

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12466-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

RESPONDENT AH

Respondent

Before:

Miss H Dobson (in the Chair)

Ms B Patel

Ms J Rowe

Date of Hearing: 07 September 2023

Appearances

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

Kirsten Sjøvoll, barrister, Matrix Chambers, Griffin Building, Gray's Inn, London WC1R 5LN, for the Respondent.

JUDGMENT ON AN AGREED OUTCOME

Note: The judgment has been anonymised to protect the rights under Article 8 of the European Convention for the Protection of Human Rights of the Respondent's ex-wife and his children.

Allegations

1. By its application dated 5 June 2023 and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Ltd ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making five allegations of misconduct against AH ("the Respondent") as follows; the allegations against the Respondent made by the SRA within that statement were that:
 - 1.1 between 11 January 2009 and 14 May 2019, the Respondent made 1379 still category A indecent photographs of children, contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978 and in doing so breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 and/or Principles 2 and 6 of the SRA Principles 2011.
 - 1.2 between 1 January 2019 and 22 January 2019, the Respondent intentionally arranged an act which he intended to do or intended another to do, the doing of which would involve the commission of an offence, under any of sections 9 to 13 of the Sexual Offences Act 2003, namely sexual activity with a child, contrary to section 9 of the Sexual Offences Act 2003, in that he discussed meeting with "Kev" and "Chris" for the purpose of engaging in sexual activity with an 8 year old girl and in doing so breached Principles 2 and 6 of the SRA Principles 2011.
 - 1.3 between 1 January 2019 and 22 January 2019, the Respondent intentionally facilitated an act which he intended to do or intended another to do, the doing of which would involve the commission of an offence, under any of sections 9 to 13 of the Sexual Offences Act 2003, namely sexual activity with a child, contrary to section 9 of the Sexual Offences Act 2003, in that he discussed meeting with "Kev" and "Chris" for the purpose of engaging in sexual activity with an 8 year old girl and in doing so breached Principles 2 and 6 of the SRA Principles 2011.
 - 1.4 between 11 January 2009 and 14 May 2019, the Respondent made 1673 still category B indecent photographs of children, contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978 and in doing so breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 and/or Principles 2 and 6 of the SRA Principles 2011.
 - 1.5 Between 11 January 2009 and 14 May 2019, the Respondent made 6,772 still category C indecent photographs of children, contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978 and in doing so breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 and/or Principles 2 and 6 of the SRA Principles 2011.

Documents

2. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit NG1 dated 2 June 2023
 - Statement of Agreed Facts and Outcome dated 16 August 2023

Background

3. The Respondent, was a solicitor having been admitted to the Roll of Solicitors on 1 September 2009. At the material time he was an associate solicitor at Herbert Smith Freehills LLP ("the Firm").
4. On 18 October 2021, following a guilty plea, the Respondent was convicted in the High Wycombe Magistrates Court of three offences of making indecent photographs of a child.
5. On 3 October 2022 after a trial in the Crown Court at Aylesbury, he was convicted of the offences of arranging the commission of a child sex offence and facilitating the commission of a child sex offence.
6. On 22 December 2022 in the Crown Court at Aylesbury, the Respondent was sentenced to a total of 19 months in prison in addition to ancillary orders. The custodial sentence was substituted to a suspended 19-month custodial sentence following a successful appeal against sentence on 28 March 2023.
7. The Respondent was also made subject to a Sexual Harm Prevention Order (SHPO) for a period of 10 years, placed on the sex offenders register for 10 years and placed on the barring list.

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

8. 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.

Findings of Fact and Law

9. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with 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.
10. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
11. The Tribunal considered the Guidance Note on Sanction (June 2022/10th Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
12. The Respondent raised the following matters in mitigation:
13. In the 4 years since his arrest, the Respondent made substantial and concerted efforts to ensure he was never again before the courts. He completed the Lucy Faithful

Foundation Course and has completed 92 sessions to date with an accredited StopSo therapist (at his own expense).

