional work if it was not covered. I have never falsely claimed that a client had funding when they did not. If funding was not in place the client had the option to attend the hearing themselves or to pay privately. I very often offered to reduce hourly rate to assist in the interim period.

- There was an expectation (Ash Peachey) for me to undertake as much advocacy as possible as well as carry out the office paperwork including LA

applications. I did speak to Ash Peachy about the volume of work and if applications were missed or tasks were not carried out, it was due to sheer volume. I certainly did not tell clients that they had funding when they did not. Very often certificates were revoked as a result of the client not providing the additional financial information which was required by them."

- "I do not recall ever inaccurately claiming any expenses. If I did it was not done so deliberately or dishonestly. In any event, my last months salary was withheld by Steed and Steed."

30.12 Ms Nicholson referred to having a very heavy workload as well as health issues during her time at Steed and Steed. Despite this there was no complaint about the standard of her work while she was employed there.

30.13 In the submissions made to the SRA in response to the recommendations of the Forensic Investigation Report, it was denied that Ms Nicholson had made any expenses claims that were inaccurate.

30.14 In those submissions, in relation to UK Family Law Group, the following had been stated:

> "KN was not an employee, director, partner of UK family law (UKFL). KN did not receive any payment for the assistance she provided to clients of UKFL. As noted, UKFL was a business owned by William Bilotta (WB). UKFL was set up to provide a legal administration service and process serving to law firms and private clients. It was to assist people who were not eligible for legal aid, at reduced fees and to provide support. This business did not provide regulated services. The services offered to private clients was an administration service that assisted them in making a non-advised, in person application for a number of family court proceedings only and process serving as required. KN was not involved in any of the services that the clients were invoiced for and nor was she involved in any other aspect of UKFLs business. KN made clients aware that she did not work for UKFL, they were all fully aware that she worked for a law firm. KN believes WB provided clients with all other details including a client care letter/terms of business which provided full details of what his business could and could not do. It is also to be noted that KN had no control on any representations that were made by WB and therefore any comments or statements made by him should not be held against KN. In accordance with KNs obligations to provide clients with funding options, KN would suggest at times that they may be wise to seek assistance from another source such as a Mackenzie friend. At no time did she insist/influence their decision. She would provide UKFL number or alternatively the client would ask that WB call them. The decision was down to the client to make. As stated any comments made by WB should not be held against KN. There is specific reference to an email which states that "Further to your call with Karen" - KN can only assume that this was said in the natural course of a conversation and by no way a referral. KN cannot comment on any conversation that WB had with the clients as she had no control over

what he said to clients or customers of UKFL and therefore should not be held accountable for any conversations that were had."

30.15 The submission went on to state that Ms Nicholson had not been involved in the invoicing of clients.

The Tribunal's Findings

30.16 Allegation 1.3.1-1.3.3 (reserved legal activity)

30.16.1 The first question for the Tribunal was whether Ms Nicholson was conducting reserved legal activity (other than as an employee of Steed and Steed). The next question was whether, if she was conducting such activity, it was through the UK Family Law Group. It was not disputed that the UK Family Law Group was an unauthorised body.

30.16.2 In respect of Client O, the invoice dated 11 May 2018 was for services described as "Representation at return hearing for non-molestation and occupation orders. Further service of any papers if required by the Court." Client P's invoice dated 14 April 2018 was for "Advising and preparing for Children Act proceedings (Child Arrangement Order) on 8th May 2018". Client Q's invoice dated 3 April 2018 was for "Advising client, representation hearing (FHDRA) of 5th April 2018 and drafting of any orders required in relation to this". Client R's invoice dated 19 May 2018 was for "Taking Instructions and preparing papers for a Specific Issue Order and attending initial hearing". Client S's invoice dated 6 February 2018 was for "Take instructions, prepare bundle, representation at initial and return hearing by Karen Nicholson [Solicitor-Advocate) and service of papers on Respondent by EAPS."

30.16.3 The Tribunal was satisfied that in the case of each of these five clients, Ms Nicholson had been conducting reserved legal activity based on the work described on the invoices. The Tribunal rejected Ms Nicholson's defence that she had occasionally provided 'pro bono' advice and nothing more. That was disproved by the invoices. One of them specially referred to Ms Nicholson doing the work (Client S's) and in all cases fees were charged, so the work was not 'pro bono'. Further, the description of work done went well beyond advice. It included representation at hearings, preparation of bundles and drafting of orders.

