

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12361-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

GARY JONATHAN GLOVER

Respondent

Before:

Mr A N Spooner (in the chair)

Ms A E Banks

Mr P Hurley

Date of Hearing: 6 October 2022

Appearances

There were no appearances as the matter was considered on the papers.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against Mr Glover were set out in a Rule 12 Statement dated 8 August 2022 and were that whilst working as a solicitor and manager at Garner Canning Ltd (“the Firm”), he:
 - 1.1 Following a complaint submitted on behalf of Client C and Client D on 28 May 2019, failed to provide a prompt response and in doing so breached any or all of Outcome 1.11 of the SRA Code of Conduct 2011 (“the 2011 Code”) and Principles 4 and 5 of the SRA Principles 2011 (“the 2011 Principles”).
 - 1.2 Failed to co-operate fully with the Legal Ombudsman, in that he failed to comply with the following requests or failed to provide an explanation for non-compliance:
 - 1.2.1. A 21 November 2019 request for a response in relation to a complaint from Client G;
 - 1.2.2. A 10 December 2019 request for a response in relation to a complaint from Client G;
 - 1.2.3. A 25 November 2020 request for payment in relation to the complaint submitted on behalf of Client C and Client D;
 - 1.2.4. A 15 December 2020 request for payment in relation to the complaint submitted on behalf of Client C and Client D;
 - 1.2.5. An 8 February 2021 request for a response in relation to a complaint from Client A; and
 - 1.2.6. A 23 February 2021 request for a response in relation to a complaint from Client A;

and in doing so breached any or all of:

Pre-25 November 2019

Outcome 10.6 of the 2011 Code and Principles 6 and 7 of the 2011 Principles;

Post-25 November 2019

Paragraph 7.3 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 (“the 2019 Code”) and Principle 2 of the SRA Principles 2019 (“the 2019 Principles”).

Admissions

3. Mr Glover admitted the above allegations.

Documents

4. The Tribunal considered all the documents contained within an electronic bundle prepared and agreed by the parties.

Background

5. Mr Glover was admitted to the Roll of Solicitors in January 2002. At the time of the misconduct, he was working at the Firm. He began working at the Firm in August 2014 and became a director in February 2018. He practised within the Firm's residential and commercial property department and managed other fee earners within the department. He was also the Firm's Money Laundering Reporting Officer and was the Complaints Partner at the Firm from Summer 2018 until 2021. He holds a Practising Certificate, free from restrictions.

Application for the matter to be resolved by way of Agreed Outcome

6. The parties invited the Tribunal to deal with the allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.
7. The proposed sanction was that Mr Glover be fined £4,000.

Findings of Fact and Law

8. The SRA was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with Mr Glover's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
10. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the admissions were properly made.
11. The Tribunal considered the Guidance Note on Sanction (10th Edition/June 2022) ("the Sanctions Guidance"). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
12. Mr Glover had failed to deal with complaints as he should. The operation of reliable and timely complaints system is an important element of practice. The further, repeated, failures to cooperate with the Legal Ombudsman risked bringing the profession into disrepute and undermining public confidence. Various clients had been affected by the extended failures to progress their complaints adequately and to respond to the Legal Ombudsman's requests. The Panel noted that Mr Glover was not the source of the various complaints and that he had resolved various other complaints on behalf of the Firm. The Panel noted that full admissions had been made, very promptly.
13. In all the circumstances the Tribunal considered that the proposed fine of £4,000, falling within Level 2 of the Indicative Fine Bands in the Sanctions Guidance (suitable for conduct assessed as "moderately serious") was appropriate.
14. The Tribunal, having determined that the proposed sanction was appropriate and proportionate, granted the application for matters to be resolved by way of the Agreed Outcome.

Costs

15. The parties had initially proposed that Mr Glover should pay the SRA's costs of these proceedings fixed in the sum of £17,000.
16. Given the full and early admissions, the limited scope of the allegations, and the fact that the proceedings were not document heavy or complex, the Tribunal considered, on the information submitted by the parties, that a costs figure of £10,000 would be reasonable and proportionate. The parties were invited to consider that indication and to make further submissions if either party wished to invite the Tribunal to consider awarding the originally proposed figure of £17,000.
17. Both parties indicated their agreement to the £10,000 figure and a revised proposal containing this agreed sum was submitted. The Tribunal ordered that Mr Glover pay the costs in the agreed amount.

Statement of Full Order

18. The Tribunal ORDERED that the Respondent, GARY JONATHAN GLOVER, solicitor, do pay a fine of £4,000, such penalty to be forfeit to His Majesty the King, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.

