

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12468-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

GARY ROBERT WILLIAMS

Respondent

Before:

Mrs C Evans (in the chair)

Mr B Forde

Mr A Lyon

Date of Hearing: 28 July 2023

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against Mr Williams made by the Solicitors Regulation Authority (“SRA”) were that, while in practice as a Partner at Osborne Morris and Morgan (“the Firm”):
 - 1.1 Between 2017 and 2019, he misled his client’s Litigation Friend that a Pre-Action Protocol Letter in respect of his client’s case had been sent, when he knew this not to be true. In doing so he breached any of all of Principles 2 and 6 of the SRA Principles 2011 (“the Principles”).
 - 1.2 Between 2014 and May 2019, he delayed and/or failed to take adequate steps to progress his client’s claim. In doing so he failed to achieve Outcome 1.5 of the SRA Code of Conduct 2011 (“the Code”) and/or breached any or all of Principles 4 and 6 of the Principles.
2. Allegation 1.1 was advanced on the basis that Mr Williams conduct was dishonest. Dishonesty was alleged as an aggravating feature of the misconduct but was not an essential ingredient in proving the allegation.
3. Mr Williams admitted the allegations including that his conduct was dishonest.

Documents

4. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit JG1 dated 13 June 2023
 - Respondent's Answer dated 16 July 2023
 - Statement of Agreed Facts and Proposed Outcome dated 27 July 2023

Background

5. Mr Williams was a solicitor having been admitted to the Roll in September 2002. He did not hold a current practising certificate. The SRA became aware of the matters following a report by the Firm to the SRA on 13 June 2019.

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.

Findings of Fact and Law

7. 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.

8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
9. The Tribunal considered the Guidance Note on Sanction (10th Edition/June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. Mr Williams had knowingly and deliberately misled his client's Litigation Friend for a significant period of time. Further, he had failed to progress the matter adequately. The Tribunal determined that as a result of the continued dishonesty, the only appropriate and proportionate sanction was to strike Mr Williams off the Roll of Solicitors. The Tribunal did not find (and indeed none were submitted) any exceptional circumstances such that striking Mr Williams off the Roll would be disproportionate. Accordingly, the Tribunal approved the parties proposed sanction of striking Mr Williams off the Roll.

Costs

10. The parties agreed costs in the sum of £5,175. The Tribunal determined that the agreed amount was reasonable and proportionate. Accordingly, the Tribunal ordered Mr Williams to pay costs in the agreed sum.

Statement of Full Order

11. The Tribunal Ordered that the Respondent, GARY ROBERT WILLIAMS, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,175.00.

Dated this 16th day of August 2023
On behalf of the Tribunal

C Evans

C Evans
Chair

JUDGMENT FILED BY THE LAW SOCIETY

16 AUG 2023

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL **Case No: 12468-2023**

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

GARY ROBERT WILLIAMS

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 13 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 two allegations of misconduct against Mr Gary Robert Williams.

The allegations

2. The allegations against Mr Williams, made by the SRA within that statement were that, while in practice as a Partner at Osborne Morris and Morgan ("the Firm"):

- 2.1 Between 2017 and 2019, he misled his client's Litigation Friend that a Pre-Action Protocol Letter in respect of his client's case had been sent, when he knew this not to be true.

In doing so he breached any or all of Principles 2, and 6 of the SRA Principles 2011 (“the Principles”).

2.2 Between 2014 and May 2019, he delayed and/or failed to take adequate steps to progress his clients claim. In doing so, he failed to achieve Outcome 1.5 of the SRA Code of Conduct 2011 and/or breached any or all of Principles 4 and 6 of the principles.

3. In addition, Allegation 1.1 is advanced on the basis that Mr Williams’ conduct was dishonest. Dishonesty is alleged as an aggravating feature of Mr Williams’ misconduct but is not an essential ingredient in proving the allegations.
4. Mr Williams admits each of these allegations. He also admits that his conduct in acting as alleged was dishonest.

Agreed Facts

5. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and the Respondent.
6. Mr Williams, who was born February 1978, is a solicitor having been admitted to the roll-on 16 September 2002.
7. He does not hold a practising certificate.
8. Mr Williams commenced work for the Firm on 4 September 2000, as a Trainee solicitor, and then was promoted to Partner on 1 April 2006, a position he held until 10 June 2019.

