

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12523-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

SUNNY SIDHU

Respondent

Before:

Mr G Sydenham (Chair)

Mrs L Murphy

Dr S Bown

Date of Hearing: 7 & 8 May 2024

Appearances

Matthew Edwards, barrister employed by Capsticks Solicitors LLP of 1 St George's Road, London, SW19 4DR, for the Applicant.

The Respondent represented himself.

JUDGMENT

Allegations

1. The allegations against the Respondent, Sunny Sidhu, made by the SRA are that, whilst in practice as a solicitor at LDJ Solicitors LLP (“the Firm”):
 - 1.1 Between January 2021 and April 2021, while acting for Person A in her family matter, requested explicit images from Person A on the basis that the images were required for legal reasons connected to her family matter, when he knew this not to be the case. In doing so he breached Principles 2, 4 and/or 5 of the SRA Principles 2019 and/or Paragraphs 1.2 and 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019 (“the Code”).

PROVED

2. The seriousness of the misconduct alleged was aggravated by the fact that it was sexually motivated (although sexual motivation was not a necessary ingredient before the allegations could be found to be proved).

PROVED

3. In addition, allegation 1.1 was advanced on the basis that Person A was vulnerable, and/or that the Respondent perceived or ought to have perceived her to be vulnerable. Vulnerability was not a necessary ingredient before the allegations could be found to be proved.

PROVED

Executive Summary

4. It was the Applicant’s case that the Respondent was not legitimately pursuing a non-molestation order on behalf of his client which required her to send him explicit images of herself to his own mobile phone and that he had done so for his own sexual gratification. In doing so he had taken advantage of a person he had known to be vulnerable.
5. The images were never saved onto the Firm’s case management system, contrary to the assurance the Respondent had given to his client that he had done so. The Respondent made no records in the form of attendance notes on the client’s file in relation to his request and in the event never applied for the non-molestation order.
6. It was the Respondent’s case that he had required the images to protect his client from her ex-husband carrying out an act of ‘*revenge porn*’ and that the images had been required to support an application for a non-molestation order. Whilst accepting that he had known his client to be vulnerable, he had not obtained the images for his own gratification, and he had not been dishonest.
7. The Respondent did not request that the SRA have its witnesses available for cross-examination. In the normal course of events and in such circumstances the Respondent would be deemed to have accepted in full their witness evidence, however, in his own evidence he disputed aspects of their evidence. This resulted in the Tribunal adjourning

the matter to hear argument as to how it should proceed in the circumstances and the parties were requested to address matters set out in [Griffiths v TUI UK Ltd \[2023\] UKSC 48](#).

8. The Tribunal later found all allegations proved on the balance of probabilities.

Sanction

9. The Respondent was [struck of the roll of solicitors](#) and ordered to pay costs in the sum of £32,394.72.

Documents

10. The Tribunal considered all the documents in the case which were contained in the electronic bundle.

Preliminary Matters

11. [Anonymity](#)

- 11.1 Mr Edwards reminded the Tribunal that at an earlier Case Management Hearing a different constitution of the Tribunal had granted anonymity for Person A on the basis of LPP. He said that this should remain the position in the substantive hearing. The Respondent raised no objection and the Tribunal agreed with Mr Edwards and directed that there must be no reference to Person A's name during the proceedings, in the judgment and/or any reporting of the case which included her name. It was necessary, therefore, to take all reasonable steps to preserve the position, including by avoiding jigsaw identification.

12. [Challenging Evidence by Cross Examination](#)

- 12.1 During the Respondent's evidence it was noted that he called into question certain matters set out within the statements of the SRA witnesses, however, the Respondent had not required any of those witnesses to attend and give evidence at the hearing.

- 12.2 In the normal course of events when a witness is not required by an opposing party to attend for the purposes of cross-examination, that party is deemed to have accepted their evidence in full.

- 12.3 To obtain some clarity on the matter the Tribunal gave the parties time, by adjourning the case until the next day, to consider the issue and to make submissions on the subject. The parties were asked to address their minds to the decision of the Supreme Court in [Griffiths v TUI UK Ltd \[2023\] UKSC 48](#) and its relevance to this case.

Applicant's Submissions

- 12.4 Mr Edwards set out the applicable Tribunal's rules and standard directions:

Rule 28(1) of the Solicitors (Disciplinary Proceedings) Rules 2019 ("SDPR 2019") outlines:

“If no party requires the attendance of a witness, the Tribunal may accept the Statement of that witness as evidence in respect of the whole case or of any particular fact or facts.”

Rule 28(2) SDPR 2019 outlines:

“Every Statement upon which any party proposes to rely must be sent to the Tribunal by that party and served on every other party on a date determined by the Tribunal which must be no less than 28 days before the date fixed for the hearing of the application. The Statement must be accompanied by a notice, using the prescribed form.”

Rule 28(3) SDPR 2019 states:

“Any party on whom a notice has been served under paragraph (2) and who requires the attendance of the witness in question at the hearing must, no later than seven days after service of the notice require, in writing, the party on whom the notice was served to produce the witness at the hearing”.

- 12.5 In this case Mr Edwards said that the Rule 28(2) SDPR 2019 Notices were served on the Respondent on 18 December 2023 and 18 March 2024. No response was received to these Notices.
- 12.6 With respect to Standard Direction 9, this required each party to notify the other of the names of any witnesses who they wished to attend the hearing for cross examination by no later than 4:30pm on 26 March 2024.
- 12.7 Mr Edwards said no communication was received from the Respondent in respect of this direction and as a result the Applicant confirmed in its Certificate of Readiness, served on the Respondent and the Tribunal, that it would not be calling any live witness evidence. In that document it also confirmed that the time estimate for the final hearing had changed due to the lack of engagement from the Respondent specifically in relation to the Standard Directions.
- 12.8 The Applicant wrote to the Respondent regarding this issue on two occasions (bullet pointed below), and it did not receive a response from the Respondent:
- 27 March 2024 letter seeking clarification on which witnesses were required to attend the substantive hearing; and
 - 9 April 2024 letter informing him that due to the failure to comply with the Direction of the Tribunal, the witness would now not be called and that he would no longer have the opportunity to cross examine the witness.
- 12.9 The Respondent later confirmed in a telephone call with the Applicant’s representatives on 3 May 2024, that he did not seek to challenge the evidence of the witnesses and that they would not be required to attend the hearing. The Respondent repeated this stance at the outset of the hearing.
- 12.10 In his oral evidence, the Respondent challenged, for the first time, the evidence of:

- Person A: On the basis of what the Respondent was alleged to have told Person A as to why the images that were requested by him were required, together with the frequency of those requests.
- Nicola Greenwell: On the basis of her assertions that it was not possible to upload images directly from a mobile telephone to the Firm's case management system and that there was no mention of a non-molestation order/injunction being pursued on the client file.
- Amardeep Begraj: On the basis of her assertion that there was no record on the file of the Respondent ever requesting these images.

