

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12447-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

MARK PITTAWAY

Respondent

Before:

Ms B Forde (in the Chair)

Ms F Kyriacou

Mr P Hurley

Date of Hearing: 27 March 2023

Appearances

There were no appearances as the matter was dealt with on the papers.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegation against the Respondent, Mark Pittaway, made by the SRA was that, while in practice as a Solicitor and Manager at Thursfields Legal Limited (“the Firm”):
 - 1.1 Between 1 January 2018 and 3 May 2021, he intentionally exposed his genitals intending that someone would see them and be caused alarm or distress, resulting in:
 - a) His conviction on 29 March 2022 for five offences contrary to section 66 of the Sexual Offences Act 2003 at the West Dorset Magistrates’ Court; and
 - b) Him being sentenced on 28 April 2022 to a total of 12 months imprisonment suspended for 24 months, with conditions of:
 - supervision for 24 months; a curfew requirement with electronic monitoring for 12 weeks daily between 9pm and 9am;
 - a rehabilitation activity requirement of up to 20 days;
 - 250 hours unpaid work to be completed within 12 months; and
 - a Sexual Harm Prevention Order (“SHPO”) for 10 years.

By reason of his commission of the index offence and conviction he thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011, so far as the conduct predated 25 November 2019 and Principles 2 and 5 of the SRA Principles 2019, so far as the conduct occurred on or after 25 November 2019.

2. Mr Pittaway admitted the allegation in the Rule 12 statement, and further admitted that his conduct breached the SRA’s Standards and Regulations.

Documents

3. The Tribunal considered the documents submitted in support of the application for an Agreed Outcome which were contained within an electronic hearing bundle agreed by the parties.

Background and Factual Summary

4. The Respondent was admitted to the Roll on 1 November 1986.
5. At the time of the misconduct he was a solicitor and manager at the Firm, and held the roles of Compliance Officer for Legal Practice (“COLP”) and Money Laundering Compliance Officer (“MLCO”). He held a Practising Certificate (“PC”) free from conditions at the time of the misconduct. He does not currently hold a PC.
6. The misconduct came to the attention of the SRA on 25 October 2021 when Mr Pittaway made a self-report to the SRA in which he advised that, *“Last Thursday I was charged with offences, all of which I deny, but which are likely to become public knowledge at some stage whereby both the reputation of my firm and that of the*

profession might be harmed. They are not fraud or dishonesty related but may attract media attention nonetheless.”

7. Mr Pittaway sent a further, more detailed report to the SRA, on 31 October 2021, in which he stated that he had been charged with five offences of indecent exposure on various occasions dating back to 2018.
8. The further report set out that the allegations related to incidents of indecent exposure whilst he was out running in the Portland area of Dorset. He advised that the evidence included CCTV and eyewitness evidence from school age girls. He denied the allegations, stating that he was a seasoned runner in the area and that if any exposure had occurred whilst he had been out running it was purely accidental and as a result of the length of his shorts.
9. He stated that having viewed some of the CCTV he conceded that his genitals were on display but that he had not appreciated that at the time and that he must have hitched his shorts up to scratch his groin area.
10. On 5 November 2021, the Firm wrote to the SRA to report that Mr Pittaway had notified them that he had been charged with the offences.
11. The Firm advised that Mr Pittaway had been formally suspended from his employment pending a disciplinary investigation.
12. On 29 March 2022, Mr Pittaway was convicted after trial at the West Dorset Magistrates’ Court of all five charges and sentenced as set out above.

Application for witness anonymity

13. The Applicant applied for an order to Rule 35(9) of the Solicitors (Disciplinary Proceedings) Rules 2019, prohibiting disclosure or publication of any matter likely to lead to the identification of the two victims of Mr Pittaway’s conduct.
14. The two witnesses were school aged victims of sexual offences. Largely, as a result of their evidence, Mr Pittaway was convicted.
15. In the Applicant’s submission an anonymity order was necessary to protect the confidentiality of the two innocent third parties, who may be affected by disclosure of information which they would, legitimately have considered remaining confidential.
16. The Applicant considered that an order would be in the public interest.