30.16.4 The Tribunal again found no link between the coercive relationship issues raised by Ms Nicholson and her conduct. Ms Nicholson's defence had been that she had not conducted reserved legal activities, when she plainly had. Her defence had not been that she had been forced to conduct reserved legal activities by Mr Bilotta.

30.16.5 The Tribunal noted that each invoice came from the UK Family Law Group. The email addresses used were consistent with this and the Tribunal therefore found the factual basis of Allegation 1.3.1 proved on the balance of probabilities.

Principles 4, 5 and 6 and Outcome 1.2

30.16.6 It was not in the best interests of clients for their work to be undertaken through an unauthorised body. The effect of this was that the clients did not enjoy the protections,

which they would have been entitled to assume they had, afforded to them by instructing an authorised and regulated body. It also did not amount to a proper standard of service as the clients believed that they were instructing a properly regulated firm and not an unauthorised body. In acting in this manner, Ms Nicholson had undermined the trust the public placed in the provision of legal services. That trust depended on the regulatory system being adhered to so that clients had the protections that brought with it. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had breached Principles 4, 5 and 6 and failed to achieve Outcome 1.2.

30.17 Allegation 1.3.4-1.3.6 (Legal Aid applications)

30.17.1 In respect of Client P, the Tribunal noted the following passages from her unchallenged witness statement:

- "From my initial telephone conversation Karen Nicholson was adamant that I would not qualify for Legal Aid funding and asked me to pay an upfront fee of £600.00."

- "Despite Karen Nicholson being adamant that I was not eligible for Legal Aid I continued pester her to apply which she told me she had done, however she never seemed to have an update."

- "On 30 July 2018, following a telephone conversation with Karen Nicholson, I sent her an email, using her AOL email address. I stated that I really needed to know what was happening and if I had legal aid as it was only two days to the hearing. I also forwarded her an email which I had sent to her Steed and Steed email address on 7 June 2018, in which I had provided details of the domestic abuse incidents I had suffered. Karen had requested that I forwarded this in our earlier telephone conversation."

  "On 1 August 2018, I received a call from a female at Orion Solicitors who stated that she was Karen Nicholson's paralegal, she asked me for information so that she could apply for emergency Legal Aid. I advised her that I had provided this information to Karen Nicholson months before."

- "Karen Nicholson called me at 7pm the same day, she said that I did not qualify for Legal Aid and that due to this she would not be able to represent me at the hearing the following day."

- "I have since had to find another solicitor to represent me and I have been awarded Legal Aid."

30.17.2 The Tribunal noted that in her responses to these Allegations, Ms Nicholson did not directly address the matters raised by Client P in her witness statement. The witness statement was unequivocal that Client P had instructed Ms Nicholson to apply for legal aid on several occasions. Ms Nicholson had told her, wrongly, that she would not qualify for legal aid. Client P was eventually granted legal aid but not through anything done by Ms Nicholson. The Tribunal was satisfied on the balance of

probabilities that Ms Nicholson had failed to apply for legal aid for Client P despite instructions to do so.

30.17.3 In respect of Client Q, the Tribunal noted the following passages from her unchallenged witness statement:

> "When I first instructed Karen Nicholson when she was working at Levy & Co. She informed me that she would apply for Legal Aid. She then informed me that she had moved to Steed & Steed LLP. She informed me that she would arrange for my Legal Aid Certificate to be transferred."
>
> I was repeatedly informed by Karen Nicholson that Legal Aid would cover all work in relation to children matters, divorce and all correspondence etc. I chased Karen Nicholson by text message and email on numerous occasions for an update regarding Legal Aid. Karen Nicholson repeatedly informed me that she was still trying to sort out the Legal Aid. However she never asked me for any documentation to assist in applying for Legal Aid.
>
> I was due to appear in Court in relation to Children Act Proceedings on 5 April 2018. I had believed that Karen Nicholson was arranging for Legal Aid to represent me. However, the day before the hearing I received a telephone call from Karen Nicholson informing me that she had not managed to secure Legal Aid. She therefore informed me that she would only be able to represent me at Court if I paid the sum of £640.00."

30.17.4 It was clear from this witness statement that Client Q had instructed Ms Nicholson on the basis of a legal aid application being made. Initially she was told that it had been granted, only to be told that it had not been secured. This resulted in Client Q having to pay privately. It was equally clear that legal aid had not been applied for.