12.11 The Respondent also alluded in his oral evidence to the fact that there may be recordings of his calls with Person A held by the Firm that would demonstrate him discussing the pursuit of a non-molestation order, together with his request for the explicit images from her.

12.12 With respect to the decision in Griffiths the Supreme Court set out the status and application of the rule in Browne v Dunn (1893) 6 R. 67, [1893] 1 WLUK 44 requiring a party in civil proceedings to challenge by cross-examination the evidence of any witness of the opposing party on a material point which they wished to submit should not be accepted.

12.13 In allowing the appeal, the Supreme Court upheld the general position that a party is required to challenge in cross-examination the evidence of any witness of the opposing party if he wished to submit to the court that the evidence of the witness should not be accepted on that point.

12.14 The Supreme Court also highlighted the circumstances in which the rule might not apply, these included:

- Where the relevant matter was collateral or insignificant and fairness to the witness did not require an opportunity to answer or explain.
- Where the evidence of fact was manifestly incredible and an opportunity to explain on cross-examination would make no difference.
- Where the expert had been given a sufficient opportunity to respond to criticism of, or otherwise clarify their report.

12.15 At paragraph 70 of the judgment, the status and application of the rule was summarised as follows:

“(i) The general rule in civil cases, as stated in Phipson, 20th ed, para 12-12, is that a party is required to challenge by cross-examination the evidence of any witness of the opposing party on a material point which he or she wishes to submit to the court should not be accepted. That rule extends to both witnesses as to fact and expert witnesses.

(ii) In an adversarial system of justice, the purpose of the rule is to make sure that the trial is fair.

(ii) The rationale of the rule, i.e. preserving the fairness of the trial, includes fairness to the party who has adduced the evidence of the impugned witness.

(iv) Maintaining the fairness of the trial includes fairness to the witness whose evidence is being impugned, whether on the basis of dishonesty, inaccuracy or other inadequacy. An expert witness, in particular, may have a strong professional interest in maintaining his or her reputation from a challenge of inaccuracy or inadequacy as well as from a challenge to the expert's honesty.

(v) Maintaining such fairness also includes enabling the judge to make a proper assessment of all the evidence to achieve justice in the cause. The rule is directed to the integrity of the court process itself.

(vi) Cross-examination gives the witness the opportunity to explain or clarify his or her evidence. That opportunity is particularly important when the opposing party intends to accuse the witness of dishonesty, but there is no principled basis for confining the rule to cases of dishonesty.

(vii) The rule should not be applied rigidly. It is not an inflexible rule and there is bound to be some relaxation of the rule, as the current edition of Phipson recognises in para 12.12 in sub-paragraphs which follow those which I have quoted in para 42 above. Its application depends upon the circumstances of the case as the criterion is the overall fairness of the trial. Thus, where it would be disproportionate to cross-examine at length or where, as in Chen v Ng, the trial judge has set a limit on the time for cross-examination, those circumstances would be relevant considerations in the court's decision on the application of the rule.

(viii) There are also circumstances in which the rule may not apply: see paras 61-68 above for examples of such circumstances."

- 12.16 Mr Edwards said, therefore, that the general rule is that a party is required to challenge by cross examination the evidence of any witness of the opposing party on a material point which he or she wishes to submit to the court should not be accepted.
- 12.17 This rule was enshrined in the SDPR 2019 and the Tribunal's Standard Directions which made provision for parties to notify the opposing party and the Tribunal of which witnesses were required for cross examination.
- 12.18 Rule 28(1) of the SDPR 2019 made it clear the consequences of failing to notify the other party of which witnesses were required, namely that the Tribunal may accept the Statement of that witness as evidence in respect of the whole case or of any particular fact or facts, and this was repeated to the Respondent in correspondence prior to the substantive hearing.
- 12.19 In any event, the Tribunal announced, following the closure of the Applicant's case, that the witness evidence of the Applicant would be taken as read, given such evidence

had not been subject to cross-examination. The Applicant's solicitor's note of the relevant part of the hearing reads as follows:

"The Respondent didn't respond to the notices and therefore we accept the evidence of those witnesses as part of the SRA's case".

- 12.20 Cross examination in these circumstances would have allowed the witnesses to clarify or explain their evidence in detail and comment on the defence that was now being proffered for the first-time. Notably, this was not a defence that was set out:
- (a) in the Respondent's communications with the Applicant during the investigation; or
 - (b) as part of the Respondent's Answer lodged and served in these proceedings.
- 12.21 The evidence which the Respondent now sought to challenge went to the heart of the case.
- 12.22 It was the Applicant's case that the Respondent was not legitimately pursuing a non-molestation order on behalf of his client which required her to send him explicit images of herself. The Applicant's case was that the Respondent's rationale for requesting those images from his client, as outlined by Person A in her witness statement, did not stand up to scrutiny.
- 12.23 The oral evidence that the Respondent had given in his examination in chief was a new explanation, previously not advanced to the Applicant or to the Tribunal and it amounted to litigation by ambush, which the Tribunal should not allow.
- 12.24 Additionally, the Respondent now challenged the fact that records of his communications with Person A, which would have demonstrated him advising her on this issue, were incomplete. The witnesses that could speak to the collation of the records/files produced in evidence and those who had reviewed the client file and who could speak to the parameters of the search, had not been required to give evidence.
- 12.25 Mr Edwards' submitted that notwithstanding the fact that the entirety of the client file was produced in evidence, cross examination of those witnesses would have provided them with the opportunity to comment on the account now given by the Respondent, namely a blanket assertion that such records were on the file.
- 12.26 Rule 28(1) SDPR 2019 was clear, the evidence of the disputed witnesses, which the Respondent had indicated he did not wish to challenge, could be accepted by the Tribunal as evidence in respect of the whole case or of any particular fact or facts and the Tribunal had already confirmed it had accepted such evidence.
- 12.27 Further, in an adversarial process, fairness to the witnesses and to the process as a whole, required the Tribunal to accept the evidence of the witnesses which the Respondent had chosen not to challenge. Adopting any other approach would amount to the Respondent being permitted to conduct his defence via ambush and would unfairly reward non-compliance with both the procedural rules and notice requirements established under the SDPR 2019 and directions issued by the Tribunal.

- 12.28 It would also set an unhelpful precedent for any Applicant in future cases to fully warn all their witnesses up to and until after any Respondent closes their defence at a final hearing.
- 12.29 The Respondent had engaged with these proceedings at the eleventh hour, yet he had been given ample and repeated opportunities to confirm whether the Applicant's witnesses were required to give evidence.
- 12.30 The Respondent repeatedly referenced his unfamiliarity with the Tribunal's proceedings during the course of his oral evidence. However, the Respondent is a family solicitor with more than 5 years' experience in an area of law that has its own Procedure Rules. He must therefore have been aware of the need to comply with the Rules and Directions of the Tribunal and the consequences of failing to do so.

