

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12473-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

CAROLINE MITCHELL

Respondent

Before:

Mr R Nicholas (in the chair)

Mr U Sheikh

Mr B Walsh

Date of Hearing: 13 December 2023

Appearances

Montu Miah, counsel in the employ of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN, for the Applicant.

Steve Roberts, solicitor of Richard Nelson LLP, Priory Court, 1 Derby Road, Nottingham NG9 2TA, for the Respondent.

JUDGMENT

Allegations

1. The allegation made against Ms Mitchell by the Solicitors Regulation Authority Limited (“SRA”) were that while in practice as a Solicitor at Irwin Mitchell (“the Firm”):
 - 1.1 That while being a member of a Jury, she intentionally disclosed to other Jury members information obtained, in contravention of the Juries Act 1974 and she therefore breached any or all of:
 - (i) Principles 1, 2 and 5 of the SRA Principles 2019.

Executive Summary

2. Ms Mitchell admitted the allegation. The Tribunal found the allegation proved.

Sanction

3. The Tribunal suspended Ms Mitchell from practise for a period of 8 years and ordered that she pay costs in the sum of £5,000. The Tribunal’s sanctions and its reasoning on sanction can be found here:
 - [Sanction](#)

Documents

4. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):
 - Rule 12 Statement and Exhibit JG1 dated 28 June 2023
 - Respondent’s Answer and Exhibits dated 27 July and 26 September 2023
 - Applicant’s Schedule of Costs dated 5 December 2023

Factual Background

5. Ms Mitchell was a solicitor having been admitted to the Roll in October 1995. She was an Associate Solicitor in the Firms Personal Injury Team. Ms Mitchell did not hold a current practicing certificate. Her last practising certificate was for the period 2021/2022.

Witnesses

6. Ms Mitchell gave evidence in mitigation.

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 Ms Mitchell’s rights to a fair trial

and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Integrity

8. The test for integrity was that set out in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366, as per Jackson LJ:

“Integrity is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members ... [Professionals] are required to live up to their own professional standards ... Integrity connotes adherence to the ethical standards of one’s own profession”.

9. **Allegation 1.1 - while being a member of a Jury, Ms Mitchell intentionally disclosed to other Jury members information obtained, in contravention of the Juries Act 1974 and she therefore breached any or all of Principles 1, 2 and 5 of the SRA Principles 2019.**

The Applicant’s Case

- 9.1 On 8 April 2021, the Firm informed the SRA that Ms Mitchell had been involved in an incident of misconduct outside of practice.
- 9.2 On 29 March 2021, Ms Mitchell was selected to sit on a Jury. The case involved a number of allegations of historical sexual abuse offences. After Jury selection, Ms Mitchell took an oath or an affirmation to try the case on the evidence that was heard during the course of the case.
- 9.3 An issue in the case was whether the complainant had a bedroom of his own or whether he shared it with his brother. As the offending was alleged to have taken place some forty years ago, neither the Crown nor the defence were able to provide independent evidence of the dimensions of the bedroom at the time of the alleged offending.
- 9.4 Ms Mitchell asked the trial Judge whether the Jury might be provided with a plan of the property. She was told that a plan would be produced relating to 2018, however, there were no dimensions, and the jurors were told that there were no floor plans of the property as it was at the time of the alleged sexual misconduct. The Jury was also told that they should not speculate about the size of the room. HHJ Kearn noted during sentencing that: Ms Mitchell’s *“basis of plea indicates that she did not hear that warning.”*
- 9.5 Ms Mitchell was directed by the trial Judge that she must not carry out any independent research into the case - that included research on the internet. Ms Mitchell and the other jurors were informed that the consequence of breaking the rules could be a prosecution and that the penalty could include a prison sentence.
- 9.6 On 31 March 2021, the clerk of the court went into the Jury room and saw Ms Mitchell with her iPad open on the Rightmove internet page. The clerk also heard Ms Mitchell discussing the Rightmove page with one of the fellow jurors. The clerk repeated that

private research was not permitted. This was confirmed to Ms Mitchell by another juror. The clerk of the court then reported what had happened to the trial Judge. HHJ Kearn's sentencing remarks indicated that the trial Judge heard from Ms Mitchell by way of a written explanation. Following the written explanation, the entire Jury was discharged, and the trial was aborted.

