

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12606-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

KATHRYN HAZLEHURST

Respondent

Before:

Ms A Kellett (in the Chair)

Mr A Horrocks

Ms L Fox

Date of Hearing: 11 June 2024

Appearances

There were no appearances as the matter was dealt with on the papers.

JUDGMENT ON AGREED OUTCOME

Allegations

1. The allegations against the Respondent made by the Applicant are that whilst practising as a solicitor in the Legal Services Department at Oldham Metropolitan Brough Council (“Oldham MBC”), she:

“2.1 Between September 2020 and February 2022, provided false and misleading information to her colleagues regarding an application to discharge an interim care order in respect of child A in breach of any or all of Principles 2,4, and 5 of the SRA Principles 2019 and Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs.

2.2 In or around February 2022, inputted false and misleading details about an application to discharge an interim care order in respect of child A, into a case list spreadsheet used by the family team in breach of any or all of Principles 2,4, and 5 of the SRA Principles 2019 and Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs”

2. The Respondent admitted the allegations set out above.

Documents

3. The Tribunal had, amongst other things, the following documents before it:-

- The Form of Application dated 20 May 2024
- Rule 12 Statement dated 20 May 2024 and exhibits
- Agreed Outcome dated 4 June 2024
- E-mail from the Respondent dated 10 June 2024

Background

4. The Respondent was admitted as a solicitor on 3 September 2007. From March 2013 she practised as a solicitor in the family team at Oldham MBC.
5. The Respondent is not currently practising as a solicitor and does not have a current practising certificate.

Application for the matter to be resolved by way of Agreed Outcome

6. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.

Findings of Fact and Law

7. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's rights 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.
8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made including the admission of dishonesty.
9. The Tribunal considered the Guidance Note on Sanction (10th Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
10. In the circumstances where dishonesty had been admitted and no exceptional circumstances were put forward in mitigation this was not a case where the Tribunal could reach any decision on sanction other than the one set out in the document with which it had been presented.

Costs

11. The parties agreed that the Respondent should pay costs in the sum of £2,780.00. The Tribunal determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

Statement of Full Order

12. The Tribunal ORDERED that the Respondent, KATHRYN HAZLEHURST, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,780.00.

Dated this 3rd day of July 2024
On behalf of the Tribunal

A Kellett

A Kellett
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
3 JULY 2024

IN THE MATTER OF THE SOLICITORS ACT 1974

And

IN THE MATTER OF KATHRYN HAZLEHURST

BETWEEN:

SOLICITORS REGULATION AUTHORITY LIMITED

And

Applicant

KATHRYN HAZLEHURST

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. I, Inderjit Singh Johal am a Barrister employed as a Senior Legal Adviser in the Legal & Enforcement Directorate at the Solicitors Regulation Authority, the address of which is the Cube, 199 Wharfside Street, Birmingham B1 1RN. I make this application on behalf of the Solicitors Regulation Authority (SRA)

ALLEGATIONS

2. The allegations against the Respondent made by the Applicant are that whilst practising as a solicitor in the Legal Services Department at Oldham Metropolitan Brough Council ("Oldham MBC"), she:

2.1 Between September 2020 and February 2022, provided false and misleading information to her colleagues regarding an application to discharge an interim care order in respect of child A in breach of any or all of Principles 2,4, and 5 of the SRA Principles 2019 and Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs.

2.2 In or around February 2022, inputted false and misleading details about an application to discharge an interim care order in respect of child A, into a case list spreadsheet used by the family team in breach of any or all of Principles 2,4, and 5 of the SRA Principles 2019 and Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs

ADMISSIONS & SANCTION

3. The Respondent admits all the allegations in their entirety including dishonesty. She accepts that she should be struck off the roll of solicitors.

BACKGROUND

4. The Respondent is 42 years old, and she was admitted as a solicitor on 3 September 2007. From March 2013 she practised as solicitor in the family team at Oldham MBC.
5. The Respondent was due to commence employment with Manchester City Council on 4 April 2022 and her last day of employment with Oldham MBC was due to be 31 March 2022. However, during her notice period, conduct issues became known which resulted in disciplinary proceedings being brought against her by Oldham MBC. The disciplinary proceedings led to a decision being made on 10 August 2022, that had she remained in the employment of Oldham MBC, they would have had no choice but to have dismissed her.
6. The Respondent is not currently practising as a solicitor and does not have a current practising certificate.

Background

Facts and matters relied upon in support of the allegations

Report of misconduct

7. On 13 April 2022, Colin Brittan, the Assistant Borough Solicitor at Oldham MBC sent a report to the SRA about the Respondent. In the report he stated amongst other matters, the following:
 - The Respondent was responsible for advising and conducting legal proceedings, including advocacy, in the family courts in relation to the safeguarding of vulnerable children.
 - The Respondent had handed her notice in and during the notice period it became known that she had failed to issue an application to discharge a care order in respect of child A.
 - The Respondent had been dishonest to colleagues about having issued the proceedings over a period of months, including to her line manager and to the internal client department, which also led to the parents of the child to believe that proceedings had been issued, which in fact was not the case.