Dated this 13th day of October 2022

On behalf of the Tribunal



A N Spooner
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
13 OCT 2022

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL Case No. 12361-2022
IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)
B E T W E E N:**

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

GARY JONATHAN GLOVER

Respondent

AGREED STATEMENT OF FACTS AND OUTCOME

Introduction

By a statement made by Hannah Pilkington on behalf of the Applicant, the Solicitors Regulation Authority Limited (“the SRA”) pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 8 August 2022, the SRA brings proceedings before the Tribunal making allegations of misconduct against the Respondent. Definitions and abbreviations used herein are those set out in the Rule 12 Statement.

Admissions

1. The Respondent, Gary Jonathan Glover, makes the following Admissions: that, whilst working as a solicitor and manager at Garner Canning Ltd (“the Firm”), he:
 - 1.1. Following a complaint submitted on behalf of Client C and Client D on 28 May 2019, failed to provide a prompt response;

and in doing so breached any or all of Outcome 1.11 of the SRA Code of Conduct 2011 (“the 2011 Code”) and Principles 4 and 5 of the SRA Principles 2011 (“the 2011 Principles”).

1.2. Failed to co-operate fully with the Legal Ombudsman, in that he failed to comply with the following requests or failed to provide an explanation for non-compliance:

1.2.1. A 21 November 2019 request for a response in relation to a complaint from Client G;

1.2.2. A 10 December 2019 request for a response in relation to a complaint from Client G;

1.2.3. A 25 November 2020 request for payment in relation to the complaint submitted on behalf of Client C and Client D;

1.2.4. A 15 December 2020 request for payment in relation to the complaint submitted on behalf of Client C and Client D;

1.2.5. An 8 February 2021 request for a response in relation to a complaint from Client A; and

1.2.6. A 23 February 2021 request for a response in relation to a complaint from Client A;

and in doing so breached any or all of:

Pre-25 November 2019

Outcome 10.6 of the 2011 Code and Principles 6 and 7 of the 2011 Principles;

Post-25 November 2019

Paragraph 7.3 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 (“the 2019 Code”) and Principle 2 of the SRA Principles 2019 (“the 2019 Principles”).

Background Summary

2. The Respondent is a solicitor (SRA ID: 352144), who was admitted to the Roll on 15 January 2002. At the time of the misconduct, the Respondent was working at the Firm (SRA ID: 466701).

3. The Respondent commenced work at the Firm on 1 August 2014, before becoming a director of the Firm on 2 February 2018. He practised within the Firm’s residential and commercial property department, and managed the work of other fee earners within

the department. The Respondent was also registered as the Firm's Money Laundering Reporting Officer ("MLRO").

4. The Respondent agrees that he was the Complaints Partner at the Firm from Summer 2018 until 2021. The Firm's Complaints Procedure confirmed that the Respondent was the Firm's Complaints Partner.
5. The Respondent currently holds a Practising Certificate, free from restrictions.
6. The Firm's fee income was split across the following three areas:
 - 6.1 Commercial and residential property – 65-70%;
 - 6.2 Private client – 20%; and
 - 6.3 Family – 10%.
7. The Admissions the Respondent makes arise from a series of incidents in which he failed when acting as Complaints Partner to respond to a complaint from a client and/or co-operate with a subsequent investigation by the Legal Ombudsman ("LeO").

Agreed Facts

8. These matters came to the attention of the SRA through two separate means: (i) during a Forensic Investigation into the Firm, which commenced in December 2019 as a result of an Accountant's Report, dated 31 October 2019; and (ii) referrals from the LeO as a result of failing to co-operate with either their investigations or to comply with their decisions.

Admission 1.1 – Failing to respond to complaints on behalf of Clients C and D

9. In January 2017, the Firm were instructed by Client C and Client D in relation to a dispute over a parking space at Property F.
10. Person E subsequently complained to the Firm on behalf of Clients C and D on 28 May 2019. This complaint was sent direct to the Respondent. As can be seen from the e-mail exchange between Person E and the Respondent on 13 May 2019, this complaint was directed towards the Respondent due to information published on the Firm's website.
11. The Respondent sent an acknowledgement of this 28 May 2019 complaint on 29 May 2019.