9.7 On 30 December 2021, Ms Mitchell pleaded guilty at Leeds Crown Court to the offence that, while she was a member of a jury, she intentionally disclosed to other jury members information obtained, in contravention of the Jury's Act 1974. On 28 April 2022 she was sentenced to two month's imprisonment. She served four weeks and following that, was released on licence.

9.8 The HHJ Kearn remarked during the sentencing hearing:

"It appears from your note to the Judge dated 31 March that you accepted that you had gone home and, whilst looking on the Rightmove website in connection with other matters - nothing to do with the trial - you decided to see whether you could find out any information about the house in question; in other words, the address at which the offences were said to have occurred. Whilst you were unable to find details of that property, you found a floor plan of a neighbouring property including dimensions."

9.9 In her statement, Ms Mitchell explained:

"The following morning (31 March 2021), I wrote a note to HHJ Hickey saying something along the lines of: "I went onto Rightmove last night and found some dimensions for a neighbouring property. This has reinforced my view that we need dimensions for the actual room"."

9.10 HHJ Kearn further stated in his sentencing remarks:

"Once your research and dissemination was discovered, it was then inevitable that the Jury had to be discharged. It was re-fixed and heard in November 2021 with, I anticipate, both complainant, defendant and other witnesses again having to give evidence and endure the trauma and distress of awaiting the outcome of a trial. You made an immediate apology in writing on 1 April and you later admitted what you had done in your prepared statement in May 2021."

9.11 Mr Miah submitted that by jeopardising the case and failing to adhere to the obligations as a juror, Ms Mitchell had caused significant delays in the proper administration of Justice. She had therefore breached Principle 1 of the SRA Principles 2019.

9.12 The conduct also amounted to a breach of the requirement to behave in a way which maintains the trust placed by the public in Ms Mitchell and in the provision of legal services. The public's trust in the solicitors' profession would inevitably be undermined if they were aware of instances in which a solicitor failed to adhere to such pertinent obligations as a juror.

- 9.13 The case concerned sensitive information and was one in which the victim had placed their confidence in the jurors at a vulnerable time in their life. Ms Mitchell's actions impacted the trust placed by victims in the justice system and in the solicitors' profession when the jury had to be discharged and case had to be reheard, at significant financial cost. Ms Mitchell therefore breached Principle 2 of the SRA Principles 2019.
- 9.14 Further, Ms Mitchell had failed to act with integrity in that her actions caused significant harm and distress to the victims in the case. Her actions led to her jeopardising the case she was sitting on as a juror and by doing so it meant that the jury had to be discharged and the trial abandoned. The consequences of her actions meant that the complainant and defendant had to wait a further eight months for a new trial and had to give evidence a second time.
- 9.15 Acting with integrity required Ms Mitchell to adhere to the obligations as a juror, which had been clearly explained to her. A solicitor acting with integrity would not have conducted their own research and then shared such information with the other jurors in direct contravention of the Judge's instructions. In conducting herself as she had, Ms Mitchell failed to act with integrity in breach of Principle 5 of the SRA Principles 2019.

The Respondent's Case

- 9.16 In her Answer dated 26 September 2023, Ms Mitchell admitted the allegation, including that her conduct was in breach of the Principles as alleged.
- 9.17 Mr Roberts explained that having been engaged and provided Ms Mitchell with robust advice, Ms Mitchell immediately changed her plea. The original answer, in which the matters were denied, was based on a misunderstanding on the meaning of the dictionary definition of integrity as against professional integrity.

The Tribunal's Findings

- 9.18 The Tribunal found the allegation proved on the facts and evidence. The Tribunal found Ms Mitchell's admissions to have been properly made.