Respondent's Submissions

- 12.31 The Respondent accepted that he had not required the attendance of the SRA's witnesses, however due to his lack of experience in disciplinary matters he had not fully grasped the impact this would have upon how the Tribunal would deal with the evidence.
- 12.32 The Respondent, in terms, asked the Tribunal to consider the matters he had raised in his evidence and that he was due to raise in his closing submissions. He stated that with respect to the evidence of Person A, it was her word against his, and as to the SRA's case as a whole it had not obtained cogent evidential material such to satisfy the Tribunal to the requisite standard that it was more likely than not that his conduct was as alleged, and that he had breached the stated Principles and Codes of Conduct.

The Tribunal's Decision

- 12.33 The Tribunal deferred deciding on the issue until the Respondent had closed his case. The Tribunal would set out its decision when making its findings on facts and with regard to the totality of the evidence.

Factual Background

13. The Respondent was aged 32 the time of these events. He is a solicitor who was admitted to the Roll on 3 December 2018; he held a current practising certificate free from conditions.
14. In November 2020, Person A instructed the Firm to advise her in respect of divorce proceedings and obtaining a prohibited steps order against the father of her children, Person B.
15. The Respondent was the case handler for Person A's matter.
16. On 17 November 2020, the Respondent, on behalf of Person A, filed a without notice application for a prohibited steps order with the Leicester Family Court. The Order was granted on an interim basis on 7 December 2020 and the below hearings were set down.

17. A directions hearing on 15 December 2020; and a First Hearing and Dispute Resolution Appointment (“FHDRA”) hearing on 1 April 2021.
18. Following the hearing on 15 December 2020, the prohibited steps order remained in place. At the FHDRA hearing on 1 April 2021, the Respondent instructed counsel, Luke Nelson, to represent Person A. The proceedings were brought to a close at this hearing and the prohibited steps order remained in place at its conclusion.
19. On 11 May 2021, the Respondent wrote to Person A to inform her that the matter had now concluded and that arrangements would now be put in place for the closing and storing of her file.
20. On 11 March 2022, the Respondent resigned from the Firm with immediate effect.
21. On 30 June 2022, the Firm made a report to the SRA.
22. On 19 July 2022, Person A reported to the SRA that the Respondent had coerced her into providing graphic/explicit images of her to him for his own gratification.

Witnesses

23. No live witness evidence was called, and the witness evidence was taken as read.
24. The written evidence of witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence of all witnesses. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence. The following witnesses gave oral evidence:
 25. **Person A**
 - 25.1 The witness statement of Person A dated 16 November 2022 was relied upon by the SRA in support of its allegation. In this statement Person A exhibited a number of documents which included text messages relevant to this allegation.
 - 25.2 Person A first called the Firm in November 2020 when looking for a solicitor to put in place safe-guarding measures for herself and her children. This was following the breakdown of her marriage which she describes as physically, psychologically and financially abusive and upon discovering that her husband had been sexually abusing their daughter which resulted in criminal charges being brought against him.
 - 25.3 Her matter was allocated to the Respondent and her initial consultation with him, which was meant to last thirty minutes, ending up taking one and a half hours. Person A stated the Respondent was incredibly thorough and following this consultation she instructed him to process her divorce and to put something in place to protect her children from her husband.

- 25.4 During the time the Respondent had conduct of Person A's matter they never met. She outlined how the frequency of their contact would vary, as would the Respondent's attitude towards her. Person A states that on occasions he could be blunt, but on other occasions he seemed like he really cared about her and her family.
- 25.5 The Respondent would say to Person A that she could trust him and to let him know if she needed anything. Person A also described how sometimes the content of her conversations with the Respondent were nothing to do with the legal proceedings at all and he would blur the lines between the professional and the personal.
- 25.6 The Respondent's telephone conversations with Person A would go on for over an hour and he would push her for details about what had happened to her daughter. Her conversations were also repetitive in nature with him asking questions to which she had already provided answers. At the time Person A thought this was the Respondent:
- "showing care for his job and more".*
- 25.7 Around mid to late January, the Respondent asked Person A if she knew what revenge porn was and if she was aware of revenge porn sites. Person A informed the Respondent that she knew what this was, which prompted the Respondent to ask her if she had ever sent any explicit photos or videos of herself to her ex-husband. Person A confirmed that she had, and that her ex-husband would be in possession of many videos and photos of her. The Respondent informed Person A that due to the nature of the proceedings she was at risk of being the victim of revenge porn by her ex-husband. When the Respondent asked her if she believed her ex-husband was capable of this, she informed him that she believed he was.
- 25.8 In response to being told this, the Respondent stated to Person A:
- He needed all the photos and videos she had ever sent her ex-husband for legitimacy if her ex-husband did upload them to a website.
 - He needed them before the next court date in April 2021.
 - That if she did not send them to him, then it would be impossible to prove that the photographs and videos were of her.
 - Her evidence would be invalid if the images were not already with him and that she risked being accused of generating the images after the fact or uploading the images herself.
- 25.9 Person A described not really understanding computers or how revenge porn worked so she believed what the Respondent was telling her. For the next six weeks the Respondent requested the explicit photos and videos in every conversation that they had and would reiterate what he said in their first conversation regarding revenge porn. He also emphasised that revenge porn would be her ex-husband's next move and that there would be nothing he could do to help her if he did not already have the photos.
- 25.10 Person A would make excuses in response to these requests and consulted her friends and family on the issue. She described feeling uncomfortable about what the

Respondent was asking her to do. During the last conversation they had in which he asked her for the images, the Respondent mentioned another client he represented where images from the client's *Only Fans* account had been distributed around the local area. When Person A was being told about this she asked the Respondent to stop as she knew who he was talking about. After being told this she described the Respondent as being like "*a dog with a bone*".

- 25.11 The Respondent stated that whilst she was protected by bail conditions and the prohibited steps order, further court hearings and her ex-husband losing all communication with his children would push him over the edge. He repeated the fact that she would lose her opportunity for protection from revenge porn if the images were not sent to him soon and that he was sure her ex-husband would retaliate by before the hearing in April; if he did so the images would be needed so that this could be raised with the judge at the hearing.
- 25.12 Eventually Person A decided to send images of the kind they had discussed to the Respondent. The Respondent provided his (personal) telephone number to Person A to enable her to send the images via WhatsApp. They agreed on a password so that Person A would know that she was communicating with the Respondent. He informed her that after the images had been sent to him, they would be uploaded to a secure file on the Firm's case management system and they would then be deleted from the phone.
- 25.13 The Respondent did not inform Person A that the number he provided to Person A, XXXXXXXX019, was his personal number. What he did tell her was that the number was linked to a secure folder in the Firm's case management system and that WhatsApp fed directly into this. He did not request the images via email.
- 25.14 Person A saved the number to her phone and sent the agreed safe word "Hadley". She then sent between ten and twenty explicit photographs of herself to the Respondent via WhatsApp. She states that she sent images that were graphic enough to stop the Respondent asking for photos, but none that were pornographic. She stated that some of the images showed partial frontal nudity, such as her being topless or wearing see through underwear. After sending the photographs she deleted them and asked the Respondent via WhatsApp to ensure they were saved and destroyed. The Respondent replied to this message as follows:
- "Dear [Person A] [sic] these will now be uploaded onto the case management system secure folder and will be deleted of [sic] the phone. Thank you Sunny"*
- "If you can confirm that these are all images and videos or are there additional ones also?"*
- 25.15 After Person A stated that she would need to look through old phones and any messages with her ex-husband, but that her ex-husband would be in possession of hundreds of images of her that were far more graphic than the ones she had sent to the Respondent.
- 25.16 The Respondent replied stating:

“Ok not a problem. These have been uploaded and deleted on this phone. If you can go through your old phone and if there is material/images please forward on. Thank you.”