12. Person E's 5 March 2020 e-mail to the LeO, which attached a copy of the 28 May 2019 complaint, asserted that:
 - 12.1 Following the acknowledgement e-mail of 29 May 2019, the Respondent was chased for a response; and
 - 12.2 That chasing e-mail elicited an apology and an explanation for the delay, but no substantive response was ever received.
13. It can be reasonably inferred that this chase for a response (referred to at paragraph 13.1 above) was the 12 August 2019 e-mail identified in the LeO's Decisions, as referenced in paragraphs 18 and 19 below.
14. Following the escalation of this matter to the LeO, LeO sent a letter to the Respondent on 24 March 2020.
15. The Respondent entered into correspondence with the LeO in relation to the complaint that had been raised on behalf of Clients C and D; the 1 June 2020 e-mail from the Respondent to the LeO serves as an example of this.
16. On 12 June 2020, the Respondent e-mailed the LeO and made the following points:
 - 16.1 He had discussed the complaint with the relevant fee earner who had conduct of the case;
 - 16.2 He had formulated a response; and
 - 16.3 The response had never been sent as the Respondent did not have access to the original case file.
17. On 14 October 2020, the LeO circulated the Case Decision in relation to this complaint. The following points were made in this Decision:

"I have seen that [Client C] sent the firm his complaint on 28 May 2019, and that the firm acknowledged this the following day. I have also seen [Client C]'s chaser email to the firm on 12 August 2019 and note that no response has been provided. From the firm's response to us, it is clear that they had some answers prepared to send to [Client C], however these were not sent..."
18. The Firm did not accept the Case Decision from the LeO, and so the matter was passed on for a Final Decision. A Final Decision was issued by the LeO on 24 November 2020. The Final Decision repeated some of the points made in relation to the lack of response to the complaints that had been submitted on behalf of Client C:

“The Case Decision found that [Client C] made a complaint to the firm on 28 May 2019, the firm acknowledged it the following day; however they failed to send a proper response.

[Client C] sent a further email on 12 August 2019, seeking a response from the firm, yet the firm still did not respond.

I have not been provided with any evidence to suggest the firm did respond or make attempts to address [Client C]’s complaint”.

19. The Firm’s own Complaints Procedure sets out the following timetable for the handling of a complaint:
 - 19.1 Acknowledgement of receipt of complaint would be sent within three working days;
 - 19.2 Within two working days, a request would be made of the person who had acted for the complainant to provide a response to the complaint within five working days; and
 - 19.3 Within twenty-one working days of receipt of that response and the file, a response would be sent to the complainant.

Admission 1.2 – Failing to co-operate with the LeO

Admissions 1.2.1 and 1.2.2 – Client G

20. Client G instructed the Firm to assist in the purchasing of Property H. This matter was completed on 17 November 2017. Client G subsequently raised a complaint with the LeO in relation to the standard of service that he received.
21. The LeO sent both an e-mail and a letter direct to the Respondent on 21 November 2019. This document requested a response by 28 November 2019.
22. A further e-mail and letter were sent to the Respondent on 10 December 2019. This letter indicated that unless a response was received by 13 December 2019, the LeO would make a referral to the SRA for a failure to co-operate.

23. On 13 January 2020, the LeO e-mailed the Respondent, confirming that as a response had still not been received in relation to the request initially sent on 21 November 2019, a referral would be made to the SRA.
24. On 24 January 2020, the Respondent replied to the LeO's letter of 10 December 2019, indicating that a substantive response would be forthcoming by 7 February 2020. No such response was forthcoming from the Respondent, as evidenced by the wording of the LeO's 14 February 2020 e-mail to Client G.
25. In the course of the 13 August 2020 interview with the FIO, the issue of Client G's complaint was raised. The FIO referred the Respondent to the fact that a referral had been received from the LeO, and on two separate occasions during the interview, the Respondent stated that he could not recall the matter:

"I, I actually don't remember..."

"I don't, I genuinely don't recall this one"

Admissions 1.2.3 and 1.2.4 – Clients C and D

26. Following the 14 November 2020 Final Decision from the LeO in relation to the complaint submitted on behalf of Clients C and D (see paragraph 22 above), the LeO wrote to the Respondent on 25 November 2020, indicating that the Firm were required to pay £9,288.87 by 9 December 2020.
27. On 15 December 2020, the LeO wrote again to the Respondent, indicating that the request made on 25 November 2020 had not been complied with. The 15 December 2020 letter then requested compliance with the Final Decision by 22 December 2020.
28. Enquiries with the LeO made by the SRA on 8 March 2021 confirmed that this sum of money was still outstanding.