30.17.5 The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had failed to apply for legal aid for Client Q despite instructions to do so.

<u>Principles 4, 5 and 6 and Outcome 1.5</u>

30.17.6 It is self-evident that failing to follow instructions from a client to obtain public funding was not in their best interests and did not amount to a proper standard of service and failed to take account of the circumstances the clients were in, which was vulnerable and entitled to legal aid. The result of the failure to apply for legal aid was that the clients had to pay privately despite being entitled to funding. Client P described how she "scraped together what savings I had" to pay the first invoice. This significantly undermined the trust the public placed in Ms Nicholson and the provision of legal services. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had breached Principles 4, 5 and 6 and failed to achieve Outcome 1.5

30.18 <u>Allegation 1.3.7-1.3.8 (representations to Clients P and Q)</u>

30.18.1 The Tribunal referred to the witness statements of Clients P and Q. Client P was told, upon chasing Ms Nicholson about her legal aid application that she had "done" this.

As the Tribunal had found above, this was clearly untrue as Ms Nicholson had not applied for legal aid on Client P's behalf.

30.18.2 Client Q was told that her legal aid certificate could be transferred to Ms Nicholson's new firm. This would have indicated to Client Q that not only had legal aid been applied for but it had also been granted, otherwise there would be no certificate to transfer. Again, as found above, this statement was therefore untrue as Ms Nicholson had not applied for legal aid on Client Q's behalf.

30.18.3 In both cases, the Tribunal preferred the witness evidence of Clients P and Q to Ms Nicholson's case that she did not tell clients she had applied for legal aid when she had not. Ms Nicholson's case was not that she had made a false claim to the clients as a result of something said or done by Mr Bilotta, rather she denied the factual basis of the Allegation. The Tribunal therefore found no link between the relationship issues experienced by Ms Nicholson and the representations made to the clients. The Tribunal found that the claims made to both clients were false and found the factual basis of this Allegation proved on the balance of probabilities.

Principles 2 and 6

30.18.4 The Tribunal was satisfied on the balance of probabilities that making a false statement to a client about any matter, including telling them that legal aid had been applied for when it had not, was a clear lack of integrity as well as a breach of Principle 6.

Dishonesty

30.18.5 The Tribunal found that Ms Nicholson's state of knowledge at the time she was telling Clients P and Q, was that she knew the applications had not been submitted because she had not submitted them. Even if Ms Nicholson had delegated the task to another member of staff, as she had suggested to the SRA, she was not in a position to make a positive assertion that it had been done. The Tribunal noted that in the case of Client P, the context was that she had repeatedly told Client P that she would not qualify for legal aid. Ms Nicholson therefore knew that what she had told Clients P and Q was false. The Tribunal was satisfied on the balance of probabilities that this would be considered dishonest by the standards of ordinary decent people. It therefore found the allegation of dishonesty in relation to this Allegation proved.

30.19 Allegation 1.3.9 (expenses)

30.19.1 The evidence of Client R was that she only met Ms Nicholson on one occasion, which was at Court on 4 July 2018. The only contact she described as having with Ms Nicholson on 19 May 2018 was a telephone call, following which she received the invoice for £600. There was no refence to any contact on 11 June 2018.

30.19.2 The Tribunal noted that the first, and only, time that Ms Nicholson met Client R was at Court and not as the result of any visit. The Tribunal considered that there was little plausible scope for Client R to have been mistaken about the dates or locations of the one meeting she did have with Ms Nicholson, given the memorable nature of a meeting at Court. There was no evidence at all that Ms Nicholson had visited Client

R on those dates and there was clear evidence that she had not. The Tribunal was satisfied on the balance of probabilities that the expenses claimed in respect of the two dates were inaccurate on the basis that the visits never took place and the expenses were therefore never incurred.

Principles 2 and 6

30.19.3 The Tribunal's analysis was made on the same basis as it had been in relation to Allegation 1.2.2. The Tribunal noted that the time between the expense allegedly occurring and the claim being submitted was two days in respect of the 19 May 2018 claim and the same day in the case of the 11 June 2018 claim. This, again, pointed away from any suggestion of error or muddle over dates. The fact that no issue was raised at the time was irrelevant in the face of the clear evidence that the claims ought never to have been made.

