

IN THE MATTER OF MICHAEL JOHN READ, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A N Spooner (in the chair)  
Mrs E Stanley  
Mr G Fisher

Date of Hearing: 19th September 2002

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## FINDINGS

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Office for the Supervision of Solicitors ("OSS") by Ian Paul Ryan solicitor and partner in the firm of Russell-Cooke, solicitors of 2 Putney Hill, Putney, London, SW15 6AB on 26<sup>th</sup> February 2002 that Michael John Read of Old Town, Swindon, Wiltshire, solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such Orders might be made as the Tribunal should think right and a direction having been made on 24<sup>th</sup> May 2001 by an Adjudicator for the OSS that Michael John Read solicitor of Old Town, Swindon, Wiltshire, do pay Mr F the sum of £200 compensation pursuant to paragraph 2 (1)(c) of Schedule 1A of the Solicitors Act 1974, the said direction be enforced as if it were contained in an Order made by the High Court pursuant to paragraph 5(2) of Schedule 1A of the Solicitors Act 1974.

On 27<sup>th</sup> May 2002 the Applicant made a supplementary application containing a further allegation. He further sought such Order as the Tribunal should think right and also made application that a Direction having been made on 21<sup>st</sup> August 2001 by an Adjudicator for the OSS that Michael John Read formally a sole practitioner in the firm of M J Read solicitor of Fleming Way, Swindon, do pay to Shoosmiths solicitors the sum of £1,617.90 costs pursuant to paragraph 2(1)(c) of Schedule 1A of the Solicitors Act 1974, the said Direction being

enforced as if were contained in an Order made by the High Court pursuant to paragraph 5(2) of Schedule 1A of the Solicitors Act 1974.

The allegations below are those set out in both the originating and the supplemental applications.

The allegations were:-

1. the Respondent had been guilty of conduct unbefitting a solicitor in the following particulars namely:-
  - (i) he failed to comply promptly or at all with a Direction made by an Adjudicator of the OSS acting pursuant to delegated powers (the Direction made on 24<sup>th</sup> May 2001); and
  - (ii) he failed to comply promptly or at all with a Direction made by an Adjudicator of the OSS acting pursuant to delegated powers (the Direction dated 21<sup>st</sup> August 2001).

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Ian Paul Ryan solicitor appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included the admissions of the Respondent.

Preliminary application

1. The Respondent sought an adjournment of the substantive hearing. He said it was inevitable that his previous disciplinary history would be made known and he did not consider that fair as reports in the press were likely to be defamatory. The Respondent said that he would like arrangements for a mediation to take place and pointed out that The Law Society was keen to support mediation initiatives.
2. The Applicant said that the Respondent's previous history was not relevant to the matters before the Tribunal. There was no need for any reference to be made to the previous history. That was not a reason for the substantive hearing to be adjourned. The Respondent's previous history had nothing to do with the way the Applicant was proposing to put the case and he was ready to proceed. The Applicant believed that the Respondent's application for an adjournment was linked to the fact that members of the press were in attendance. They had the ability to report previous matters. In the submission of the Applicant it was not necessary for the Tribunal to adjourn. That would not be a correct course of action. Should the necessity arise the Tribunal has powers to deal with publicity issues if such matters were relevant or appropriate.
3. The Tribunal refused the Respondent's application for an adjournment. The Tribunal's procedure was for current matters to be heard without the Tribunal having been apprised of the fact that the Respondent had been subject to disciplinary proceedings in the past. The Tribunal would not be notified of the Respondent's history until after they had decided whether or not the allegations had been substantiated in the extant case. Informing the Tribunal of the Respondent's history was germane to the question of their consideration of the appropriate sanction to be imposed on the Respondent should the allegations be found to be substantiated, it was not germane to the substantive hearing. Previous disciplinary matters were in the public domain and it was open to the press or anybody else to find out about them and

have copies of the Tribunal's written decisions. The Tribunal did not feel that the Respondent had put forward any argument which convinced them that it would be right for it to adjourn the matter. The Tribunal concluded that the matter should proceed forthwith to the substantive hearing.