25.17 In subsequent messages sent to Person A on the same day, the Respondent asked her to go through her old phone and forward on material/images before the next hearing on 1 April:

“in case Person B mentions anything or does anything unpleasant regarding them we can address at that hearing”.

25.18 In subsequent telephone calls the Respondent was persistent in asking for more photographs; these requests stopped after the hearing on 1 April 2021. Person A states that she sent the messages as at that point in time she felt useless in life and not qualified to make decisions for her own life. She describes being compliant with anyone that had authority over her; she trusted him.

25.19 On 30 June 2022, Person A telephoned Firm and asked to speak with the Respondent. After she was informed by a secretary named Diane that he no longer worked at the Firm she asked who had the password to her secure folder. Person A clarified this by informing Diane that there is a secure folder with a password that contained explicit images which she had sent to the Respondent. Diane informed Person A that she was unaware of what she was talking about and asked her if she could check and call her back. The same day she received a call back from Nikki Greenwell of the Firm who informed her that the Respondent should not have asked for such images and that what she had been asked to do by the Respondent did not seem right. The Firm reported the matter to the SRA on the same day.

25.20 Person A reported this matter to the SRA on 19 July 2022.

26. **Ms Greenwell**

26.1 Ms Greenwell is a Partner at the Firm and responsible for dealing with complaints. She confirmed there was no trace or record of the Firm’s case management system currently holding or ever holding videos or photos of Person A, in relation to either the divorce or prohibited steps order file.

26.2 Having read through the physical and electronic file on the Firm’s case management system called DPS, there was no mention of obtaining a non-molestation order/injunction, the advice on the file related only to a prohibited steps order and the divorce, there was no record on the digital or paper file of WhatsApp being used or the messages between Person A and the Respondent.

26.3 It was not standard practice for a solicitor to obtain explicit images in such cases as Person A’s and not standard practice for solicitors in the Firm to use WhatsApp to communicate with clients, or obtain evidence using this application. It would not have been possible for the Respondent to have uploaded images from his mobile directly to the case management system as they are entirely separate. There was no way to link a mobile phone or a WhatsApp account to it that she is aware of. If photographs needed to be uploaded to the DPS file, they would first need to be emailed to the work email

address of the solicitor and then saved as an image on the work computer before being dragged and dropped into the DPS file, they could not be uploaded.

26.4 If a fee earner needed assistance with IT issues or the saving/storage of client data during this time they could have reached out internally to either the Office Administrator, or the Practice Manager. External support was also available to fee earners from the Firm's IT support company.

27. **Amardeep Begraj**

27.1 This witness is a solicitor at the Firm specialising in family law. She was allocated Person A's file in March 2022 after the Respondent left the Firm. Following a review of Person A's file, Ms Begraj confirmed in Person A's case she did not think it was necessary to obtain explicit photographs from her. There is no record of the Respondent asking Person A for explicit photos either on the hard file or the case management system and no record of obtaining a non-molestation order on Person A's case file.

27.2 It was her belief that Person A's ex-husband had bail conditions which restricted direct/indirect contact and as there was no record on the file of bail conditions having been broken, she did not see the need to apply for such an order.

28. **Luke Nelson**

28.1 This witness is a barrister at 3 Paper Buildings who was instructed by the Respondent to represent Person A and attended the hearing before the Family Court sitting at Leicester on 1 April 2021.

28.2 Mr Nelson confirmed that he was instructed to request the prohibited steps order be continued indefinitely in light of the allegations that had been made against Person A's ex-husband and until the conclusion of the criminal case against him for alleged sexual offences against their daughter.

28.3 In his view explicit images of Person A were not relevant or necessary to Person A's case, or the application for a prohibited steps order. He did not recall being told that Person A had sent such photographs to the Respondent, as this was something that would have stuck in his mind.

28.4 There was no reason for the Respondent to have requested these images. It was not the case that Person A's evidence would have been rendered invalid or that Person A would not have been protected as a result of her not sending the images to the Respondent prior to the hearing on 1 April 2021.

28.5 Mr Nelson said he was never instructed or notified about any sexual concerns such as revenge porn between Person A and Person B prior to the hearing. In his experience, even if "revenge porn" or the sharing of explicit photographs was in issue in a case, it would never be necessary or appropriate to share those images as it would cause further harm and embarrassment to the affected party. He described Person A as being "in a very vulnerable position" at the time of his instruction.

Findings of Fact and Law

29. The Applicant was required to prove the allegations beyond 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 right 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.
30. **Allegation 1.1 – requesting explicit images from Person A**

The Applicant's Case

Principle 4 SRA 2019 Principles (honesty)

- 30.1 The Respondent requested explicit images from Person A during the course of family proceedings when approaching a hearing to consider a prohibited steps order. In seeking to persuade Person A to send him these messages he informed his client that:
- The images were required in advance of the hearing on 1 April 2021
 - Her evidence would be invalid if the images were not received before the hearing on 1 April 2021.
- 30.2 The images were not required for the hearing on 1 April 2021 and they had no bearing on Person A's evidence for that hearing. The statements the Respondent made to Person A were therefore false.
- 30.3 After receiving some images from Person A, and in seeking to encourage Person A to send more images/videos, he informed her that the images had been "*uploaded and deleted on this phone*" meaning that they had been uploaded to a secure file on the Firm's case management system before deleting them on his personal phone. The comment about the images being uploaded was not true.
- 30.4 Principle 4 of the SRA Principles 2019 requires solicitors to act with honesty. The test for dishonesty stated by the Supreme Court in Ivey v Genting Casinos [2017] UKSC 67, which applies to all forms of legal proceedings, namely that the person has acted dishonestly by the ordinary standards of reasonable and honest people:

"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

30.5 The Respondent was dishonest in accordance with the test laid down in Ivey v Genting because he knew that:

- the explicit images were not required for the hearing on 1 April 2021;
- the explicit images had no bearing on Person A's evidence for the hearing on 1 April 2021;
- he had not uploaded the images to a secure file on the Firm's case management system on 15 March 2021 or at all.

30.6 Despite knowledge of the above facts the Respondent chose to conduct himself and communicate with Person A in a way that ignored or disregarded those facts. Ordinary decent people would regard such conduct to be dishonest. Principle 4 of the SRA 2019 Principles was therefore breached.

Principle 5 SRA 2019 Principles (integrity)

30.7 The conduct of the Respondent in dishonestly requesting and receiving explicit images from Person A was clearly inappropriate. The Respondent used his position as a solicitor to request and receive these images, which was an abuse of his position. Person A trusted the Respondent at a time when she was vulnerable and felt incapable of making decisions for herself; the Respondent knew or ought to have known this.