30.19.4 The Tribunal found the breaches of Principles 2 and 6 proved on the balance of probabilities.

Dishonesty

30.19.5 The Tribunal had found that Ms Nicholson knew she had not visited Client R on those dates and that at the time she submitted the claims she had yet to meet her for the first time. Ms Nicholson therefore knew that she was not entitled to make the claims she did. The Tribunal was satisfied on the balance of probabilities that by proceeding to make the claims in that knowledge, Ms Nicholson's conduct would be considered dishonesty by the standards of ordinary decent people. The allegation of dishonesty was therefore proved in relation to Allegation 1.3.9.

31. **Allegation 1.4 (Client S)**

Applicant's Submissions

31.1 Mr Collis summitted that failing to return a marriage certificate, after a client has sought its return, represented a failure to act in the best interests of that client and also a deficient level of service. Mr Collis submitted that Ms Nicholson had therefore failed to achieve Outcome 1.5 and had breached Principles 4 and 5.

31.2 In relation to the Notice of Severance, Ms Nicholson had sent bills to Client S and referenced work conducted in relation to that application. Client S was assured that the application had been made, and was provided with a document in support of this contention. However, HM Land Registry had no record of this. Mr Collis submitted that the provision of misleading information to Client S was a breach of Principles 2 and 6 and was dishonest on the basis that Ms Nicholson would have known that the application had not been made.

31.3 In relation to the telephone call from Ms Nicholson to Client S concerning the complaint, Mr Collis submitted that this reflected a failure to achieve Outcome 1.11 and was a breach of Principle 6.

Respondent's Submissions

31.4 In her witness statement, Ms Nicholson stated as follows:

> "After I left Steed and Steed, I received abusive text messages from a client asking me what was going on with her case and her legal aid application. It would seem that Steed and Steed had passed on my personal mobile number to her. I responded making it clear that no longer worked there and that she should contact the office who had all her paperwork."
>
> It was unclear to the Tribunal whether or not this was a reference to Client S.

31.5 In her Answer, Ms Nicholson stated as follows:

- "If I had the marriage certificate, I would have returned it. There would be no reason for me to hold on to this. This would have remained at Steed and Steed - did the client contact the office for this?

- The day that I left Steed and Steed I was watched as I packed up my belongings. I did not remove anything which was client or company property.

- When I got home I noticed that I had a book belonging to Steed and Steed and 2 clients' files which my father returned to the office the following day. Anything that issued belonging to Steed and Steed I either left in the office or arranged for it to be returned.

- I do not recall ever telling a client that they had no right to complain about me. This is not something that I would ever consider doing let alone do.

- Some weeks after I left I was contacted by a [domestic abuse charity] referral client on my personal mobile, which Steed and Steed much have provided to her without my consent. The texts were extremely abusive and threatening and it was clear that Steed and Steed had not updated her or progressed her case. I responded to her stating that she was a client of Steed and Steed and not me and that she had to contact them directly. I also informed [individual from domestic abuse charity] and provided her with copies of the texts. I was advised to report the communication to the police which I did not do as I did not want to escalate the situation further. I have copies of the text messages and can provided these."

The Tribunal's Findings

31.6 Marriage Certificate

31.6.1 Ms Nicholson's case was that she would have returned the marriage certificate if she had it. The Tribunal referred to the following passages of Client S's unchallenged witness statement;

> "Karen Nicholson arrived separately, unfortunately our case was not heard that day, so we were told to go back on 26 March 2018. I recall Karen Nicholson saying that was good as it was a better Judge on that day. Karen and Will took me out for some dinner at a cafe and I gave her a copy of my marriage certificate which I thought she would need to start the divorce proceedings."

31.6.2 This was evidence that client S had given Ms Nicholson the marriage certificate.

> "I again asked for my money back and my marriage certificate, she just ignored me and to date I have not received either. This meant that I had to pay to get a replacement copy of my marriage certificate."

31.6.3 The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had not returned the marriage certificate to Client S.

31.7 Notice of Severance

31.7.1 Ms Nicholson had not directly addressed this issue in her Answer or witness statement. The Tribunal referred Client S's unchallenged witness statement. In that statement Client S set out the basis for her instruction to Ms Nicholson to obtain the Notice of Severance. Client S went on to describe her attempts to obtain a copy of it:

> "I wanted to make sure that it had been completed so I contacted the Land Registry to ask if they had received the notice, they told me that they had not received anything. I think that this was in August 2018, I remember that it was during the summer. I rang them numerous times to see if they had received anything.
>
> After this I contacted Karen Nicholson and again asked her for a copy of the notice to prove that it had been completed and served, during this conversation I was quite blunt with her as I had really had enough by this point. I threatened to contact Steed and Steed if she did not provide me with a copy."

