

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12475-2023

BETWEEN:

CHRISTOPHER JOHN COATES

Applicant

and

SOLICITORS REGULATION AUTHORITY LTD

Respondent

Before:

Ms A Kellett (in the chair)

Mr J Abramson

Ms E Keen

Date of Hearing:

13 November 2023

Appearances

The Applicant, Mr Coates represented himself.

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

JUDGMENT ON AN APPLICATION FOR DETERMINATION OF AN INDEFINITE SUSPENSION

Documents

1. The Tribunal considered all the documents in the case which included an agreed electronic bundle on CaseLines.

Background

2. Mr Coates was admitted to the Roll of Solicitors on 1 August 1996. At the time of the misconduct he practised as a solicitor at Berry Smith Solicitors of Haywood House, Dumfries Place, Cardiff, CF10 3GA (“the Firm”).
3. On 17 July 2008, Mr Coates appeared before the Tribunal. The allegations against him were that he had been guilty of conduct unbecoming a solicitor in that:-
 - (a) in a commercial conveyancing transaction where he was acting for the purchaser (HC), he misled a third party about the extent of the property to be purchased and mortgaged by falsely creating and sending a misleading contract document to the third-party solicitors and in doing so his conduct was in breach of Rules 1 (a)(c) and(d) of the Solicitors Practice Rules 1990 and was dishonest.
 - (b) that he failed to comply with the professional undertaking given in respect of payment of stamp duty to RC Solicitors in breach of Rule 1 of the Solicitors' Practice Rules 1990.
 - (c) that he failed to comply with a professional undertaking given in respect of the payment of stamp duty to MLP solicitors in breach of Rule 1 of the Solicitors' Practice Rules 1990.
 - (d) that whilst acting for HC, a client company, he solicited loans from members of the public for HC by falsely representing the purpose of such loans and that in doing so his conduct was in breach of Rules 1 (a)(c) and(d) of the Solicitors' Practice Rules 1990 and was dishonest.
4. An Investigation Officer (“IO”) for the SRA inspected the Firm and provided a report dated 25 June 2007 (“the Report”). The Report found that Mr Coates had been instructed by an employee (BS) to act for a company (HC) in a number of matters. The first concerned the purchase of land. The purchase price was £3,950 and a loan was obtained from CT Ltd who were represented by RC Solicitors. A patch of land was to be retained by the vendor, CT Ltd were unaware of this.
5. In order to obtain the loan from CT Ltd, Mr Coates created a misleading contract in which he omitted the part of the contract dealing with the retained land, changed the purchase price, and inserted a clause purporting to show a retention of £150,000. He did not fulfil an undertaking he had given to RC Solicitors that he would pay the SDLT. Following completion on 20 July 2006, on the instructions of BS he paid out £145,769.59 to parties unconnected with the purchase. The payments included a payment of £2,857.58 to a company owned by Mr Coates.

6. On a second matter, Mr Coates, on the instruction of BS, acted on behalf of the purchaser of land for £670,000. The purchaser negotiated a loan from GFS Plc who were represented by MLP Solicitors. Mr Coates gave an undertaking to MLP Solicitors to pay the SDLT. Although a loan of £519,879.87 was advanced by GFS Plc, only £400,000 of the purchase price was paid to the vendor, the remaining balance was deferred and secured by a second charge. At the direction of BS, Mr Coates paid out £138,575.37 to parties unconnected to the purchase, including a payment of £4,000 to a company owned by Mr Coates. He did not pay the SDLT.
7. Mr Coates sought loans from members of the public on behalf of HC. Mr WC lent HC £10,000 on the proviso it would be used for architects' fees, surveyors' fees and deposits, with an assurance that his money would be protected by an undertaking. At the direction of BS, Mr Coates disbursed the £10,000 to various individuals. He obtained a further loan of £20,000 from Mr and Mrs S in similar circumstances and at BS's direction disbursed the £20,000 to various individuals. He admitted that BS had given him £4,000 for sourcing the investors.
8. Mr Coates admitted the allegations save for dishonesty. The Tribunal found that the allegations admitted were substantiated. The Tribunal, however, did not find dishonesty had been proved, and did not accept that Mr Coates had acted dishonestly. Taking into consideration the evidence, testimonials and submissions, Mr Coates was sanctioned by way of indefinite suspension. He was ordered to pay costs in the sum of £8,000.