30.8 In Wingate and Evans v Solicitors Regulation Authority [2018] EWCA Civ 366, it was said that:

“In professional codes of conduct, the term ‘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... The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.” (paragraph 97).

30.9 In Hoodless and Blackwell v Financial Services Authority [2003] UKFTT FSM007 it was said that integrity connotes moral soundness rectitude and steady adherence to an ethical code. A solicitor acting with integrity would not have used his position of authority as a solicitor to request and receive explicit images from a client. It ought to have been obvious to the Respondent, that to behave in this way amounted to an abuse of his position. Such a failure to behave appropriately amounts to a breach of Principle 5 of the SRA 2019 Principles.

Principle 2 SRA 2019 Principles (uphold public trust and confidence)

30.10 The conduct alleged also amounted to a breach by the Respondent of the requirement to behave in a way which upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons. The public would be appalled at the behaviour of the Respondent, engineering a situation in which he could request explicit images from a client and then pestering her, through his position of

authority as a solicitor, to send them to his personal mobile phone. Such behaviour is a breach of Principle 2 of the SRA 2019 Principles.

Paragraphs 1.2 and 1.4 of the Code

30.11 By using his position as a solicitor to dishonestly request and receive explicit images of Person A, the Respondent misled his client and took unfair advantage of her. He therefore breached Paragraphs 1.2 and 1.4 of the Code.

Sexual Motivation

30.12 The Respondent's conduct was clearly sexually motivated applying the test set out in Basson v GMC [2018] EWHC 505 (Admin). There was no credible motivation for the Respondent to request explicit images from Person A other than in pursuit of sexual gratification or in pursuit of a future sexual relationship.

Vulnerability

30.13 Person A was vulnerable, and/or that the Respondent perceived or ought to have perceived her to be vulnerable. Taking advantage of a vulnerable person is an aggravating feature of the misconduct impacting upon the level of seriousness.

30.14 Person A instructed the Respondent to advise her in relation to her divorce proceedings and for the purpose of obtaining a prohibited steps order. The instruction was set against the backdrop of criminal proceedings in which it was alleged that Person B had committed sexual offences against her daughter.

30.15 Person A only discovered this in June 2020; some five months prior to instructing the Respondent. It was known to the Respondent that Person A was the victim of physical, psychological and financial abuse during the course of her relationship with Person B.

30.16 Person A describes herself as being "*so vulnerable*" and that due to her past abuse, she felt as if she could not say no to people as this would be rude. This would be even more applicable to authoritative figures which is how she perceived the Respondent. Whilst this was not disclosed to the Respondent, Person A was vulnerable and this would have been obvious to the Respondent that this was the case.

Respondent's Response to the SRA

30.17 On 21 September 2022, the SRA wrote to the Respondent notifying him of the reports.

30.18 On 19 October 2022, the Respondent telephoned the SRA to discuss the contents of the letter that he had received. The Respondent stated that after the prohibited steps order had been obtained he advised his client to pursue a non-molestation order against her ex-husband and that the easiest way to obtain this would be to send the images to court with the application.

30.19 He had asked for the images and videos via WhatsApp. He tried to ask for this via the work email however, the images were too large to send in this way, so he resorted to his mobile phone. He deleted the images once Person A stated she did not want to

pursue the non-molestation order. The Respondent stated that in extreme circumstances such as this one, the Court would require the images to make such an order.

The Respondent's Case

- 30.20 The Respondent affirmed and gave evidence to the Tribunal.
- 30.21 He gave an account which accorded with matters he had stated to the SRA. However, he went on to make observations on the evidence of the SRA's witnesses which he had not previously raised. *This prompted the issue considered in the legal submissions set out above in paragraph 12 above.*
- 30.22 Essentially, the Respondent accepted that he had requested the images from Person A as the client wished him to prepare a non molestation order against her husband. Whilst he also accepted that she had been vulnerable at the time he disputed that he had made numerous calls to her and that he had not obtained the number of images she said he had obtained from her. He had not been like a *'dog with a bone'* as she had said he had been.
- 30.23 The Respondent disputed that the full evidence relating to the calls had been obtained by the SRA and he said important telephone evidence in the form of the Firm's recordings of the calls, and its telephone logs had not been obtained by the SRA and neither had Person A's itemised phone bills been acquired for evidential purposes. Had this been done, as it should have been, then this valuable material would have shown that the volume and frequency of the calls were not as suggested by Person A and there had in fact been only a few calls and made in furtherance of a legitimate purpose, namely, to ensure her case with respect to the non-molestation order was fully prepared. The Respondent said that Person A sent him fewer than 10 images .
- 30.24 In cross examination the Respondent accepted that he would not have required the images for the purposes of the prohibited steps order hearing, however, he had requested them in anticipation of making an ex-parte application for a non-molestation order in the future. He said that there had been no reason to inform counsel, Luke Nelson, at the time as he may not have instructed him to apply for the non-molestation order.
- 30.25 It was put to the Respondent that Person A's evidence had been that he had required the images immediately in preparation for the hearing on 1 April 2021 and not for an ex-parte application to be made some time in the future:

"Mr Sidhu said that he needed all the photos and videos I had ever sent my ex-husband for legitimacy if my husband did upload them to a website. Mr Sidhu asked for them before the next court date in April 2021, which was regarding my children. He said that if I did not send them to him, then it would be impossible to prove that the photographs and videos were of me. He said my evidence would be invalid if the images were not already with him and I could be accused of generating the images after the fact or that I could have uploaded the images myself. However, if I sent the images to him, Mr Sidhu said they would know they came from me. I don't really understand computers or how proving revenge porn works, so I believed what he was telling me. Despite this,

I did not send him any photographs or videos initially. The request made me uncomfortable, and it felt unnecessary.” [para.9 of Person A’s statement]