31.7.2 Client S went on to describe the delivery of the pink envelope containing a document which was not on headed paper and "looked very basic and unprofessional". Client S stated "Karen Nicholson did not provide me with anything to prove it was actually served or sent to the Land Registry." This was corroborated by the outcome of the FIO's enquiries with HM Land Registry.

31.7.3 The Tribunal was therefore satisfied that the information provided to Ms Nicholson, in the form of the document delivered to Client S, was misleading in that it sought to reassure Client S that the notice had been file and served, following much chasing by Client S, when in fact it had not. The Tribunal was satisfied on the balance of probabilities that Ms Nicholson had provided Client S with misleading information.

31.8 Complaint

31.8.1 The Tribunal again referred to the unchallenged witness evidence of Client S, which it preferred to Ms Nicholson's submissions in which she denied the suggestion.

> "I answered the call and Karen Nicholson said, "[Client S] I need to talk to you, why did you ring my employer and report me". She told me that I had no right to do that and then told me that she was no longer with Will and telling me all of her problems. I said, "Karen I don't need this" but she just kept going on and on and I couldn't get her off the phone.

31.8.2 The Tribunal was satisfied on the balance of probabilities that this contact was inappropriate as it sought to persuade Client S that she should not have made a complaint about Ms Nicholson.

Principles 2, 4, 5 and 6, Outcomes 1.5 (all matters) and 1.11(complaint)

31.9 The Tribunal found that failing to return a marriage certificate, providing misleading information to a client and then informing them that they had no right to complain represented individual and collective failures to act with integrity.

31.10 It was not in a client's best interests to be treated in this way and was the opposite of the requirement to provide a good standard of service. The public's trust in the provision of legal services was clearly undermined by conduct of this nature.

31.11 The Tribunal was satisfied on the balance of probabilities that Principles 2, 4, 5 and 6, had been breached. In addition, Ms Nicholson had failed to achieve Outcomes 1.5 and 1.11 (specifically in relation to the complaint).

Dishonesty (Notice of Severance)

31.12 The Tribunal found that Ms Nicholson knew that she had not filed and served this document and was aware that Client S was repeatedly chasing her for it to be done. The only plausible conclusion was that Ms Nicholson had therefore produced the document in order to make Client S think that she had done it when she had not. This represented the taking of active steps to mislead Client S. The Tribunal was satisfied on the balance of probabilities that this would be considered dishonest by the standards of ordinary decent people and it therefore found the allegation of dishonesty proved.

32. **Allegation 1.5 (CVs)**

Applicant's Submissions

32.1 Mr Collis submitted that Ms Nicholson put the false and misleading information into her CVs in order to conceal from potential employers her employment at certain firms and to reduce gaps created in her employment history by not referring to certain previous employers.

32.2 Mr Collis noted that in the representations made on behalf of Ms Nicholson, referred to below, she had accepted that the information provided was incorrect.

32.3 Mr Collis submitted that providing false or misleading information to potential employers amounted to a breach of Principles 2 and 6 and doing so deliberately was dishonest.

Respondent's Submissions

32.4 In her Answer, Ms Nicholson stated as follows:

- "10 January - this is likely to have been Steed and Steed which I got through Debra Tofts at Law Consultants. I have worked with her before and she knows my past so not sure what is wrong with this CV other than Levys not being included on it - Will prepared this CV for me. I was under a great deal of pressure to get another job from Will. His only concern was how it would benefit him. I now know that it was not the fact that I raised a grievance against Levys that was the issue but the fact that they may have disclosed his conduct and how he went into the office and took things.

- 12 June 2018 - this must have been Powis and Co - again Debra Tofts placed me here so she knew I was at Steeds (she placed me there previously) and knew my past. It may be worth noting that she asked me not to say anything to Steed and Steed as she had previously placed me and was placing me again and wanted her commission. SHE APPROACHED ME for this vacancy as I had worked with Powis before and they asked for me. I liked my time there - I did conveyancing and only left as I was made redundant in the slump.