Previous Disciplinary Matters

10. None

Mitigation

11. Ms Mitchell explained that she had had a good childhood. She enjoyed school. She was the first in her family to attend University and was elected as the deputy president of the student representative council.
12. She had spent her entire legal career from her training contract until her resignation in March 2022 with the same firm. Ms Mitchell had been promoted to being an associate solicitor at the first opportunity. Notwithstanding suggestions from other partners that she should become a partner, Ms Mitchell opted not to do so due to other commitments outside of work.

13. As regards the criminal matter, Ms Mitchell explained that on 30 March 2021, she had been asked by her partner to look at property sale prices, floor plans and other things for properties in York. Whilst checking, and without thinking about the propriety of doing so, Ms Mitchell searched for the address mentioned in the trial. She quickly found particulars about that property. She immediately wondered if there was more information that could assist such as the dimensions of the room. Ms Mitchell then found the details of a neighbouring property which included the dimensions of the rooms on the floorplan. She took a screenshot on her iPad.
14. Ms Mitchell accepted that suitable directions and warnings were provided to the jury by the Judge. Ms Mitchell wished to make it absolutely clear that her actions were not a deliberate act in defiance of those directions and warnings. They were mistakes made at the end of a hard day, sitting as a juror on a difficult case. She had not thought about what she was doing and it had not occurred to her, until it was pointed out, that what she had done was wrong.
15. When Ms Mitchell informed her employer that she had been discharged from the Jury, she wanted to resign so as not to cause the firm embarrassment. She was persuaded to remain at the firm under strict supervision and continued to work as normal.
16. Following her conviction and sentence, Ms Mitchell explained that she was terrified. She was advised by prison officers to “keep her head down”. Ms Mitchell explained that she told the other inmates about her conviction and engaged with them, gradually obtaining their trust. She used her time to assist the other inmates, giving advice on family matters and helping to write CV’s. Ms Mitchell found her incarceration to be educational and an opportunity for self-reflection.
17. Since her release, Ms Mitchell had been trying to rebuild her life, focussing on her health and well-being. She now lived with her parents and had not worked since her release as she felt that she was unable to commit to anything. She had undertaken voluntary work with two organisations, both of which were fully aware of her conviction. The probation services had confirmed that Ms Mitchell did not pose a safeguarding risk, and her DBS check meant that she was able to work with vulnerable adults.
18. Ms Mitchell wanted to return to practise as she felt she still had a lot to offer and that her experience was valuable. It would also allow her to rebuild her life and to make amends.
19. Ms Mitchell recognised that her conduct was wrong. She was remorseful and mortified that she had let everyone down.
20. Mr Roberts submitted that there were no like cases which would assist the Tribunal. There were two previous conviction cases where the Respondents had received suspended sentences from the Criminal Courts. In both of those matters the Tribunal had imposed suspensions for 18 months.
21. As to the disqualification from Jury service for a period of 10 years as a result of her conviction under the Juries Act 1974, this was the position for anyone who was convicted of a criminal offence who received a custodial sentence, a suspended

sentence or a community order. Accordingly, Ms Mitchell's conviction under the Juries Act was not an indicator of seriousness (although it was conceded that the circumstances were, as found by HHJ Kearn, serious).

22. Mr Roberts directed the Tribunal to documents prepared on Ms Mitchell's behalf, including testimonials adduced for the sentencing hearing, post sentence references, Ms Mitchell's letter to the trial Judge dated 1 April 20221, the statement given by Ms Mitchell to the police in which she set out her admission to the facts, notes from the probation services and the discharge note from a prison officer.
23. In his sentencing remarks, HHJ Kearn noted:

"I turn to your mitigation; it is strong. You admitted what you had done at the earliest possible time. For this you will receive full credit. You have shown a deep and a clear remorse and contrition from the outset and later to your counsel and to many others who know you. You have become depressed and you have suffered sleep problems.