Preliminary matter

4. The Respondent raised as a preliminary matter the fact that he considered that the Applicant was acting in a situation where a conflict of interest arose. The Respondent told the Tribunal that he had been employed in 1992 by a Principal who, it transpired, had been involved in Legal Aid fraud. The Respondent himself had been considered to be implicated and it had taken three years to clear his own name. Eventually the Respondent's erstwhile Principal was struck off the Roll of Solicitors. One of the Applicant's partners was the Applicant bringing the erstwhile Principal before the Disciplinary Tribunal. It would be preferable for The Law Society/OSS to be represented by another completely independent solicitor. The Respondent said he did not wish to delay matters but he wanted to see justice done.
5. The Applicant said that he had not been aware of the connection between the Respondent and the struck off solicitor who had previously been the Respondent's Principal. The Respondent had brought that fact to the attention of the Applicant some seven days before the hearing. The Applicant had had no knowledge of the handling of the matter of the Principal's case by Mr Cadman, one of the Applicant's partners who operated from a different office of their firm.
6. Mr Cadman had conducted the disciplinary matter relating to the Respondent's Principal in 1994 and 1995 and the allegations related to the Legal Aid fraud. There was no reference at all to the Legal Aid fraud or the Respondent's former Principal in the current matter before the Tribunal. Each of the cases was entirely different. Separate and unrelated allegations had been made against the Respondent's former Principal and the Respondent himself. In particular in the Respondent's case no suggestion of dishonesty had been made, there was no connection with the earlier case concerning his erstwhile Principal and in any event the latter case had been concluded a long time ago.
7. The Tribunal agreed with the analysis of the situation put forward by the Applicant and found no conflict of interest nor prejudice to the Respondent. The Tribunal required that the parties before them deal with the substantive matter forthwith.

The Tribunal's Orders

8. At the conclusion of the hearing the Tribunal made the following Orders:-

The Tribunal Orders that the Respondent, Michael John Read of Old Town, Swindon, Wiltshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 19<sup>th</sup> day of September 2002 and they further Order that he do pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment if not agreed between the parties.

Dated this 19<sup>th</sup> day of September 2002.

The Tribunal Orders that a Direction having been made on 21<sup>st</sup> August 2001 by an Adjudicator for the Office for the Supervision of Solicitors that Michael John Read formerly a sole practitioner in the firm of M.J. Read solicitor of Fleming Way, Swindon, (the Respondent) do pay to Shoosmiths solicitors the sum of £1,617.90 costs pursuant to paragraph 21(c) of Schedule 1A of the Solicitors Act 1974, the said Direction be enforced as if it were contained in an Order made by the High Court pursuant to paragraph 5(2) of Schedule 1A of the Solicitors Act 1974.

And the Tribunal Orders that a Direction having been made on 24<sup>th</sup> May 2001 by an Adjudicator for the Office for the Supervision of Solicitors that the Respondent do pay Mr O.A. Folarin the sum of £200 compensation pursuant to paragraph 2(1)(c) of Schedule 1A of the Solicitors Act 1974 be enforced as if it were contained in an Order made by the High Court.

Dated 19<sup>th</sup> day of September 2002

The facts are set out in paragraphs 9 to 13 hereunder: -

9. The Respondent, born in 1946, was admitted as a solicitor in 1973. At the material times the Respondent practised on his own account under the style of Mr M.J. Read solicitor at Alexander House, 19 Fleming Way, Swindon, SM1 2NG.
10. On 24<sup>th</sup> May 2001 an Adjudicator of the OSS, acting pursuant to delegated powers, directed inter alia that the Respondent pay compensation to Mr F of £200.
11. The Respondent was informed of this direction by letter dated 31<sup>st</sup> May 2001. He was also written to on 19<sup>th</sup> June 2001, 28<sup>th</sup> June 2001, 10<sup>th</sup> July 2001, 18<sup>th</sup> July 2001, 29<sup>th</sup> August 2001 and 13<sup>th</sup> November 2001. The letter of 18<sup>th</sup> July 2001 enclosed a further copy of the first instance decision but despite these letters the Respondent failed to comply with the direction although he did write to the OSS on 13<sup>th</sup> November 2001 and 15<sup>th</sup> November 2001. The Respondent was written to again on 28<sup>th</sup> November 2001 and replied on 9<sup>th</sup> January 2002. To date he has still not complied with the decision.
12. On 21<sup>st</sup> August 2001, an Adjudicator of the OSS, acting pursuant to delegated power, directed that the Respondent pay outstanding costs to Shoosmiths Solicitors in the sum of £1,617.90 within 28 days of the date of notification of that direction.
13. The Respondent was informed of this direction by letter dated 30<sup>th</sup> August 2001. He was informed again of this direction by letter dated 14<sup>th</sup> November 2001. He replied by letter dated 17<sup>th</sup> November 2001 stating that he would make the payment within 42 days of the date of that letter. This letter was acknowledged by the OSS by letter dated 29<sup>th</sup> November 2001 and that letter confirmed that the deadline for payment of the outstanding costs was 29<sup>th</sup> December 2001. Payment was not made by that date and he was written to once more by letter dated 2<sup>nd</sup> January 2002. He replied on 4<sup>th</sup> January 2002. To date, the Respondent has still not complied with the direction.