- 4 July - Not sure what this is. f [sic] it is Orion - Simon Shorter at Law Staff knew that I was at Steeds and the issues - he advised me not to include on the CV as I was not there for long and that they would want to speak to Jackamans as this had been my longest period of employment. He was the professional and so I was guided by him. At the interview however I told Edo everything and told him about Steeds. Edo told me that I was the victim and that he would support me. I was entirely honest about my working past.

- 19 October - Landons Solicitors - I used the CV that Simon Shorter put together for me.

- 7 August - I attended interview with Sanjay with a correct Cv. Sanjay has confirmed this to the SRA.

- I had a number of jobs during the relationship with Will - I have addressed the reasons for this in my statement. Will was only concerned about his work, if and when it went wrong, I was told by him to move and he would look for a new job for me, make the calls and draft my CV when I was asked to do so. It was always someone else's fault when things went wrong and Will would go on at me re this and convince me that this was the case. I was regularly late for work as I was not allowed to travel to and from work on my own and Will could never get up in the morning and time had no meaning to him if he did not benefit from it. I was under constant pressure to work. FYI I moved for the following reasons - this is all set out in my statement: Jackamans - Will encouraged me to leave after he was asked to sign an agreement which he did not want to. He called Levys and it was he who arranged the interview for me. Levys - Will started to look for a new job after I was told not to use him anymore (after he came into the office

and took a document). I was also unhappy due to their treatment of me. Hayes/NLS - Will did not want me working in London anymore and so started looking for a new job.

- Steed and Steed - I was not happy and I was offered the job at Powis. Orion - I left as we were never paid on time and some staff were not paid for months. Landons - I was asked to leave as my time keeping was terrible. Will still took me to and from work and he could never get out of bed and I was dependent on him as at the time I was too scared to drive as he instilled this fear. ST solicitors - the firm closed down.

- My frequent job movement in this way only started when I met Will. Up until then I was stable at Jackamans. It is true that I wanted progression and I was casually looking but I only wanted to move if the right vacancy came along. I would have stayed until this happened. Every job that I have had, Will has somehow become involved and generally taken over to benefit himself. I agreed this allegation with the SRA as I felt pressured however it was not fully true and I did provide mitigation."

32.5 In the submissions to the SRA following the Forensic Investigation Report, it was said on Ms Nicholson's behalf that:

> "KN acknowledges that the CV forwarded to recruitment agencies did not provide details of every employee in the recent past. However, this was due to come and clear that AP appeared to have a vendetta against her. KN believes this to be the case as she has been contacted by previous clients who have said that AP has contacted them and made a number of allegations about KN to them."

32.6 It continued:

> "Given the information that she was being given by third parties and clients, KN removed some details of firms worked at from her CV, although she was also aware that any potential employer would be able to see a full history of the firms she has worked at through the law society. This was not done in anyway with the intention of misleading any employer and or with any dishonest intent. KN in fact advised the senior partner at Orion Solicitors, ST Solicitors and her current firm of the situation. It was clear to KN that the campaign of harassment and ruining KN good name in the family law field was at the top of the agenda as far as AP was concerned".

32.7 In her response to the SRA following the adjudicator's decisions, Ms Nicholson stated:

> "With regards to the information on a previous copy of her CV, Miss Nicholson accepts that there were inaccuracies, and that the fault for this has to lay with her. However, Miss Nicholson would like to take this opportunity to provide an explanation, if not mitigation for this. After Miss Nicholson left Steed and Steed, she approached a legal recruitment agency she was familiar with and spoke candidly to the adviser about the problems she had experienced there and

at Levy & Co, including the comments made by Mr Peachey and referred to in Exhibit 2. As such her CV was prepared by Law Staff with some amendments suggested by themselves. Despite this, Miss Nicholson acknowledges that ultimately, she is responsible for the content of her CV and agrees that this was a poor lapse of judgement on her part."

The Tribunal's Findings

32.8 In her responses to the SRA, Ms Nicholson admitted that the CVs were inaccurate and explained that this was a conscious decision. In her Answer, Ms Nicholson retracted that admission and argued that she felt "pressured" – although it is unclear if the pressure referred to was from Mr Bilotta or the SRA. The Tribunal found that there was no evidence of pressure from either source in relation to this Allegation. The more plausible explanation was that Ms Nicholson had taken a decision to ensure that her CVs looked as good as possible, which included amending dates of employment and/or removing periods of employment altogether. As time went on, the misleading details in each CV increased as previous difficulties were concealed.