The Tribunal’s Decision

17. The application was granted. The Tribunal adopted the Applicant’s reasoning. It was clearly in the public interest for teenage witnesses who had been given anonymity in the criminal courts to retain anonymity in proceedings before the Tribunal. Their identities were not material to the fact of Mr Pittaway’s conviction or the Tribunal’s decision making in his case.

18. The Tribunal directed therefore that pursuant to Rule 35(9) of the Solicitors (Disciplinary Proceedings) Rules 2019 Rules the publication of any matter likely to lead to the identification of any of the witnesses be strictly prohibited.

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

19. 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 (10th Edition/June 2022) ("the Sanctions Guidance").
20. The proposed sanction was that Mr Pittaway be struck off the Roll.

Findings of Fact and Law

21. The Applicant was required to prove the allegation on the balance of probabilities. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
22. The Tribunal reviewed all the material before it and the Tribunal was satisfied on the balance of probabilities that Mr Pittaway's admissions were properly made with respect to the allegation.
23. Having regard to the seriousness of the admitted misconduct the Tribunal was satisfied with the sanction proposed by the parties which it considered was appropriate and proportionate to protect public confidence in the profession and to protect the public against the risk of further harm.
24. Mr Pittaway's admitted conduct had been disgraceful and totally unbecoming of a member of the solicitors' profession. Mr Pittaway did not provide any mitigation.
25. This was not a case in which Mr Pittaway's behaviour had little or no nexus with his professional life. His criminal conviction was of a degree and nature entirely incompatible with maintaining the reputation of the profession in the eyes of the public. The serious circumstances of this case required no lesser sanction than strike off.

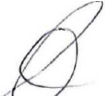
Costs

26. The parties agreed that the Respondent should pay the Applicant's costs of this matter in the sum of £2,850.00.

Statement of Full Order

27. The Tribunal Ordered that the Respondent, MARK PITTAWAY, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the agreed sum of £2,850.00.

Dated this 5th day of April 2023
On behalf of the Tribunal



B Forde
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
05 APR 2023

**IN THE SOLICITORS DISCIPLINARY TRIBUNAL
IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)
AND THE MATTER OF:**

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

MARK PITTAWAY

Respondent

STATEMENT OF AGREED FACTS AND OUTCOME

Introduction

1. By statement made by Hannah Victoria Lane, on behalf of the Solicitors Regulation Authority Limited (the "SRA"), pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019, the SRA brought proceedings before the Tribunal making allegations of professional misconduct against the Respondent.
2. The Respondent admits the allegation in the Rule 12 statement, and further admits that his conduct breached the SRA's Standards and Regulations.
3. The proposed outcome in this matter is that the Respondent:
 - i. be Struck Off the Roll of solicitors; and
 - ii. do pay costs in the sum of £2,850.00 inclusive of VAT.
4. This document is intended to assist the Tribunal in understanding the facts and the proposed outcome, as agreed between the parties.
5. The page references in this document refer to exhibit HVL1 to the Rule 12. The anonymised names in this document are set out in Appendix 2 to the Rule 12.

Allegation

6. The allegation against the Respondent, Mark Pittaway, made by the SRA is that, while in practice as a Solicitor and Manager at Thursfields Legal Limited (“the Firm”):

1.1 Between 1 January 2018 and 3 May 2021, he intentionally exposed his genitals intending that someone would see them and be caused alarm or distress, resulting in:

a) His conviction on 29 March 2022 for five offences contrary to section 66 of the Sexual Offences Act 2003 at the West Dorset Magistrates’ Court; and

b) Him being sentenced on 28 April 2022 to a total of 12 months imprisonment suspended for 24 months, with conditions of: supervision for 24 months; a curfew requirement with electronic monitoring for 12 weeks daily between 9pm and 9am; a rehabilitation activity requirement of up to 20 days; 250 hours unpaid work to be completed within 12 months; and a Sexual Harm Prevention Order (“SHPO”) for 10 years.

and in doing so he thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011, so far as the conduct pre dated 25 November 2019 and Principles 2 and 5 of the SRA Principles, so far as the conduct occurred on or after 25 November 2019.