- 30.26 At points during his cross-examination of the Respondent Mr Edwards reminded him that as he had not required any of the SRA’s witnesses to attend for cross examination he was therefore as deemed to have accepted their evidence. On this basis Person A’s evidence contradicted the account the Respondent was now, for the first time, putting before the Tribunal as the truth of what took place.
- 30.27 Whilst the Respondent accepted that it had been irregular to ask Person A to send the images to his personal mobile phone via WhatsApp the circumstances obtaining at the time presented him with no option as this was the only way he could collect the images from Person A and then upload them to the case management system. He had requested the use of the firm’s duty phone, but he never received a reply to this request.
- 30.28 The Respondent did not agree with the evidence from Ms Greenwell that there had been no way to link a mobile phone or a WhatsApp account to the Firm’s case management system. The Respondent disputed Ms Greenwell’s expertise to make such a statement as she was not an IT expert and had no known knowledge on this subject beyond a basic level. The Respondent observed that no witness statement had been taken from the company which provided the Firm’s case management system and/or from the Firm’s technical support team as to its capabilities.
- 30.29 The Respondent said that in any event that when he found that he was not able to upload the images, despite there being a method of doing so, he deleted them all from his phone and he told Person A that he had deleted them. However, it was put to the Respondent by Mr Edwards that this account of events was contradicted by the evidence of a text message he sent to Person A on 15 March 2021 timed at 15:36pm which stated:
- “These have been uploaded and deleted on this phone. If you can go through your old phone and if there is material/images please forward on. Thank you.”*
- 30.30 The Respondent said that at the time he sent the message it appeared that the images had uploaded successfully. He said that the full sequence of text messages was not in the evidence bundle and he criticised the SRA for not ensuring that the evidence in full was presented to the Tribunal.
- 30.31 The Respondent said that he was unable, at this remove from the substantive events, to remember why the application for a non-molestation order was not pursued by him on Person A’s behalf. It was put to him that there were no attendance notes on the file relating to an intention to apply for a non-molestation order or to any instructions from Person A on the matter and indeed no reference to obtaining the images from Person A. To this, the Respondent said that the full case file had likely not been produced by the SRA.
- 30.32 The Respondent said that he had not been dishonest, and that at the time of the underlying events he had been genuinely certain that a non-molestation order was necessary to protect Person A from the risk of revenge porn. However, with the benefit of hindsight and the greater experience he now possessed, he could see that it had perhaps not been necessary. At the relevant the time he was still fairly newly qualified

and working without direct supervision due to the Covid restrictions in force. He had been located at the Hinckley office where there were no other senior family solicitors present.

- 30.33 The Respondent denied the suggestion from Mr Edwards that he had made up his defence to explain away the reason why he had requested the images from Person A in circumstances where they had been held on his personal phone, never uploaded to the case management system and where no application for a non-molestation was ever made.
- 30.34 The Respondent referred the Tribunal to testimonials, one of which was from the senior partner at his present firm which he said attested to his good character and indicated his lack of propensity to commit the misconduct alleged by the SRA. He said that he had worked hard to become a solicitor and being one was a crucial part of his life. He needed his work to support and take care of his family. If he had fallen short in any way then this was a result of the difficult situation caused by the Covid emergency.
- 30.35 The Respondent denied that there had been any sexual motivation on his part. At the time of the alleged incident, he had been in a happy relationship with his partner and Person A was much older than him. He said that he was a caring solicitor who went the extra mile for his client, which included preparing for all eventualities.
- 30.36 In his closing submissions the Respondent reiterated the points he had made in his evidence, namely that the SRA had:
- Failed to obtain the requisite expert evidence relating the ability to upload the images from his phone to the case management system.
 - Failed to obtain important information relating to the extent and frequency of the calls between Person A and himself. No call logs had been adduced by the SRA.
 - He disputed certain aspects of Person A's account. He obtained fewer than 10 images from her. He had not coerced her to send him the images as she suggested in her statement.
 - He had not been dishonest, and he had not sought any sexual gratification from the images.

The Tribunal's Findings

- 30.37 The Tribunal carefully considered the evidence it had read and heard.
- 30.38 The Tribunal reminded itself with respect to all the allegations that the Applicant must prove its case on the balance of probabilities; the Respondent was not bound to prove that he did not commit the alleged acts and that great care must be taken to avoid an assumption (without sufficient evidence) of any deliberate failure or act on the Respondent's part.

- 30.39 The Respondent had chosen to give evidence and the Tribunal distilled his account as follows:
- 30.40 He appeared to accept that he had requested the images; that Person A had sent them to his personal WhatsApp account on his mobile phone; that he had not been able to download them to the Firm's case management system (despite initially believing they had successfully downloaded the images) and that he had then deleted them from his phone.
- 30.41 The Respondent had a legitimate purpose for requesting the images, namely for an ex-partner application for a non-molestation order against Person A's former husband. He said that Luke Nelson, counsel instructed in the prohibited steps order application, had no reason to be informed at that stage of his intention to apply for the non-molestation order, and indeed it had been open to the Respondent to instruct fresh counsel for that application. In the event no such application was ever made.
- 30.42 He accepted that on reflection he perhaps had need not have considered a non-molestation order at that stage and he put this down to his lack of experience; limited supervision and his eagerness to do the best for Person A, who he accepted had been vulnerable.
- 30.43 The Respondent denied that there had been any sexual motivation for his actions, stating that he had been in a good relationship at the time and that Person A had been older than him. The Respondent denied that there had been any dishonesty on his part towards Person A in seeking to obtain the images from her.
- 30.44 Due to the matters set out by the Respondent in his defence the Tribunal was faced with a problem regarding how it should approach the Respondent's evidence given that he had not required any of the SRA's witnesses to attend before the Tribunal and at the close of the SRA's case he was deemed therefore to have accepted their evidence as stated by them, without question.
- 30.45 However, in his own evidence the Respondent had sought to question those parts of the witness evidence which were potentially damaging to him with a view to establishing that the witnesses had not been wholly correct in their accounts; that their evidence was inaccurate or incomplete and in the case of Ms Greenwell she had not been competent to state any matters relating to the technical capabilities of the case management system as she lacked the requisite expertise to do so. The Respondent had criticised the Applicant for not obtaining phone logs, recordings or Person A's itemised bills, all of which he said would have provided him with valuable exculpatory material.
- 30.46 The Tribunal asked Mr Edwards and the Respondent to assist the Tribunal by making submissions on the underlying law regarding a failure to cross-examine a witness on matters which were in contest between the parties (see paragraph 12 above).
- 30.47 Having heard those submissions, the Tribunal deferred any decision with respect to them in order for the Respondent to make closing submissions and the introduction by him of character evidence, in the form of a letter dated 8 May 2024, from the managing director of the firm where he was now working. This supplemented an e-mail dated

21 July 2023 to the SRA from Ms Lekhi of the same firm and Google reviews of his work left by former clients.

- 30.48 As to the position adopted by the Respondent, the Tribunal observed that several times in the substantive hearing he had claimed to be a *'lay person'* by which the Tribunal understood him to mean that he was self-representing and unfamiliar with the Tribunal's procedures. He accepted that to some extent he had put is *'head in the sand'* when it had come to dealing with case brought against him by the SRA.
- 30.49 The Tribunal noted that it was not unnatural for practitioners who were called before the Tribunal to answer allegations made by their regulator to feel levels of stress, anxiety and nervousness, however, the Tribunal's rules set out in SDPR 2019 were designed to be fair and to place the parties on an equal footing to ensure that each party was aware of its obligations with respect to adducing evidence and seeking disclosure of evidence which it believed should be adduced by the opposing party.
- 30.50 The Standard Directions set out a clear timeline and road map by which each party should prepare certain parts of their respective cases, this included notifying each other of those witnesses they required for cross-examination. Each party therefore had sufficient time to prepare and marshal their arguments before the substantive hearing and to notify each other of the matters in contention.
- 30.51 There was also provision for case management hearings in which issues between the parties could be aired and the Tribunal's assistance obtained by way of further directions to allow, for example, extensions of time or variations to the Standard Directions. Parties were also permitted to make applications on the prescribed form to seek, in appropriate instances, a decision *'on the papers'* without the need for a hearing.
- 30.52 There was also useful explanatory information on the Tribunal's website and direct access to the Tribunal's qualified staff for help on procedural matters should anyone require such assistance.
- 30.53 Applying those observations to the present matter, the Tribunal noted that it had not been unreasonable to have expected the Respondent, as a qualified solicitor, to have followed the Standard Directions and engaged with the process and asked for help if he had needed it. However, the Respondent had generally failed to adhere to the directions and his engagement in the process prior to the substantive hearing had been less than optimal.
- 30.54 As a solicitor in family law matters, he would also been expected to have had a basic understanding of the rules of evidence, fundamental to which was the concept that witness evidence, if challenged to the degree which he sought to do so, was by way of cross-examination and not by assertion alone.
- 30.55 By not conforming to this essential principle the general fairness of the proceedings had been placed at risk as the witnesses were deprived of the opportunity to explain or clarify their evidence and the Tribunal prevented from making a proper assessment of all the evidence.