- The court proceedings had now been issued and they were arranging for the child's parents to be fully briefed.
- The council were conducting an internal disciplinary investigation, and the Respondent was not taking up her new post at this time.
- The Respondent had been very unwell and that there had never been any previous concerns regarding her conduct or professionalism. However, given the serious nature of the matter involving dishonesty regarding court proceedings over a sustained period of time, he considered it appropriate to make the report.

Disciplinary proceedings brought by Oldham MBC

8. On 29 March 2022, Colin Brittan sent the Respondent a letter informing her of the commencement of disciplinary proceedings. That was following the Respondent having admitted to her line manager and group solicitor Sharon Laithwaite, that she had failed to make an application to discharge a care order in respect of child A. As part of the disciplinary proceedings, an investigation interview was due to take place with an investigating officer and the Respondent.
9. The investigation interview took place on 20 May 2022, which the Respondent attended remotely over Microsoft Teams. At the interview, the following was explained to the Respondent:
 - *“that the Investigation is in relation to a Child Protection case involving child A and confirmed Colin Brittan had written to you on 29 March 2022 confirming that there would be a Disciplinary Investigation in relation to your conduct, the letter outlined the allegations and also confirmed that in an email received by Sharon Laithwaite on the 15 March 2022, you accepted that you had failed to issue discharge proceedings in the case of child A.”*
10. A summary of the events and the specific allegations were set out at the interview as follows:
 - *“On or around June 2020, you volunteered to issues proceedings in relation to child A, matters came to ahead when it transpired that the alleged discharge hearing scheduled for the 18 March 2022 was not actually taking place as proceedings had never been issued, and the court case number was also fictitious. Further, during supervision sessions with your manager and communications made to the client, representations relating to this case have been both false and misleading...”*
11. The specific allegations the Respondent faced at the interview were:

- *“That you failed to issue discharge care proceedings in a timely manner;*
- *“That you made false representations to your manager, the client and social workers concerned about the case status, particularly in relation to the hearing that you confirmed as having been arranged for 18th March 2022 and*
- *“That you failed to manage and progress the case in the best interests of the client, the child concerned and in accordance with the professional conduct standards expected from you as a qualified solicitor.”*

12. At the investigation interview, the Respondent, in reply to a question about her response to the allegations, said in summary:

- She accepted that she did not submit the application but that it was not malicious, and things got on top of her.
- That she genuinely did not intentionally try to mislead anyone and that she had a breakdown.
- She explained that she was dealing with a complex and difficult case which impacted upon her mental health and caused her to suffer with emotional health difficulties. A close family member had been diagnosed with a significant illness, that her caseload was higher than others and she was firefighting and kept putting the child A case back;
- She had ill health, vasculitis, and a long-term kidney issue. She was trying to sort out the Child A case but was admitted to hospital.

13. At the end of the investigation interview the Respondent was asked whether she had anything further to add and she said the following:

“I am extremely sorry, it is unfortunate and was not done in any malicious (sic). I have exemplary service.

I dealt with child A original application but there were so many gaps in the case and was not in an appropriate was (sic) to start.

I wholeheartedly accept that I have done this.”

14. On 26 May 2022, a letter was sent to the Respondent informing her of the outcome of the investigation, which was that she had a case to answer and that a disciplinary hearing would be arranged. She was also sent an investigation statement, which contained typed notes of the investigation interview. The Respondent accepts that the notes are an accurate reflection of the meeting.

15. Following the Investigation interview, an investigation report was prepared, and the Respondent was invited to a disciplinary hearing on 20 July 2022. Appended to the investigation report were briefings prepared by Sharon Laithwaite about the child A case and the Respondents involvement in it.
16. The disciplinary hearing on 20 July 2022 was adjourned and reconvened on 9 August 2022. The Respondent chose not to attend the hearing. The chairman of the disciplinary hearing concluded that the allegations were found proven against her.

ALLEGATIONS 2.1 & 2.2

17. Child A was made the subject of an interim care order on 11 February 2019. On 18 June 2020, a decision was made to discharge the care order. As the Respondent had conduct of the care proceedings and was familiar with the case, she was allocated the matter in or around the end of June or beginning of July 2020. She was tasked with issuing an application to discharge the interim care order in respect of child A.
18. The Respondent never made the application to discharge the interim care order but told her colleagues that she had made the application and that hearings had been listed in Court to deal with the application.
19. She told her colleagues that a hearing was listed in court on 3 February 2021 but was adjourned due to the unavailability of a guardian. She subsequently told her colleagues that a hearing had been listed on 28 May 2021, however she said she made an error about that date and the correct date for the hearing was in fact 28 July 2021.
20. The hearing on 28 July 2021 did not go ahead and she subsequently informed her colleagues that a hearing was listed around the end of November 2021, and she also told her colleagues that it was listed on 18 March 2022.
21. The Respondent provided the false and misleading information about the interim care order in email correspondence with (amongst other colleagues):
 - Sadaf Ahmed, the social worker in the case.
 - Nikki Anderson, a Team Manager in Childrens' Safeguarding and
 - Sharon Laithwaite, her line manager

Emails containing the false and misleading information

22. In the following extracts of email exchanges about the application to discharge the interim care order in respect of child A, Sadaf Ahmed is denoted as SA, Nikki Anderson is denoted as NA, Sharon Laithwaite is denoted as SL and the Respondent is denoted KH.