Mr Coates' Submissions

9. This was Mr Coates' application for determination of his indefinite suspension. Mr Coates set out in his written application the events which had resulted in the Tribunal proceedings and the indefinite suspension. He said it had been an aberration in his life with devastating consequences. In making this application he had read the Tribunal's findings once again. It had been painful and uncomfortable to do so and he struggled to comprehend how he came to act in the way he did at the time.
10. The events which caused his suspension occurred within an isolated period of approximately six months during 2006, while he was going through a period of illness that he did not understand at the time. There had never been any complaint about his practice as a solicitor before then.
11. At the time of the Tribunal hearing in July 2008, Mr Coates was still very ill. Contemporaneous medical evidence described him as being in a 'severe depressive state'.
12. Over the last 15 years Mr Coates very much felt the loss of no longer being a solicitor although he recognised that the decision to suspend him was correct and appropriate in the circumstances.
13. Following the Tribunal's order in 2008, Mr Coates' mental health improved relatively quickly, and he learned how better to deal with challenging circumstances. Mr Coates provided the Tribunal with updated medical evidence from his GP and a report dated 28 April 2023 from Dr Z. Ahmed (a consultant psychiatrist). Both reports were

independent medical evidence verifying that Mr Coates had been in good physical and mental health for a significant period of time since 2008.

14. Since Mr Coates' suspension, he had been working as a property consultant. He had used his legal background and practical understanding of how property works to develop a reputation as an effective and creative problem solver in this industry. His legal background had the advantage of allowing him to understand the importance of dealing with regulatory and compliance issues.
15. His work in property also required him to keep up to date with changes in property law. He had attended several conferences aimed at lawyers providing annual updates on changes in the law. He had also watched many webinars on property law updates. When the implementation of the Renting Homes (Wales) Act 2016 was finally announced in January 2022 he created a group for Welsh Landlords to provide support through the wholesale changes intended for residential landlord and tenant law in Wales. That group now has more than 1,300 members. He was seen as an authority figure and an informal representative for residential landlords in Wales. He had a reputation based on expertise, trust and good sense.
16. Due to recent health issues within his family, he had had cause to reflect on his own life and he wished to bring this matter to a close. When he made his application, he had no current intention to return to practising as a solicitor and was merely keen to bring the suspension to an end. His suspension had been a cause of embarrassment to him which he wished to remove particularly as another member of his family was contemplating a career in the legal profession.
17. However, Mr Coates informed the Tribunal that making the application had reawakened his wish to practice. He presented the Tribunal with a letter from his former training partner, with whom he had stayed in touch, offering him the opportunity to work as a solicitor at his firm if the suspension was lifted. He explained that the Tribunal could take comfort from the fact that he would be assisted back into the profession by a person who would oversee his progress and his understanding of new practices and procedures.
18. Mr Coates did not believe that the termination of his suspension would adversely affect the reputation of the legal profession nor be contrary to the interests of the public given that he had made his application after a period of over 15 years. He had also paid in full the £8,000 costs he had been ordered to pay.
19. Mr Coates had taken active steps to rehabilitate himself and to keep up to date with the law, and had provided the SRA and the Tribunal with a schedule of all the training he had undertaken in recent years. As part of his property business, he had cause to undertake training in relation to Anti-Money Laundering Regulations and he had also taken the opportunity to remind himself of the SRA Principles, the SRA Standards and Regulations, the Code of Conduct for Solicitors and Solicitors Accounts Rules. He confirmed that he would be willing to attend any formal training course deemed necessary and appropriate by the Tribunal.