14. He has attended Sex Addicts Anonymous (SAA) meetings since June 2019 and organised and ran some of the meetings online during the Covid-19 pandemic lockdown. He also attempted to set up SAA meetings whilst in custody to help other inmates begin rehabilitation. He has developed insight into the triggers for his offending behaviour and shown genuine remorse. His GP records, following a mental health review state: he is "very insightful into his mental health in relation to previous trauma that he has experienced however he has undergone over a year of therapy for this".
15. The Respondent was previously of good character prior to these matters and has not offended since the indictment period, some four and-a-half years ago.
16. Notwithstanding the mitigation, the seriousness of the criminal offending spoke for itself. The Tribunal found that sanctions such as a Reprimand, Fine or Suspension did not adequately reflect the seriousness of the misconduct and the only appropriate and proportionate sanction was to strike the Respondent off the Roll of solicitors.
17. Accordingly, the Tribunal approved the sanction agreed by the parties.

Costs

18. The parties agreed that the Respondent would pay costs in the sum £4,002.00. The Tribunal determined that the agreed amount was reasonable and proportionate. Accordingly, the Tribunal ordered the Respondent to pay costs in the agreed sum.

Statement of Full Order

19. The Tribunal Ordered that Respondent AH be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,002.00.

Dated this 28th day of September 2023

On behalf of the Tribunal

H Dobson

H Dobson
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
28 SEPT 2023

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12456-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD Applicant

and

RESPONDENT AH Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 5 June 2023 and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Ltd ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making five allegations of misconduct against Respondent AH ("the Respondent").

The allegations

2. The allegations against Respondent AH made by the SRA within that statement were that: -
 - 2.1. "1.1 between 11 January 2009 and 14 May 2019, the Respondent made 1379 still category A indecent photographs of children, contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978 and in doing so breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 and/or Principles 2 and 6 of the SRA Principles 2011.
 - 2.2. "1.2 between 1 January 2019 and 22 January 2019, the Respondent intentionally arranged an act which he intended to do or intended another to do, the doing of which would involve the commission of an offence, under any of sections 9 to 13 of the Sexual Offences Act 2003, namely sexual activity with a child, contrary to section 9 of the Sexual Offences Act 2003, in that he discussed meeting with "Kev" and "Chris" for the purpose of engaging in sexual activity with an 8 year old girl and in doing so breached Principles 2 and 6 of the SRA Principles 2011.
 - 2.3. "1.3 between 1 January 2019 and 22 January 2019, the Respondent intentionally facilitated an act which he intended to do or intended another to do, the doing of which would involve the commission of an offence, under any of sections 9 to 13 of the Sexual Offences Act 2003, namely sexual activity with a child, contrary to

section 9 of the Sexual Offences Act 2003, in that he discussed meeting with “Kev” and “Chris” for the purpose of engaging in sexual activity with an 8 year old girl and in doing so breached Principles 2 and 6 of the SRA Principles 2011.

- 2.4. “1.4 between 11 January 2009 and 14 May 2019, the Respondent made 1673 still category B indecent photographs of children, contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978 and in doing so breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 and/or Principles 2 and 6 of the SRA Principles 2011.
- 2.5. “1.5 Between 11 January 2009 and 14 May 2019, the Respondent made 6,772 still category C indecent photographs of children, contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978 and in doing so breached Rules 1.02 and 1.06 of the Solicitors Code of Conduct 2007 and/or Principles 2 and 6 of the SRA Principles 2011.

Agreed Facts

3. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraph 2 of this statement, are agreed between the SRA and the Respondent.

Professional details

- 3.1. The Respondent, who was born on 1975 is a solicitor having been admitted to the Roll of Solicitors on 1 September 2009. At the material time he was an associate solicitor at Herbert Smith Freehills LLP (“the Firm”), Exchange House, Primrose Street, London, EC2A 2EG.
- 3.2. The Respondent remains on the Roll of Solicitors but does not have a current practising certificate. His last practising certificate expired in 2019 and was free from conditions.

