

IN THE MATTER OF JOHN ANDREW LITTLER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr J N Barnecutt (in the chair)
Mr J P Davies
Mrs C Pickering

Date of Hearing: 30th November 2006

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Robert Simon Roscoe, solicitor and partner in the firm of Victor Lissack, Roscoe & Coleman, solicitors of 70 Marylebone Lane, London, W1U 2PQ on 12th October 2006 that John Andrew Littler, solicitor of St John Street, London, EC1 might be required to answer the allegation contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegation was that on 10th February 2005 the Respondent was the subject of a formal police caution administered by the Cheshire Constabulary for offences of 'making an indecent photograph or pseudo photograph of a child' and 'possessing an indecent photograph or pseudo photograph of a child' and had thereby been guilty of conduct unbecoming a solicitor.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 30th November 2006 when Robert Simon Roscoe appeared as the Applicant. The Respondent did not appear and was not represented.

The evidence before the Tribunal included a statement submitted to the Tribunal by the Respondent dated 19th October 2006. The contents of that statement are recorded hereunder under the heading 'The Submissions of the Respondent' and the heading 'Preliminary Matter'.

Preliminary Matter

1. In his statement the Respondent said "if the proceedings can be conducted in private I will appreciate it. A public hearing may cause unwanted attention from the press and vigilante elements in society. The caution was not made public and a public hearing so long after the event will be an "out of proportion" penalty".
2. The Applicant recognised that the police had dealt administratively with the Respondent by way of a caution and that was not generally in the public arena. The Respondent's name had been placed on the Sex Offenders Register and that register was not in the public arena. The Tribunal might consider that the public interest in the work undertaken by the Tribunal did not require it to make the details of this case open to public scrutiny.
3. It was recognised that even in the unusual circumstances of the Tribunal conducting a hearing in private, its written Findings would go into the public domain.
4. It was only in the most exceptional circumstances that the Tribunal would agree to conduct a hearing in private. The Tribunal would be more likely to give favourable consideration to an application for a private hearing if the purpose of the private hearing was to protect innocent third parties. In this matter the Respondent solicitor himself sought to avoid publicity. The Tribunal recognised that the Respondent's offence was at a low level, which of course was underlined by the fact that the police considered it appropriate to caution him, and his reference to press attention and vigilante elements in society was speculation only. A member of the solicitors' profession has to accept that being a member of that profession not only brought benefits but imposed burdens and one of those burdens is that its professional disciplinary tribunal hears allegations of professional misconduct in public. The Tribunal refused the application and the matter proceeded to a full hearing in public.
5. At the conclusion of the hearing the Tribunal made the following Order:-

The Tribunal Orders that the Respondent John Andrew Littler of St John Street, London, EC1, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 30th day of November 2006 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,912.90.

The facts are set out in paragraphs 6 to 9 hereunder:-

6. The Respondent, born in 1964, was admitted as a solicitor on 1st May 1998. His name remained on the Roll of Solicitors.
7. At the material time the Respondent was an assistant solicitor with a firm of solicitors in Chester specialising in employment law.

8. On 11th November 2005 the Assistant Chief Constable of the Cheshire Constabulary wrote to inform the Law Society that the Respondent had been the subject of a formal caution, administered by the Cheshire Constabulary on 10th February 2005. The caution was for offences of ‘making an indecent photograph or pseudo photograph of a child’ and ‘possessing an indecent photograph or pseudo photograph of a child’. The offences had occurred on 9th February 2003 at the Respondent’s home address. The Respondent was also placed on the Sex Offenders Register for a period of two years. The Respondent had used his credit card to gain access to internet websites providing six Level One indecent photographs of children. The Respondent then used his personal computer to download and store them in computer folders. They were six specimen offences.
9. Following arrest the Respondent was interviewed by police and admitted the offences.

The Submissions of the Applicant

10. The Applicant accepted that a formal caution is not a criminal conviction but it is recorded on a police database and remains on such database for a period of five years along with photographs, fingerprints and any other samples taken from the offender.
11. The Applicant asserted that police could issue a caution only if there was evidence of the offender’s guilt, if he is over 18, if he admits the offence(s) and if he consents to receiving a caution. The administration of a formal caution is an administrative disposal offered at the discretion of the police and accepted by the offender in his discretion.
12. In the Respondent’s case the police were satisfied that there was evidence that the Respondent had committed a criminal offence and by his agreement to the formal caution disposal, the Respondent acknowledged his guilt.
13. Once registered on the Sex Offenders Register, an offender is obliged to comply with conditions, breach of which can be a criminal offence and lead to prosecution for failing to comply with the terms of registration.
14. The Applicant accepted that the reference to “Level One indecent photographs” arises from a classification by the Court of Appeal in Regina -v- Oliver, with the Court dividing the nature of the material into five levels ranging from level one which indicated images depicting erotic posing in contrast with the significantly more serious “level five”.
15. The Applicant accepted that the Respondent downloaded the material for his own use only and he did not intend to pass it on, but this type of behaviour compromises or impairs or is likely to impair the Respondent’s own good reputation or that of the solicitors’ profession given that it involves the exploitation and abuse of children.
16. The Respondent had sought expedition of the matter and had been cooperative. The Applicant had discussed costs with the Respondent and the figure had been agreed at £1,912.90.

The Submissions of the Respondent

16. From 16th October 2006 the Respondent ceased to practise in the legal profession. He had no intention of working in the law again.
17. The Respondent sincerely regretted his actions. He apologised to the profession for bringing it into disrepute. The Respondent expressed the wish that the matter might be dealt with quickly.
18. In view of the brief facts of the case and the small amount of documents the Respondent trusted that any costs payable would be small.

The Tribunal's Findings

19. The Tribunal found the allegation to have been substantiated, indeed it was not contested.

The Tribunal's Decision and its Reasons

20. The Tribunal has given credit to the Respondent for his admission, his cooperation and his wish that the matter should be dealt with without delay.
21. Not only is a solicitor an officer of the court, but members of the public are entitled to believe that a member of the solicitors' profession is a person who can be trusted to the ends of the earth. Whilst accepting that the Respondent's illegal activity was at a low level, it was nevertheless criminal activity and falls rather higher up the scale of professional misconduct. Such action by a member of the solicitors' profession not only serves to damage the good reputation of the solicitor himself but serves to damage the good reputation of the solicitors' profession in the eyes of the public. In all the circumstances the Tribunal considered that it was both appropriate and proportionate to order that the Respondent be suspended from practice for an indefinite period of time. He will be aware that the period of suspension can be lifted only by this Tribunal and should the Respondent make such an application to the Tribunal he will not be successful unless he is able to demonstrate that he is a fit and proper person to be a member of the solicitors' profession.
22. The Tribunal ordered the Respondent to pay the Applicant's costs in the agreed fixed sum.

Dated this 6th day of February 2007
On behalf of the Tribunal

J N Barnecutt
Chairman