Section 66 of the Sexual Offences Act 2003

7. Section 66 of the Sexual Offences Act 2003 states,

(1) “A person commits an offence if—

(a) he intentionally exposes his genitals, and

(b) he intends that someone will see them and be caused alarm or distress.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.”

Agreed Facts

8. The Respondent was admitted to the Roll on 1 November 1986.
9. At the time of the misconduct the Respondent was a solicitor and manager at the Firm, and held the roles of Compliance Officer for Legal Practice (“COLP”) and Money Laundering Compliance Officer (“MLCO”).
10. The Respondent held a Practising Certificate (“PC”) free from conditions at the time of the misconduct. He does not currently hold a PC.
11. The misconduct in this matter came to the attention of the SRA on 25 October 2021 when the Respondent made a self-report to the SRA in which he advised that,

“Last Thursday I was charged with offences, all of which I deny, but which are likely to become public knowledge at some stage whereby both the reputation of my firm and that of the profession might be harmed. They are not fraud or dishonesty related but may attract media attention nonetheless.”
12. The Respondent sent a further, more detailed report to the SRA, on 31 October 2021, in which he stated that he had been charged with five offences of indecent exposure on various occasions dating back to 2018.
13. The further report set out that the allegations related to incidents of indecent exposure whilst the Respondent was out running in the Portland area of Dorset. He advised that the evidence included CCTV and eye witness evidence from school age girls. The Respondent denied the allegations, stating that he was a seasoned runner in the area and that if any exposure had occurred whilst he had been out running it was purely accidental and as a result of the length of his shorts. He stated that having viewed some of the CCTV he conceded that his genitals were on display but that he had not appreciated that at the time and that he must have hitched his shorts up to scratch his groin area.
14. On 5 November 2021, the Firm wrote to the SRA to report that the Respondent had notified them that he had been charged with the offences. The Firm advised that the Respondent had been formally suspended from his employment pending a disciplinary investigation.
15. On 29 March 2022, the Respondent was convicted after trial at the West Dorset Magistrates’ Court of all five charges.
16. On 28 April 2022, the Respondent was sentenced to a total of 12 months imprisonment suspended for 24 months with the following conditions attached:
 - a) 24 months supervision;
 - b) 12 week electronically monitored curfew, daily between 9pm and 9am;
 - c) Up to 20 days rehabilitation activity requirement;
 - d) 250 hours unpaid work.

17. The Respondent was also made subject to a SHPO for a period of five years, with the following conditions which prohibited him from:
- a) Exercising in a public place (including outdoors or in a gym setting) unless he wears trousers or shorts that are no shorter than knee length and that have no front fastenings (e.g. no zip, buttons or Velcro)
 - b) Running or jogging from Monday to Friday between the hours of 0700-0900 or 1430-1630 hours, or at any time within sight of any school premises.
 - c) Running or jogging in Easton or Weston area of Portland, Dorset.
18. On 11 May 2022, the sentence was reopened and the length of the SHPO was amended to ten years.
19. As a result of his conviction, the Respondent is subject to the mandatory notification requirements for a period of 10 years.
20. Four eye witnesses gave evidence at trial, three of whom had identified the Respondent in an identification procedure.
21. Person A provided a victim impact statement in which she stated that,
- “Nearly everyday for two years, this man would flash his genitals to me. I was in school. Walking to and from school. It was horrible. I would go to school scared and frightened of what will happen to me. I thought he would've raped me or done stuff to me. I have never been so scared in my life. It has degraded me as a woman and I felt targeted. When it first happened I was fourteen years old. I was a child. No girl should ever go through that. It made me so upset and scared I couldn't walk to school.... I now suffer PTSD from this and I always will.”*
22. Person B provided a victim impact statement in which she stated that,
- “This incident left me feeling so uncomfortable going into school. It got to the point that I would always make sure I was with someone or get a lift....I would think about the other children who must have seen this. There must have been so many children. I felt scared about seeing him.”*
23. When sentencing the Respondent the Chair of the bench stated that the impact of his offending had been “immense”. The bench found that the location and timing of the offences was deliberate and that the Respondent was “deliberating targeting vulnerable female victims.”