32.9 The fact that recruitment agencies had been involved in preparing the CVs did not absolve Ms Nicholson. By her own admission, the changes were made with her knowledge and agreement and she was ultimately responsible for the content of the documents. The effect, and indeed the intention of doing so was to create a more favourable impression of her employment history than was in fact the case. The CVs were therefore false and misleading to potential future employers. The Tribunal found the factual basis of Allegation 1.5 proved on the balance of probabilities.

Principles 2 and 6

32.10 The Tribunal found that causing and allowing false and misleading CVs to be submitted to potential employers was an example of a lack of integrity and the duty to be scrupulously accurate. This had occurred on five separate occasions and represented a pattern of behaviour in which previous employment difficulties were concealed. The reason that a CV should fully reflect a career history was to enable employers to make hiring decisions based on full and accurate information. It was therefore important that it was accurate and complete. The Tribunal additionally found that the trust the public placed in solicitors was undermined if false and misleading CVs were sent to potential employers, on the basis that the public could not be sure that the right individuals were being employed to work on their cases.

32.11 The Tribunal found the breach of Principles 2 and 6 proved on the balance of probabilities.

Dishonesty

32.12 In assessing Ms Nicholson's state of knowledge, the Tribunal found that Ms Nicholson was obviously aware of her own career history. She was therefore aware of the difficulties that some aspects of that history could cause with potential future employers – this was reflected in her conversations with the recruitment agencies. Ms Nicholson therefore knew that each of the five CVs submitted contained false and misleading information over a period of almost 20 months.

32.13 The Tribunal was satisfied on the balance of probabilities that this would be considered dishonest by the standards of ordinary, decent people. The allegation of dishonesty in relation to each of the CVs was proved on the balance of probabilities.

Previous Disciplinary Matters

33. There were no previous findings at the Tribunal.

Mitigation

34. Ms Nicholson was informed of the Tribunal's findings by email on 2 October at 10.27am. She was given an opportunity to make any submissions on sanction or costs that she wished to by 12 noon. Ms Nicholson did not make any such submissions. The Tribunal had in mind all the matters raised previously by Ms Nicholson when considering sanction.

Sanction

35. The Tribunal had regard to the Guidance Note on Sanctions (June 2022). The Tribunal assessed the seriousness of the misconduct by considering Ms Nicholson's culpability, the level of harm caused together with any aggravating or mitigating factors.

36. In assessing culpability, the Tribunal concluded that Ms Nicholson was motivated by a desire to help her partners financially and put work their way. There was a question mark over how voluntary that was in the case of Mr Bilotta, but as discussed above, the link between the difficulties described by Ms Nicholson and her conduct was not clear, particularly in circumstances where some of the misconduct pre-dated her relationship with Mr Bilotta.

37. The motivation in relation to the expense claims was personal financial gain for her and/or those around her, albeit for relatively low amounts. In relation to the CVs, the motivation was to obtain employment and her misleading clients was a combination of motivation for financial gain and to give an impression of work having been done when it had not.

38. The misconduct was planned. The decision to repeatedly instruct the two process servers and to lie to the firm about the existence of a personal relationship with Mr Bilotta was not spontaneous. Similarly, on the basis that the misleading CVs was deliberate, it was clearly planned. In relation to the expenses claims, there were so many in a short space of time that this was found to be a deliberate deceit.

39. Ms Nicholson had been in a very considerable position of trust. The clients she was representing were significantly vulnerable, being the victims of domestic abuse, including violence. Such clients put trust in their solicitors to help extricate themselves from incredibly difficult and dangerous situations. Those solicitors bear a heavy responsibility not to breach that trust. Ms Nicholson had taken financial advantage of those clients and had lied to them. In doing so she had entirely forfeited the trust placed in her and had used her position in a way that she hoped would ensure she was not questioned by her clients because of her status.

40. Ms Nicholson was also trusted by her employers and the LAA not to make financial claims that she was not entitled to.

41. Ms Nicholson was in control of the circumstances surrounding the misconduct and she was of sufficient experience, including having achieved partner status, to know that her conduct was unacceptable.

42. The harm caused to individual clients was significant. Clients who could ill-afford legal fees and who were entitled to Legal Aid were made to pay fees that they ought not to have been. Ms Nicholson also failed to return a marriage certificate to Client S, causing significant inconvenience. The false information on the Notice of Severance could have had serious consequences.