You are of positive good character. Almost everyone, as I have said, who sits on a Jury is of good character because otherwise they wouldn't be eligible so to do. However, as the sixteen references submitted to me indicate - and I have read each one of them - your character is not only unblemished, but you are highly regarded by many not only for your work as a solicitor by your colleagues and counsel but also in the community. You have positively shaped the careers of others and I am told that some are here today.

You are someone who is honest, kind and compassionate both in a personal and professional environment. You are committed and you have a high degree of skill in your field of expertise. You have a good sense of morality. You offered up your home to a family member in need. You care about people and communities. You supported the Child Brain Injury Trust; you founded the Yorkshire -- South Yorkshire Support Group for that Trust setting up and running charitable walks and you have raised significant amounts of money for their cause. You also work with the Headway charity for people with brain injuries. You have worked with homeless people at Christmas and you are, as I have said, committed to the communities in which you live.

...

I do not doubt that you did not intend to undermine the course of justice, but that was the effect of what you were doing and so it is against that background that I must determine the sentence to be passed."

24. Mr Roberts submitted that it was not in dispute that the matter was serious. This had been commented on by HHJ Kearn and was accepted, however HHJ Kearn also noted that there was no specific intent behind the actions of Ms Mitchell.
25. Mr Roberts submitted that Ms Mitchell's conduct was aggravated by her experience and the immediate custodial sentence. In mitigation, in addition to what had been said by Ms Mitchell:

- there had been no dishonesty;
 - this was a momentary lapse in an otherwise unblemished career;
 - the matters had been admitted immediately and Ms Mitchell had pleaded guilty;
 - the matter had been reported to the SRA;
 - the misconduct had not been committed for personal financial gain.
26. Ms Mitchell had, in effect, self-suspended and had not worked for the last 18 months as she did not want to damage the reputation of any firm.
27. Mr Roberts submitted that Ms Mitchell had already been punished for her conduct, and that there was no possibility that such conduct would be repeated. The main issue for the Tribunal to consider was the reputation of the profession. Ms Mitchell had demonstrated significant insight into her misconduct. She had made a mistake which was serious. Ms Mitchell, it was submitted, should be judged by the actions she had taken to deal with her mistake. Those actions were admirable.
28. Mr Roberts submitted that in the circumstances, a suspension from practise was the appropriate sanction. Given that the misconduct arose from a momentary lapse in judgement, members of the public would not consider that Ms Mitchell should be struck off the Roll.

Sanction

29. The Tribunal had regard to the Guidance Note on Sanctions (10th Edition – June 2022). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.
30. The Tribunal found that Ms Mitchell had been motivated by her investment in the case and trying to obtain a just outcome. HHJ Kearn had accepted that Ms Mitchell did not intend to cause the consequences that occurred. The Tribunal agreed with that assessment. The Tribunal noted that whilst the actions were not planned, Ms Mitchell had had time to consider her actions, however during discussions in the Jury room, had discussed matters with another juror, including showing that juror the screenshot she had taken of information relating to a nearby property despite warnings from the trial Judge on more than one occasion of the impropriety of jurors undertaking their own research. Ms Mitchell, it was found, had breached the trust placed in her as a Jury member. She had sole and direct control of her actions. She was an experienced solicitor who the Tribunal and members of the public would expect to have a full understanding of her duties to comply with the rule of law and the proper administration of justice.
31. Ms Mitchell had caused significant harm as a result of her conduct, both to the reputation of the profession and the witnesses in the trial. The Tribunal agreed with the remarks of HHJ Kearn:

“Dealing first with harm: As I have already set out, the trial was aborted thereby delaying the outcome of the case and importantly causing the complainant and the defendant to give evidence for a second time unnecessarily with the distress and the trauma that that entails particularly in a case of this nature.”