Criminal proceedings

- 3.3. On 18 October 2021, following a guilty plea, the Respondent was convicted in the High Wycombe Magistrates Court of three offences of making indecent photographs of a child.
- 3.4. On 3 October 2022 after a trial in the Crown Court at Aylesbury, he was convicted of the offences of arranging the commission of a child sex offence and facilitating the commission of a child sex offence.
- 3.5. On 22 December 2022 in the Crown Court at Aylesbury, the Respondent was sentenced to a total of 19 months in prison in addition to ancillary orders. The custodial sentence was substituted to a suspended 19-month custodial sentence following a successful appeal against sentence on 28 March 2023.

- 3.6. The Respondent was also made subject to a Sexual Harm Prevention Order (SHPO) for a period of 10 years, placed on the sex offenders register for 10 years and placed on the barring list.

Non-Agreed Mitigation

4. 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: -
 - 4.1. Respondent AH has, in the 4 years since his arrest, made substantial and concerted efforts to ensure he was never again before the courts. He completed the Lucy Faithful Foundation Course and has completed 92 sessions to date with an accredited StopSo therapist (at his own expense).
 - 4.2. He has attended Sex Addicts Anonymous (SAA) meetings since June 2019 and organised and ran some of the meetings online during the Covid-19 pandemic lockdown. He also attempted to set up SAA meetings whilst in custody to help other inmates begin rehabilitation, having identified the few resources available at HMP Bullingdon to prevent future offending.
 - 4.3. He has worked very hard at maintaining an amicable relationship with his ex-wife and to maintain an enduring relationship with his two daughters.
 - 4.4. He has developed considerable insight into the triggers for his offending behaviour and shown genuine remorse. His GP records, following a mental health review state: he is "very insightful into his mental health in relation to previous trauma that he has experienced however he has undergone over a year of therapy for this".
 - 4.5. Respondent AH was previously of good character prior to these matters and has not offended since the indictment period, some four and-a-half years ago.

Penalty proposed

5. It is proposed that the Respondent should be struck off the Roll of Solicitors. With respect to costs, it is further agreed that the Respondent should pay the SRA's costs of this matter agreed in the sum of £4002.00.

Explanation as to why such an order would be in accordance with the Tribunal's sanctions guidance

6. 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.
7. 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. The parties agree that the culpability of the Respondent is high due to the presence of the following factors:
 - 7.1. The Respondent's misconduct was sexually motivated.

- 7.2. The Respondent's misconduct occurred over a long period of time; the 9,824 indecent images having been in the Respondent's possession over a 10-year period;
 - 7.3. The Respondent had direct control over his actions.
 - 7.4. In terms of harm, the Respondent's actions caused or are likely to cause significant harm to the victims of sexual abuse shown in the images. It is impossible to know the true impact to those victims however the parties agree that the level of harm is severe.
 - 7.5. The seriousness is aggravated as the Respondent knew or ought to reasonably have known that the misconduct was a material breach of the obligation to protect the public and the reputation of the legal profession.
8. Solicitors who commit serious criminal offences should not be permitted to remain on the Roll. As was said by Sir Brian Leveson, then the President of the Queen's Bench Division, in **Solicitors Regulation Authority v Farrimond [2018] EWHC 321 (Admin) at [34]** "...it is beyond argument that that a solicitor sentenced to any substantial term of imprisonment should not be permitted to remain on the Roll even if suspended indefinitely..."
9. The length of any criminal sentence is a relevant consideration in determining the seriousness of the misconduct and the appropriate sanction. In this case the Respondent received a substantial term of imprisonment, albeit that it was suspended on appeal, and the offences of which he was convicted were unquestionably serious. In addition, the Respondent was made subject to a 10-year SHPO which reflects the court's view of the risk posed by the Respondent to the public.
10. Protection of the public and maintaining the reputation of the profession are both key factors in determining the appropriate sanction.
11. In the circumstances, it is submitted that the proposed outcome is the appropriate outcome in this case.

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[NAME], *Head of Legal* upon behalf of the SRA

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[NAME]