SRA's Submissions

20. Mr Bullock for the SRA informed the Tribunal that the matters which had given rise to Mr Coates' suspension had been serious. Having first objected to Mr Coates' application, however, the SRA had reconsidered its position in the light of the information provided by Mr Coates regarding his training and keeping up to date with the law.
21. The SRA's concerns had centred on the risk of Mr Coates' returning to practice lacking necessary skills and without any restriction on his ability to set up as a sole practitioner and/or take up a managerial role within a firm.
22. Having now had the opportunity to review Mr Coates' training record, Mr Bullock submitted that the SRA had now withdrawn its objection subject to the imposition of appropriate restrictions to be in place for a period of two years following Mr Coates obtaining a position as a solicitor.
23. The proposed restrictions were that Mr Coates must not:
 - a) Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body.
 - b) Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body.
 - c) Be a Compliance Officer for Legal Practice or a Compliance Officer for Finance and Administration.
 - d) Work as a solicitor other than in employment approved by the SRA Ltd.

The legal framework

24. By virtue of Section 47(2) of the Solicitors Act 1974 (as amended), the Tribunal has, on the hearing of the present application, power to make such Order as it sees fit (including, but not limited to, the termination of a suspension (Section 47(1)(d)).
25. The principles which the Tribunal should consider in an application to terminate a suspension are set out in the leading authority of Bolton v The Law Society [1994] 1 WLR 512 and 2 All ER 486. In the course of his Judgment, Sir Thomas Bingham, the then Master of the Rolls stated (see paragraphs 13 to 16):

“It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness ... 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. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty whether or not leading to criminal proceedings and criminal penalties. In such

cases, the Tribunal has invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors. Only infrequently, particularly in recent years, has it been willing to order the restoration to the Roll of a solicitor against whom serious dishonesty had been established, even after a passage of years, and even where the solicitor had made every effort to re-establish himself and redeem his reputation.

If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of the profession whose reputation depends upon trust. A striking off order will not necessarily follow in such a case, but it may well. The decision whether to strike off or to suspend will often involve a fine and difficult exercise of judgment, to be made by the Tribunal as an informed and expert body on all the facts of the case ...

In most cases the order of the Tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hoped that experience of suspension will make the offender meticulous in his future compliance with the required standards. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order of striking off. The second purpose is 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. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he 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 ...

It often happens that a solicitor appearing before the Tribunal can adduce a wealth of glowing tributes from his professional brethren. He can often show that for him and his family the consequences of striking off or suspension would be little short of tragic. Often he will say, convincingly, that he has learned his lesson and will not offend again. On applying for restoration after striking off, all these points may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation. All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness ...”

26. The test for restoration to the Roll to be applied by the Tribunal when considering an application for termination of a suspension, was summarised by Mr Justice Burnett (as he then was) in Thobani v Solicitors Regulation Authority [2011] EWHC 3783 (Admin)

at paragraphs 3 and 4 of the judgment, where he drew upon the leading authority of Bolton. In delivering his judgment, Mr Justice Burnett stated:

“Public confidence in the integrity of the solicitors' profession is of cardinal importance. That is the leitmotif that has echoed through all of the authorities.”

27. The judgment in SRA v Simon Kaberry [2012] EWHC3883 (Admin), (which was again concerned with an application for restoration to the Roll) should also be applied. In that case Lord Justice Elias stated:

“It is right to say that the Tribunal starts its conclusions by noting that it is not undertaking a re-trial of the issues which led to the applicant being struck off the Roll but I think it did effectively fall into that trap ...

... It is well-established in the authorities that in order to be restored to the Roll, it must be demonstrated to the Tribunal that restoration would not affect the good name and reputation of the solicitors' profession, nor would it be contrary to the interests of the public. The consequence of applying that test is that sometimes there are hard cases ...