30.56 The Tribunal considered that in the circumstances set out above no reasonable criticism could attach to the Tribunal had it found matters proved on the basis that the Respondent had not challenged any part of the SRA's evidence by way of cross-examination because by not doing so he had accepted such evidence as being entirely true and accurate.

30.57 However, in fairness to the Respondent the Tribunal decided to consider the matters he had raised in his defence before reaching a final decision on the facts and the alleged breaches.

30.58 Given the Respondent's acceptance that he had asked for the images and that he had been aware that Person A had been vulnerable at the time he had done so, the issues of fact which remained to be determined by the Tribunal were as follows:

1. Were the images obtained by him from Person A done so in furtherance of a legitimate purpose?
2. If not, did the Respondent obtain the images on a dishonest basis from Person A?
3. If so and additionally, were the images obtained by the Respondent from Person A for his own sexual gratification?

30.59 With respect to the first question, it was possible that the Respondent may have had an intention to pursue a non-molestation order at some uncertain point in the future, but the fact was this intention was never realised. The explanation he had given to Person A for needing the images set up in her mind the somewhat erroneous belief that there had been the need for urgency in her sending them to him prior to the hearing on 1 April 2021 because by not doing so her evidence would be in some way invalidated.

30.60 When subject to the scrutiny of cross-examination the Respondent's reasoning, as presented to Person A, broke down, appearing confused and non-sensical. During his evidence, the Respondent contradicted himself, first stating that he stood by his decision to apply for a non-molestation order and then when questioned as to the need for such an order at that stage he appeared to agree that it had not been needed, stating that his lack of experience had been to blame. The Tribunal viewed the Respondent's account as generally lacking cogency and credibility, particularly when contrasted to the evidence of Person A.

30.61 The documentary evidence in the form of texts passing between the Respondent and Person A had given the clear impression to Person A that the Respondent had successfully downloaded the images onto the Firm's case management system:

"Ok not a problem. These have been uploaded and deleted on this phone. If you can go through your old phone and if there is material/images please forward on. Thank you."

30.62 Ms Greenwell said it was not standard practice for a solicitor to obtain explicit images in such cases as Person A's and not standard practice for solicitors in the Firm to use WhatsApp to communicate with clients or obtain evidence using this method.

- 30.63 In such unusual circumstances it would have been vital for the Respondent to have set down on the file detailed attendance notes. However, neither Ms Greenwell nor Ms Begraj could find any evidence to suggest that the images had been successfully uploaded or indeed any attendance notes setting out what the Respondent had done and his reasons for doing so.
- 30.64 Objectively, the images had not been required for the hearing on 1 April 2021 and the Tribunal found that he would have known this at the relevant time and that he would have known at that time that the images had not been required for any legitimate purpose.
- 30.65 The Tribunal found there was no credible motivation for the Respondent to request explicit images from Person A, a vulnerable person other than in pursuit of his own sexual gratification.
- 30.66 The Tribunal found therefore the factual matrix proved on the balance of probabilities.
- 30.67 The Tribunal next considered the most serious part of the allegation, dishonesty, in accordance with the test set out in Ivey.
- 30.68 Given its factual findings the Tribunal found that it was more likely than not the Respondent had known that:
- the explicit images were not required for the hearing on 1 April 2021;
 - the explicit images had no bearing on Person A's evidence for the hearing on 1 April 2021;
 - he had not uploaded the images to a secure file on the Firm's case management system on 15 March 2021 or at all and he had knowingly misled Person A.
- 30.69 The Tribunal was not persuaded by the character evidence which did little or nothing to assist the Respondent in setting out that he had lacked the propensity to commit the alleged misconduct or bolstered his credibility.
- 30.70 The purported character references were not presented as statements of truth, and they did not set out that their authors were aware of the details of the present allegations. The Google reviews were useless for the purpose which the Respondent had presented them, and they did not deal at all with issues of propensity and credibility.
- 30.71 The Tribunal found that given the Respondent's state of knowledge and belief, the Respondent acted dishonestly by the standards of ordinary decent people. Ordinary decent people would consider it dishonest for a solicitor to obtain explicit images from their client then provide them with a false assurance that the images had been uploaded to the case management system in circumstances where he knew they had not and that they in fact they had not been needed at that stage, or perhaps at all, and that he had made no record about this very important matter on the file.

- 30.72 The Tribunal was satisfied on the balance of probabilities that the Respondent positively misled Person A and that by doing so, he had been dishonest.
- 30.73 Accordingly, the Tribunal found, on the balance of probabilities, that the Respondent had breached Principle 4 of the 2019 Principles.
- 30.74 It followed therefore that having found the Respondent dishonest his conduct would necessarily have been lacking in integrity and a failure to behave in a way which maintains the public trust and confidence in solicitors and in finding a breach of Principle 5 and 2 of the 2019 Principles. A solicitor of integrity would not have used his position as a solicitor to request and receive explicit images. Person A trusted the Respondent at a time when she was vulnerable and felt incapable of making decisions for herself; the Respondent knew this to be so.
- 30.75 The Tribunal also found that by using his position as a solicitor to dishonestly request and receive explicit images of Person A, the Respondent misled his client and took unfair advantage of her. He therefore breached Paragraphs 1.2 and 1.4 of the Code.
- 30.76 The Tribunal found Allegations 1.1; 2 and 3 proved in full on the balance of probabilities, including breaches Principles 2, 4 and 5 of the Principles 2019.

Previous Disciplinary Matters

31. None.

Mitigation

32. The Respondent's mitigation was brief, and he reiterated certain matters he had mentioned in evidence including reference to the character evidence he had presented and that he had a hitherto unblemished disciplinary record.
33. The Respondent said the investigation and later proceedings had been a lengthy process which had taken a toll upon him through stress and anxiety. However, he was not a danger to the public, and in his time as an SRA regulated solicitor he had represented his clients well and to the highest degree. He would submit to any further training deemed necessary.
34. The Respondent, however, accepted that by finding the allegations proved, including an allegation of dishonesty the Tribunal would have little option in the choice of sanction it could impose, and he appeared resigned to be struck off the Roll.