### **The Submissions of the Applicant**

14. The Respondent accepted that he had not paid the sums he was ordered to pay after findings of inadequate professional services had been made against him. No allegation of dishonesty was made against the Respondent.

### **The Submissions of the Respondent**

15. The Respondent said that he was only now preparing for the Tribunal because his mental health had deteriorated. He had been admitted to hospital in July 2001 until the end of August that year. Part of his difficulty had been that he ceased to function when he was put under pressure. At the time of the hearing he had been completely medically discharged.
16. Following the Legal Aid fraud allegations, the Respondent had found himself in a disastrous financial position. He had not deliberately failed to pay the sums he had been ordered to pay. He simply had been unable to pay either of them. The Respondent had been living with the assistance of his family. He hoped that he would be able to get back to work and when he started to earn he would be able to discharge his liabilities.
17. The Respondent was grateful to the Applicant for his clear stand on the question of dishonesty. The Respondent had not been dishonest and had never misappropriated any money. The Respondent confirmed that he had not only sought employment within the legal profession but he had also sought employment outside it.

### **The Findings of the Tribunal**

18. The Tribunal found the allegations to have been substantiated. Indeed the Respondent himself agreed that he had not paid the sums which he had been ordered by The Law Society to pay.
19. On 2<sup>nd</sup> March 2000 the Tribunal had found substantiated against the Respondent an allegation that he had been guilty of conduct unbefitting a solicitor in that he had failed promptly to comply with a direction made by the OSS pursuant to Section 37(A) and Schedule 1(A) of the Solicitors Act 1974 as amended.
20. On that occasion the Tribunal said:-

"The Respondent had expressed to the Tribunal his strong disagreement with the original direction of the Office. However the allegation before the Tribunal was that the respondent had failed to comply with that direction. It was not open to the Tribunal to look behind the direction. A direction of the Respondent's regulatory body was binding upon him and other routes had been open to the respondent if he wished to challenge the direction. The Tribunal regarded a solicitor's failure to comply with a direction of his professional body as a serious matter. The Respondent had had plenty of time to comply but had failed to do so. Although the matter was not at the most serious end of the scale it was right that a penalty be imposed and the Tribunal would not grant the Respondent's request that no further action be taken.

The Tribunal therefore ordered that the Respondent Michael John Read of Alexander House, 19 Fleming Way, Swindon SN1 2NG pay a fine of £1,000.00 and they further ordered him to pay the costs of and incidental to the application and enquiry. The Tribunal also ordered that the Direction of the Law Society dated 4<sup>th</sup> February 1999 be treated for the purposes of enforcement as if it were contained in an Order of the High Court."

21. In September 2002 the Tribunal noted that the two allegations concerned precisely the same failure as that in 2000, namely failure to comply with a direction of the Respondent's own professional body. The Tribunal can only repeat what was said by the earlier division of the Tribunal in 2000. The Tribunal direct that the directions made by the OSS be treated for the purposes of enforcement as if they were Orders of the High Court.
22. The Respondent appeared to have abrogated his responsibilities as a solicitor and should not be permitted to practise until he has achieved full compliance with the directions made by The Law Society. Should the Respondent apply to the Tribunal to have the indefinite period of suspension which they imposed upon him lifted, he will not only have to demonstrate that he has complied with all outstanding directions but he will also have to demonstrate that he is a fit and suitable person to be permitted to practise as a solicitor. The Tribunal made the Orders sought and also ordered that the Respondent be suspended from practice as a solicitor for an indefinite period of time. In all of the circumstances it was right that the Respondent should pay the costs of and incidental to the application and enquiry. In view of the fact there had been no agreement as to costs, the Tribunal ordered that the costs to be paid by the Respondent are to be subject to a detailed assessment if not agreed between the parties.

DATED this 23<sup>rd</sup> day of October 2002

on behalf of the Tribunal

A N Spooner  
Chairman