9. The conduct in this matter came to the attention of the SRA when the SRA received a report from Mr Tim Woolford, Managing Director of the Firm on 13 June 2019.
10. Mr Williams was instructed on the case in 2011, prior to this date the file was with another firm of solicitors who were originally instructed to act on it by the client. The instructions related to a clinical negligence claim against an NHS Trust. The client was assisted by her mother, who was her Litigation Friend (“the Litigation Friend”).
11. Mr Williams attended a meeting with Counsel on 16 December 2016 and a discussion took place as to the merits of the case. At the meeting, Counsel advised that there was sufficient merit in the case and that Mr Williams should proceed with a Pre-Action Protocol Letter.
12. On 20 December 2016, Mr Williams informed the Litigation Friend that he would write the Pre-Action Letter in the new year. However, he failed to write the letter until 20 May 2019.
13. During the period between the conference in December 2016 and the drafting of the pre-action protocol letter in May 2019, the Mr Williams delayed in progressing the case and informed the Litigation Friend that he had sent the pre-action protocol letter when had not done so. Despite being contacted by the Litigation Friend on numerous occasions over the course of 2017-2019, Mr Williams failed to return a number of her calls.
14. The Litigation Friend complained about delays in the case in 2018 and on 13 May 2019, she wrote to Mr Williams, expressing her disappointment in how her case had been handled.

15. The case was then transferred to Irwin Mitchell who requested the file on 21 May 2019.

16. Mr Williams reported his conduct to the Firm at a meeting with the senior partner (Mr David Turner) on Saturday 25 May 2019.

Non-Agreed Mitigation

17. During this period, Mr Williams was suffering from stress and depression and was finding it difficult to manage his case load and unable to cope with the emotional demands of his work representing families of deceased or severely injured clients. He was ashamed that he had not been able to progress the matter as quickly as he would have wanted for his client, and unable to think clearly or rationally. Mr Williams accepts that his actions severely let down one of those clients, for which he is deeply sorry.

Penalty proposed

18. It is therefore proposed that Mr Williams should be struck off the Roll of Solicitors.

19. With respect to costs, it is further agreed that Mr Williams should pay the SRA's costs of this matter agreed in the sum of £5,175.

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

20. By misleading his client's Litigation Friend over the course of a number of years that the pre-action letter had been drafted and sent, when it had not, Mr Williams failed to act with integrity. Acting with integrity would require Mr Williams to have advised the client's Litigation Friend that the letter of claim had not been drafted and sent and that he had delayed doing the same. A solicitor acting with integrity would not have misled

them into thinking that the letter had been sent. Mr Williams therefore breached Principle 2 of the SRA Principles 2011.

21. Mr Williams failed to behave in a way which maintains the trust placed by the public in them and in the provision of legal services. By misleading the Litigation Friend as to the drafting and sending of the pre-action protocol letter acted in a way which undermined the trust the public placed in him and in the provision of legal services. Mr Williams therefore breached Principle 6 of the SRA Principles 2011.

22. Mr Williams failed to act in the client's best interests in that he delayed and failed to adequately progress the client's matter. In particular he:

- Delayed in instructing an expert;
- Delayed over a period of some 2.5 years in sending a pre-action protocol letter;
- Sending an inadequate pre-action protocol letter;
- Delayed for some 6 months in instructing a doctor to assess the client.

Accordingly, Mr Williams has not acted in the best interests of each client and has breached Principle 4 of the Principles.

23. The client's case has potentially been adversely affected by Mr Williams conduct in that if it is successful, it is likely that it will be subject to costs deductions. The delay and the way it has been handled by Mr Williams is also likely to have had a negative emotional impact on the client and the Litigation Friend. The conduct breached Outcome 1.5, because Mr Williams did not handle the case competently and significantly delayed in the progress of it.

24. The parties consider and submit that in light of the admissions set out above and taking due account of the mitigation put forward by Mr Williams, the proposed outcome

represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanction (10th edition).

25. Mr Williams has admitted a number of Principle breaches including dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanctions" (10th edition), states that: "The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances. (see **Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)**)."

26. In Sharma [2010] EWHC 2022 (Admin) at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

"(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others..."

27. Applying the (objective) standards of ordinary decent people, they would regard a solicitor deliberately misleading his client over the course of some years as to the progress of their case as dishonest. At the time Mr Williams told the clients Litigation Friend that he had sent the pre action protocol letter to the defendants and was

awaiting a response, he knew that to be untrue as he had not drafted the letter and had not sent it, therefore no response was due. He knew that the Litigation Friend would be misled into believing that the letter had been sent. Mr Williams repeated the assertion to the Litigation Friend on more than one occasion over the course of several months, knowing that the Litigation Friend would be misled.

28. Mr Williams admits that his conduct was dishonest and does not assert that exceptional circumstances which might justify a departure from the inevitable consequence of striking off arise in this case.

29. The Applicant considers that, in the context of the admitted misconduct, an immediate strike-off is the only appropriate sanction and will have an appropriate effect on public confidence in the legal profession and adequately reflects serious misconduct. The Parties consider that, in light of the admissions set out above, the proposed outcome represents a proportionate resolution of the matter which is in the public interest. These were serious acts of dishonesty, and the case plainly does not fall within the small residual category where striking off would be a disproportionate outcome. Accordingly, the fair and proportionate outcome in this case is for the Respondent to be struck off the Roll of Solicitors.

Signed by the parties.

Jagjeet Gibson, Legal Adviser upon behalf of the SRA

Gary Robert Williams

27 July 2023