Sanction

35. The Tribunal considered the Guidance Note on Sanction (10th Edition June 2022) ("The Sanctions Guidance"). The Tribunal assessed the seriousness of the misconduct by considering the level of the Respondent's culpability and the harm caused, together with any aggravating or mitigating factors.
36. In assessing culpability, the Tribunal found that the Respondent's motivation for the misconduct had been a sexual one.

37. The Respondent's actions had not been spontaneous. His conduct was planned and a clear breach of the position of trust Person A had placed in him. He had had direct control and responsibility over the circumstances giving rise to the misconduct.
38. The Respondent may not have had extensive experience at the time but anyone, irrespective of their level of experience, would know that it was seriously wrong to persuade another person to send explicit images of themselves when they were acting for the other person in a professional context and in circumstances where they knew that the images were not required for any purpose to do with the case other than their own sexual gratification.
39. Overall, the Tribunal assessed the Respondent's culpability as very high.
40. The Tribunal next considered the issue of harm.
41. Harm was clearly caused to Person A who the Respondent had known to be vulnerable and whose vulnerability he had exploited for his own ends. The consequential damage to the reputation of the profession by the Respondent's misconduct was significant as the public would trust a solicitor not to take advantage of their client's low emotional state and lack of knowledge.
42. The Respondent had caused great harm to the reputation of the solicitor's profession by his selfish and dishonest conduct which also represented significant departure from the complete integrity, probity and trustworthiness expected of a solicitor.
43. The extent the harm was reasonably and entirely foreseeable by the Respondent who had had a clear knowledge of his actions.
44. The Tribunal assessed the harm caused as very high.
45. The Tribunal then considered aggravating factors. The Tribunal, in its finding of fact, had found that the Respondent had acted dishonestly. The misconduct was deliberate, repeated and calculated and continued over period of months.
46. As stated above the Tribunal found that the Respondent had taken advantage of a vulnerable person who he had deliberately targeted. This had been an egregious abuse of his position in which he had coerced Person A into sending him images contrary to her instincts that this was wrong. The images were solely for his sexual gratification. The failure to make attendance notes and his failure to tell Person A that he had not uploaded the images to the case management system were designed to conceal the misconduct.
47. The Respondent knew or ought to have known that his misconduct was in material breach of obligations to protect the public and the reputation of the legal profession.
48. The Tribunal noted that the Respondent had no previous findings against him and the matters which he had put forward in his limited mitigation, including the material relating to his character. However, the Tribunal found the Respondent had not demonstrated any genuine insight or remorse. There had been no open or frank admissions, and no co-operation with his Regulator.

49. Given the Tribunal's findings of dishonesty the Tribunal considered the seriousness of the misconduct to be high. In addition, the Respondent's conduct had been found to have lacked integrity and he had failed to uphold public trust in the provision of legal services.
50. The Tribunal considered that to make No Order, or to order a Reprimand, a Fine or Suspension (either fixed term or indefinite) would not be sufficient to mark the seriousness of the conduct in this case for the reasons set out above.
51. In the Judgment of the Divisional Court in SRA v Sharma [2010] EWHC 2022 (Admin) it had been held that:
- “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... There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances... 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.”*
52. In SRA v James, MacGregor and Naylor [2018] EWHC 3058 (Admin) it was said that exceptional circumstances must relate in some way to the dishonesty and that as a matter of principle nothing was to be excluded as being relevant to the evaluation, which could include personal mitigation.
53. In evaluating whether there were exceptional circumstances justifying a lesser sanction in this case the focus of the Tribunal was on the nature and extent of the dishonesty and degree of culpability and then to engage in a balancing exercise as part of that evaluation between those critical questions on the one hand and matters such as the Respondent's personal mitigation and health issues on the other.
54. In this case the Respondent had presented no personal mitigation to which the Tribunal upon which the Tribunal could place any significant weight and there was nothing before the Tribunal to allow it to conclude that the Respondent had not known the difference between honesty and dishonesty or that he may have acted '*in blind panic*'.
55. The Tribunal observed that this had not been a fleeting or momentary lapse of judgment, but it had been a course of conduct over months, involving dishonestly misleading Person A through for his own sexual purposes.
56. The Tribunal could find no exceptional circumstances within the meaning of Sharma and James in the Respondent's case.
57. The Respondent's misconduct was very serious and this fact, together with the need to protect the reputation of the legal profession, required that Strike Off from the Roll was the only appropriate sanction.

Costs

58. Mr Edwards stated that as the Applicant had proved its case to the required standard it was entitled to its proper costs. The quantum of costs claimed by the Applicant was in the sum of £35,461.92 which he submitted was not excessive but was a reasonable and proportionate sum of costs for a case of this nature in which dishonesty had been pleaded by the Applicant and one in which sexual motivation and the taking advantage of a vulnerable person had been found by the Tribunal to have been aggravating factors.
59. That said, Mr Edwards said it was a matter for the Tribunal to assess the costs. However, given that the case had originally been set down for a 4-day hearing, but it had concluded in half that time. Further, the Applicant had anticipated the legal support of Ms Zaman, however this proved unnecessary, and her attendance time should also be deducted
60. Mr Edwards said that having made the appropriate reductions the preparation and attendance costs for the hearing should be reduced from £8,520 to £5,964 to bring the total amount claimed to £32,394.72.
61. The Respondent said that he did not have the means to pay the costs sought by the SRA. He did not own his house, or any other property and he had no savings, further, it was now likely that he would lose his job.
62. The Respondent confirmed that having been made aware of the need to produce documentary evidence as to his means and the requirement to file and serve a statement of means, he had not done so.

The Tribunal's Decision on Costs

63. The Tribunal found that it was right for the Respondent to be subject to a costs order, the case had been properly brought by the Applicant and it was entitled to its costs. The public would expect the Applicant to have prepared its case with requisite thoroughness and, in this regard, it had properly discharged its duty to the public and the Tribunal.
64. On the face of it the costs claimed by the Applicant were neither unreasonable nor disproportionate given the seriousness of the matters uncovered by the SRA and there was nothing within the way it had conducted its case to prevent an order being made.
65. As to the Respondent's means, the Respondent had chosen not to submit a statement of means or provide any information as to his means. The Tribunal therefore had no information upon which make any realistic assessment of his means but given its finding that the Applicant was entitled to its costs there was no basis upon which to reduce further the Applicant's costs beyond the concession it had made due to the hearing concluding in 2 days instead of lasting 4 days as listed.
66. The Tribunal therefore ordered the Respondent to pay the Applicant's costs in the sum of £32,394.72.

Statement of Full Order

67. The Tribunal ORDERED that the Respondent SUNNY SIDHU, 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 £32,394.72.

Dated this 21st day of May 2024

On behalf of the Tribunal

G Sydenham

G Sydenham

Chair

JUDGMENT FILED WITH THE LAW SOCIETY

21 MAY 2024