Admissions 1.2.5 and 1.2.6 – Client A

29. Client A instructed the Firm to act for her during her purchase of Property B. She subsequently complained to the Firm about the service she received, before escalating her complaint to the LeO.
30. On 17 December 2020, the LeO wrote to the Respondent, indicating that an investigation was being conducted in relation to complaints raised by Client A.
31. On 8 February 2021, the LeO sent both an e-mail and a letter to the Respondent, setting out the nature of Client A's complaint, and requesting a response by 22 February 2021.
32. On 23 February 2021, the LeO again sent both an e-mail and a letter to the Respondent. This 23 February 2021 letter confirmed that there had been no response to the 8 February 2021 letter, and requested a response by 2 March 2021. It was made clear in that letter that a failure to co-operate could lead to a referral to the SRA.
33. The LeO did not receive a response by 2 March 2021, but instead received an e-mail from the Firm's COLP and Managing Director on 9 March 2021.

Mitigation

34. It is recognised that the Respondent has fully engaged with the Applicant and its investigation, and has made admissions.
35. The following mitigation is put forward by the Respondent but is not necessarily endorsed by the SRA:
 - 35.1 The Respondent was frank in interview as to his failings, which shows insight into his error;
 - 35.2 The risk of repetition or further harm to the public or the reputation of the profession is nil, both by virtue of the position he now holds and the lessons he has learnt from this case. He is now employed as a solicitor with a new firm and has no managerial functions, or responsibility for complaints handling. It is very much his intention that should remain the case. The new firm is a much larger entity, is better resourced and he works solely as a fee earner;

- 35.3 There is nothing in the papers which calls into question the Respondent's competence as a solicitor;
- 35.4 The Respondent took on the role of complaints handling from the senior partner to allow him to concentrate upon the clearly much needed attention upon the state of the accounts and the financial shape of the firm. The Respondent was not the source of the complaints, had a full fee earning load and was swamped by what he faced. To his credit he did not put his head in the sand and ignore everything, instead he strove to meet the challenge but could not in all cases, hence the admissions. Many matters were dealt with and resolved. The Respondent accepts his responsibility but it must be seen in the context of the state of the firm, which was not of his doing and it's financial state which impinged upon the resources, both as to finance and time that were available. The Respondent worked quite excessive hours to try to address the problems. That is indicative of the seriousness with which he viewed his responsibilities.

Penalties proposed

36. The Respondent agrees:
- 36.1 To pay a financial penalty in the sum of £4,000.00; and
 - 36.2 To pay costs to the SRA agreed in the sum of £10,000.00.
37. The sanctions outlined above are considered to be in accordance with the Tribunal's *Guidance Note on Sanctions* (10th edition) taking into account the guidance set out in *Fuglers and Others v Solicitors Regulation Authority* [2014] EWHC 179 (as per Popplewell J) and as set out in the Guidance at paragraph 8. Reference is made to the points of mitigation raised by the Respondent above at paragraph 34.
38. The misconduct giving rise to the allegations is moderately serious.
39. This assessment takes into account that the level of the Respondent's culpability in respect of the allegations above is moderately serious. The Respondent was a director of the Firm and was the Firm's complaints handler. As such he was in direct control of and had responsibility for the complaints detailed in the allegation. The Respondent was an experienced solicitor. It appears that the Respondent had dealt with a number of other complaints as complaints handler, and as such the misconduct does not appear to have been an active act of planned misconduct but rather a case of failure to deal with complaints due in part to pressures of work and the number of complaints.

The Respondent did not act in breach of a position of trust and did not deliberately or otherwise mislead the SRA.

40. In terms of the harm caused, the admitted failures and breaches of the Code and Principles:

- 40.1 Delayed or prevented Clients A, C, D and G from obtaining a resolution of complaints under the Firm's Complaints Policy. This had an impact on those individuals directly, as well as an impact on the reputation of the profession; and
- 40.2 Frustrated the Legal Ombudsman in carrying out its function. This had an impact on the reputation of the profession;

And this harm could reasonably have been foreseen by the Respondent as a result of the misconduct.

41. As to the principal factors which aggravate the seriousness of the misconduct:

- 41.1 The misconduct, particularly that in relation to allegation 1.2 did take place over a considerable period of time, the allegations and admitted conduct spanning the period of May 2019 until February 2021;
- 41.2 The Respondent ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession.

42. The Tribunal is referred to the factors raised in mitigation by the Respondent above. Factors that mitigate the seriousness of the misconduct are acknowledged to include:

- 42.1 The Respondent has made open and frank admissions, indicated genuine insight, and has cooperated fully with the SRA;
- 42.2 There is no allegation of the Respondent acting with a lack of integrity or dishonesty.

43. The Parties consider that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter which is in the public interest.

Signed:

Gary Jonathan Glover

Dated:

Signed:

Hannah Pilkington, Solicitor, of Capsticks Solicitors LLP
On behalf of the Solicitors Regulation Authority Limited

Dated:

6 October 2022