... I think if the Tribunal had applied the correct test, namely would the public have confidence in the solicitors' profession if it admits a person with the disciplinary and personal history of the respondent, in circumstances where it had recognised that it had to act on the assumption there was some culpability, and having regard to the amount of losses in this case, then it would have been compelled to say that it would not be appropriate to restore him to the Roll.

... It is a hard case, but as has been emphasised so often, the overriding consideration here must be the interests of the profession and public confidence in a proper running of the profession has to be maintained.”

The Tribunal's Decision

28. The Tribunal took careful note of the oral and written submissions of both parties. 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 Coates' right to a fair hearing 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. The test was whether the Tribunal was satisfied that termination of the indefinite suspension would not adversely affect the reputation of the legal profession nor be contrary to the interests of the public.
29. The Tribunal had regard to the legal framework (set out above) and its Guidance Note on Other Powers of the Tribunal (6th Edition), which set out the factors that the Tribunal would need to take into account when considering an application of this nature. The Tribunal went through the factors and applied the circumstances of this application to each one in deciding whether to grant the application, as follows:

“Details of the original order of the Tribunal leading to suspension. The Tribunal should consider this information for guidance as to the seriousness and circumstances of the original breach or misconduct and the steps the Tribunal regards as being relevant in supporting an application.”

30. The Tribunal recognised that the matters that resulted in the indefinite suspension being imposed were serious, although it did accept that dishonesty had not been found. Nevertheless, the failings which had been found represented fundamental breaches of a solicitor’s conduct and obligations.

“If the suspension was imposed due to concerns regarding the applicant’s fitness to practise due to physical or mental ill-health or addiction, evidence of rehabilitation and future prognosis must be provided from a suitably qualified expert.”

31. Aligning its views on this aspect with decisions in other cases raising similar issues, the Tribunal had sympathy with Mr Coates’ situation in relation to his health. The Tribunal recognised that there was a need to protect and support anyone going through health difficulties. The Tribunal took comfort in the fact that Mr Coates had shown insight into his difficulties, and he had taken steps to seek help. The Tribunal noted that the current state of his health, as set out by the recent medical evidence, did not raise cause for concern in the future. The Tribunal was satisfied that the health aspect of the circumstances giving rise to the misconduct had been adequately addressed.

“Evidence must be provided to establish any training undertaken by the applicant or that they have kept their legal knowledge up to date in their area of practice”

32. Mr Coates had provided full and comprehensive evidence of training in property law, his area of speciality. The training was frequent and relevant, starting in 2017 and almost monthly until the present date. The Tribunal also noted that the training record was sufficiently detailed for the Respondent to have re-considered its initial opposition to the application. Whilst this was not determinative of the Tribunal’s final decision, it was informative.

“Evidence of any employment together with safeguards and supervision which have been put in place by the applicant’s employer or alternatively a stringent oversight of the applicant’s potential employment together with third party risk and personal management arrangements to be put in place by a prospective employer”

33. The Tribunal recognised that Mr Coates had established a career in property and was trusted and well respected in that area. The Tribunal also noted that he wished to return to practice and that he had been offered a post by Mr Michael Morgan of Vale Solicitors. The difficulties which Mr Coates may have experienced, not having worked in a legal practice for 15 years, were somewhat addressed by his relevant training and continued work in a relevant area.
34. In addition, the offer from Mr Morgan was evidence that there would be safeguards in place and effective supervision over him in relation to the key question of whether he could return to practice and that any risk to the public would be monitored and managed.

“Evidence of genuine reformation of character of the applicant including evidence of insight into the nature and effects of the misconduct and steps taken by the applicant to ensure that the wrongdoing does not reoccur”

35. The Tribunal accepted that Mr Coates had demonstrated genuine insight into, and remorse for, his misconduct. He had provided the Tribunal with character references which spoke highly of him as person who could be trusted.