Admissions

24. The Respondent admits that acting with integrity is integral to a regulated person and ought to reflect the way they conduct their behaviour both within and outside of their profession.

25. The Respondent admits that having been convicted of offences of indecent exposure he has failed to act with integrity and has thereby breached Principles 2 and 5 of the SRA Principles 2011 and 2019 respectively.

26. The Respondent also admits that his convictions undermined public trust in him as a solicitor and in the profession, thereby breaching Principles 6 and 2 of the SRA Principles 2011 and 2019 respectively.

Mitigation

27. The following points are advanced by way of mitigation on behalf of the Respondent but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:

- a) The Respondent admits that, having been convicted of the offences after having pleaded not guilty to them, there is nothing that he can usefully say by way of mitigation.

Agreed Outcome

28. The Respondent agrees:

- a) to be struck off the Roll of Solicitors; and
- b) to pay costs to the SRA in the agreed sum of £2,850 inclusive of VAT.

29. The parties submit that the proposed outcome represents the appropriate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanctions 10th Edition.

30. The Tribunal's Guidance Note on Sanctions 10th Edition sets out the approach to sanction, which starts with establishing the seriousness of the misconduct. Seriousness is assessed by considering culpability and harm.

31. The parties agree that the culpability of the Respondent is high, on the basis that the Court found that:

- a) The misconduct was planned;
- b) The Respondent had direct control over his actions;
- c) The Respondent was a Manager and held further positions of responsibility within the Firm.

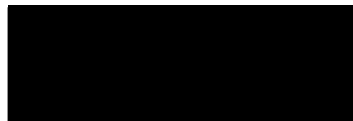
32. In terms of harm, the impact of the misconduct is set out in the victim impact statements referred to at paragraphs 20 and 21 above. It is impossible to know the true impact but the parties agree that the level of harm in this matter is severe.

33. The Respondent's misconduct is aggravated by the finding of the length of time over which the misconduct was found to have occurred, by the finding that young girls were targeted, and by the Respondent's lack of insight into his conduct.

34. There are no mitigating features of the misconduct.

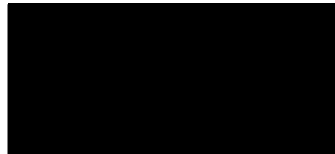
35. Protection of the public and maintaining the reputation of the profession are both key factors in determining the appropriate sanction¹.
36. The length of any criminal sentence is a relevant consideration in determining the seriousness of the misconduct and the appropriate sanction². In this case, the Respondent received a custodial sentence suspended for two years and a ten year SHPO, which reflects the Court's view of the risk posed by the Respondent to the public.
37. In light of the Court's findings about the seriousness of the Respondent's conduct, involving the commission of sexual offences targeting young females over a period of three years, resulting in a sentence of suspended imprisonment and a ten year SHPO, the parties agree that in order to protect the public and maintain the reputation of the profession, no lesser sanction than a Striking off the Roll is appropriate.
38. In the circumstances, it is submitted that the proposed outcome is the appropriate outcome in this case.

Signed by the Respondent:



Date: 02/03/2023

Signed for and on behalf of the Applicant:



Date: 20 March 2023

¹ *Solicitors Regulation Authority v Main* [2018] EWHC 3666 (Admin)

² *Solicitors Regulation Authority v Main* [2018] EWHC 3666 (Admin); *Council for the Regulation of Health Care Professionals v General Dental Council* [2005] EWHC 87 (QB)