43. The impact on the reputation of the profession of this wide-ranging misconduct involving taking advantage of and harming vulnerable clients was deeply damaging.

44. The misconduct was aggravated by the fact that the varying forms of misconduct took place over a period of six years. The Tribunal had already noted Ms Nicholson's dishonesty, the vulnerability of clients and her abuse of position in that regard when considering the high level of culpability and so it did not 'double count' those as additional aggravating factors.

45. A potentially mitigating factor was that there may have been some element of pressure on Ms Nicholson in relation to some of the aspects of her misconduct, but that clear link was not established.

46. The Tribunal also recognised that the letters submitted by Ms Nicholson demonstrated that initially she had been a dedicated, committed and diligent solicitor.

47. The misconduct was so serious that a Reprimand, Fine or Restriction Order would not be a sufficient sanction to protect the public or the reputation of the profession from future harm by Ms Nicholson. Coulson J in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 Admin observed:

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

48. The Tribunal noted that the usual sanction where misconduct included dishonesty would be a strike-off and the Tribunal had regard to Sharma. The circumstances in which such a sanction was not imposed were exceptional, described in Sharma as "a small residual category where striking off will be a disproportionate sentence in all the circumstances ...".

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

> "First, although it is well-established that what may amount to exceptional circumstances is in no sense prescribed and depends upon the various factors and circumstances of each individual case, it is clear from the decisions in

> Sharma, Imran and Shaw, that the most significant factor carrying most weight and which must therefore be the primary focus in the evaluation is the nature and extent of the dishonesty, in other words the exceptional circumstances must relate in some way to the dishonesty."

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

51. The Tribunal had analysed the position in relation to Ms Nicholson's submissions about the abusive relationship that she found herself in when it considered the Allegations. That analysis extended to its consideration of exceptional circumstances. Had Ms Nicholson been able to demonstrate a clear link between the coercion she described in that relationship and the misconduct then this might have amounted to exceptional circumstances. However, as discussed above, that link had not been established. Ms Nicholson's misconduct was wide ranging and not all of it related to Mr Bilotta – indeed some predated her relationship with him.

52. Ms Nicholson's health issues, which she had raised as part of her applications to adjourn, were noted by the Tribunal. However, these also appeared to post-date some, if not all, of her misconduct. As such, while the Tribunal was sympathetic to her health difficulties, they could not and did not amount to exceptional circumstances in respect of her conduct.

53. The Tribunal was unable to identify any exceptional circumstances in this case and accordingly the only appropriate sanction, in order to ensure the protection of the public and the reputation of the profession, was that Ms Nicholson be struck off the Roll.

Costs

54. Mr Collis sought costs in the sum of £85,627.02. This included a fixed fee in relation to the proceedings in the sum of £48,500 plus VAT. The fixed fee had previously been £34,500 plus VAT but this had been revised in light of four additional Case Management Hearings and the service of experts' reports. Mr Collis described this as a "case study in non-compliance with directions" on the part of Ms Nicholson. The equivalent notional hourly rate was £90.25, which Mr Collis submitted was not excessive.

55. The remainder of the costs were the investigation costs.

56. Ms Nicholson had not filed a statement of means.

The Tribunal's Decision

57. The Tribunal noted that the hearing had been listed for eight days and had taken significantly less than that. Although the costs of the proceedings were contained in a fixed fee, it was right to make some reduction to reflect this. The Tribunal deducted the equivalent of 60 hours, which worked out at £5,415, with £1,083 deducted from the VAT.

58. The Tribunal noted that the investigation costs seemed high in relation to 'information review' (79.50 hours) and 'report preparation' (98.30 hours). The total hours of those matters alone was almost 178 hours, which was the equivalent of more than 22 working days (assuming an 8-hour day). There was no justification for this amount of time having been spent and the Tribunal reduced this total by 50 hours, which worked out at £4,700.

59. The total costs were therefore reduced to £74,429.02. In the absence of a statement of means there was no basis to reduce this further. The Tribunal therefore made the costs order in that sum.

Statement of Full Order

60. The Tribunal Ordered that the Respondent, KAREN NICHOLSON, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £74,429.02.

Dated this 3rd day of November 2023
On behalf of the Tribunal

L Boyce

L Boyce
Chair