“The length of time since the suspension was imposed”

36. The Tribunal fully recognised 15 years had passed since Mr Coates was suspended.

“Whether the Tribunal which made the original order, having paid due regard to its inability to fetter the discretion of any future Tribunal considering an application for the termination of the suspension, indicated that it had in mind the possibility of an eventual termination of the indefinite suspension”

37. The Tribunal noted that at paragraph 53 of its judgment, the Tribunal which made the original order stated as follows:

“Taking into account all the facts and circumstances and that no dishonesty had been proved, the Tribunal had considered all the evidence, testimonials and submissions and agreed with the Respondent that the appropriate sanction in this case was to indefinitely suspend the Respondent. The Tribunal wished to add that a major reason why the suspension should be indefinite was due to the Respondent's health. If the Respondent's health were to improve, he would be able to apply with supporting medical evidence to the Tribunal to practice again. This would allow the Respondent to have a way back into practice in future should he become fit to be able to practice.”

38. On the basis of the recent (April 2023) assessment of Mr Coates' health, the Tribunal was satisfied that his health had stabilised to a degree sufficient to allay any fears that he would not be able to cope with the pressures of working as a solicitor.

“Whether there is any continuing risk to the public”

39. Given its observations and findings set out above, the Tribunal was satisfied that there would be little continuing risk to the public if the suspension was terminated, subject to appropriate safeguards being in place.

“The Tribunal considers that the public would not harbour concerns about the propriety of the applicant returning to practice.”

40. Again, given its observations and findings set out above, the Tribunal considered that the public would not harbour concerns about Mr Coates returning to practice if the application was granted.

“If the suspension was subject to conditions, evidence that they have been complied with.”

41. The suspension was not subject to conditions. This was not a relevant factor in this application.

“If financial penalties were imposed, evidence that they have been discharged or attempts made by the applicant to discharge them.”

42. A financial penalty had not been imposed by the Tribunal making the original order, although it had ordered Mr Coates to pay £8,000 in costs. This had been paid.

“Character references.”

43. The Tribunal addressed these as set out above.

“The regulator’s response to the application.”

44. The SRA had, initially, opposed the application but had changed its position, as set out above. While the Tribunal took note of the SRA’s position, the decision was one solely for the Tribunal.

“Responses received by the Tribunal from others under Rule 17(7) of the Solicitors (Disciplinary Proceedings) Rules 2019 following the applicant’s advertisement of their application as required by Rule 17 (6) of those Rules”

45. The Tribunal noted that the application had been properly advertised and that no such responses were received.
46. In conclusion, on the application as presented, the Tribunal found that it was satisfied that there would be no adverse effect on the reputation of the legal profession or the interests of the public if Mr Coates’ suspension was terminated. The Tribunal therefore granted the application and imposed the restrictions in the Order set out below as an added safeguard for both the public and Mr Coates as he returned to the profession.

Costs

47. Mr Bullock applied for the Respondent’s costs in the sum of £1859.00. Mr Coates did not contest this application.

48. The Tribunal was satisfied that it was appropriate for Mr Coates to pay the costs of his application. The costs were reasonable and proportionate, and the Tribunal therefore ordered that Mr Coates pay costs in the sum claimed.

49. Statement of Full Order

1. The Tribunal Ordered that the application of **CHRISTOPHER JOHN COATES** for the determination of the indefinite suspension be **GRANTED**.
2. Mr Coates shall be subject to conditions imposed by the Tribunal as follows:

- 2.1 Commencing only when Mr Coates secures employment within the legal profession, he may not, for a period of 2 years thereafter:
 - 2.1.1 Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body.
 - 2.1.2 Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body.
 - 2.1.3 Be a Compliance Officer for Legal Practice or a Compliance Officer for Finance and Administration.
 - 2.1.4 Work as a solicitor other than in employment approved by the SRA Ltd.
3. And it further Orders that Mr Coates do pay the costs of the SRA Ltd to this application fixed in the sum of £1859.00.

Dated this 7th day of November 2023
On behalf of the Tribunal

A Kellett

A Kellett
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
7 DEC 2023