32. The Tribunal determined that the consequences of her actions were reasonably foreseeable (notwithstanding that Ms Mitchell did not consider this at the time and the consequences were unintentional).
33. Ms Mitchell’s conduct was aggravated by her criminal conviction and the material breach of her obligation to protect the public and the reputation of the profession. In mitigation, Ms Mitchell had voluntarily notified the regulator. It was a single episode of brief duration in an otherwise unblemished career. She had made open and frank admissions. The Tribunal found that Ms Mitchell had shown genuine insight into her misconduct, notwithstanding her initial position that members of the public would have endorsed her conduct.
34. The Tribunal noted that Mr Roberts submitted that Ms Mitchell had already been punished by virtue of her custodial sentence. The Tribunal found that whilst this was correct, the punishment she had received related to her criminal conduct. The Tribunal was not considering a sanction for her criminal conduct, but an appropriate sanction for her professional misconduct that arose as a result of her criminal conduct. Any element of punishment imposed by the Tribunal would be for the professional misconduct only.
35. Given the serious nature of the allegation, the Tribunal considered and rejected the lesser sanctions within its sentencing powers such as no order, a reprimand, a fine or restrictions. The Tribunal had regard to the case of Bolton v Law Society [1994] 2 All ER 486 in which Sir Thomas Bingham stated:

“Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal.”

And in relation to the purpose of sanction:

“... the most fundamental of all: to maintain the reputation of the solicitors’ profession as one in which every member, of whatever standing, may be trusted to the ends of the earth ... a member of the public ... is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession’s most valuable asset is its collective reputation and the confidence which that inspires.”

36. The Tribunal considered that the seriousness of the misconduct, whilst significant, did not justify striking Ms Mitchell off the Roll; neither the reputation of the profession nor the protection of the public demanded such a sanction.

37. The Tribunal gave extensive consideration to the appropriate length for the suspension from practice. The misconduct, as detailed above, was extremely serious and had caused significant harm. Mr Roberts had submitted that the disqualification from jury service was a “red herring”. The Tribunal did not agree with that analysis. As a result of her misconduct when serving as a juror, Ms Mitchell has been disqualified from jury service for a period of 10 years. The Tribunal found that given the underlying conduct amounting to that disqualification, it was not appropriate to allow Ms Mitchell to return to practise during the currency of that disqualification. The Tribunal considered that underlying conduct distinguished this matter from the other matters to which its attention had been drawn. Further, in the other matters referred to, both Respondents had received suspended sentences from the criminal court, whereas Ms Mitchell had received an immediate custodial sentence. This was another indicator as to the seriousness of her misconduct. Accordingly, the Tribunal determined that a suspension for a period of 8 years was appropriate and proportionate taking into account the matters detailed above.

Costs

38. Mr Miah applied for costs in the sum of £5,887.00. He noted that in the initial answer, all allegations were denied. Ms Mitchell has served a number of documents with her initial answer which had to be considered. It was not until 26 September 2023, that Ms Mitchell confirmed that all allegations were to be admitted. Given the nature, history and work undertaken, albeit that this was a conviction case, the costs claimed were reasonable and proportionate. Mr Miah accepted that there should be a small reduction to reflect the shorter hearing time than estimated.
39. Mr Roberts agreed that costs were payable in principle. There was no suggestion that Ms Mitchell was impecunious and no statement of means had been served. As to quantum, Mr Roberts submitted that there should be a reduction to account for the estimated hearing time, the time claimed for preparation of the Rule 12 Statement in circumstances where this was a conviction case, and the likely duplication of work.
40. The Tribunal agreed that there should be a small reduction in costs for the reasons given by Mr Roberts. The Tribunal assessed that costs in the sum of £5,000 were reasonable and proportionate, taking into account the issues to be determined, the reasonableness of the rates charged, and the time claimed.

Statement of Full Order

- 41 The Tribunal Ordered that the Respondent, CAROLINE MITCHELL, solicitor, be suspended from practice as a solicitor for the period of 8 years, to commence on the 13th day of December 2023 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

DATED this 12th day of January 2024

On behalf of the Tribunal

R. Nicholas

R. Nicholas
Chair

JUDGMENT FILED WITH THE LAW SOCIETY

12 JAN 2024