22 September 2021

23. **KH:** *"Hi Sadaf.....The application has been sent to Court. I am awaiting a date.*

SA: *"Thank you Katie, I'll let my manager know.*

6 January 2021

SA: *"Hi Katie.....Do we have an update on child A's care order being discharged? I've been asked by professionals and family why it's taking so long to get a court date..."*

KH: *"Yes we have are in Court on the (sic) at 10:00 on 3 February 2021.....I am just waiting for a guardian to be identified."*

28 January 2021

SA: *"Hi Katie.....Please can you confirm who the guardian is for child A? The hearing is on 3 Feb and mum has called me to ask when would the guardian be visiting and if it will be face to face or virtual."*

KH: *"Dear Sadaf.....I actually haven't had clarification of the guardian. I will chase."*

2 February 2021

[In an email sent by KH to NA and SA about child A]

KH: *"Dear Nikki.....Apologies I think my emails got lost in translation. No guardian is no hearing. I have just spoken to Sadaf*

I have asked her to send me a prebirth as I know that whoever is appointed will want to see it. With hindsight probably best this way as they wouldn't have discharged whilst mum pregnant and then we will have positive reports from health.

Apologies I haven't chased sooner but as you know it's been chaotic dealing with Care Applications etc. (I think most are with your team).....

5 February 2021

SL: *"Just noticed te (sic) case list says child A was in on Wednesday – I assume that's an error?"*

KH: *"Yep. Cannot remember new date off the top of my head will look when I have finished tracker.*

Mum has had a new baby so we need further enquiries to be made. They didn't tell me when I issued that she was pregnant."

28 May 2021

SA: *"Hi. Just wanted an update if we have a new date and if the guardian's been allocated? Mum keeps calling and shes getting upset, feeling ignored etc because the court wont hear her case. I have said I'll get back to her with an update....."*

KH: *"Hi. Sorry for the delay. 28th July hence where I made the error. Wrong month. Still more happy to email or speak to the mum."*

3 June 2021

NK: *"Hello. Do we have a date for the discharge of care order hearing?"*

KH: *"Yes I told Sadaf last week and she asked me to speak to mum on Friday...28/7."*

NK: *"Thanks Katie- she didn't tell me....."*

KH: *"No problemo at all.....Dreading a week off and how many emails I will come back too...."*

23 and 25 November 2021

SA: *"I don't have his details he didn't share anything with me, all I know is he is wanting to have contact in the future maybe next year when his heads clear he said."*

KH: *Hi Sadaf. The Hearing next week will not go ahead. I have applied for a DWP order. These take four weeks to return and then we will need to personally serve dad.....I will update once I have an address for him."*

27 January 2022

[Nikki Anderson was copied into this email exchange]

SA: *"Hi Katie. Any update on this case?"*

KH: *"Dear Both. Yes we are in Court on the 18th March at noon. Waiting to hear from Court with the address of the father."*

24. In February 2022, the Respondent inputted false and misleading details about the application to discharge an interim care order in respect of child A, into a case list spreadsheet used by the family team. The false details she included were that:
- the application had been issued on 22 September 2021.
 - the date of the next hearing was 18 March 2022 and
 - the Case Number was 'MA20C00856'. (This reference was purportedly the Court case refence at the Manchester Family Court.)
25. On 14 March 2022, whilst the Respondent was on sick leave, Sadaf Ahmed contacted the family team about the hearing on 18 March 2022. On the same day, Beth Gwilt, a solicitor

in the family team, contacted the Court about the hearing. The Court informed Ms Gwilt that they didn't have anything listed in child A's name, that they didn't have an open application in child A's name or anything linked to the previous care proceedings.

26. On 14 March 2022, Sharon Laithwaite sent a text to the Respondent asking where she could find a copy of the application and documents in respect of child A as they were not in the case management system.
27. On 14 March 2022, the Respondent sent an email to Sharon Laithwaite admitting that she had not made the application. In the email she said:

" Hi Sharon,

I am not even sure where to start with this email but I owe you an explanation.

Child A hasn't been issued. I kept meaning to do it but there was always something else to do which is completely my fault and I take full ownership for this. You have been a great manager who has offered me lots of support but managing the high caseloads with lots of different things to pick up has impacted upon my workload. There was always something else to do and I had to prioritise. Unfortunately, it then became a case of burying my head in the sand did (sic) which I take full responsibility and I will prepare any statement to that effect.

I apologise wholeheartedly to you and the team and I cannot offer any other explanation. I am extremely embarrassed and upset by my conduct and after so many hard years of work at Oldham I hate the fact that my time here has ended like this.

Kind Regards

Katie"

28. Following the Respondent's email, the family team made an urgent application to the Manchester Family Court on 17 March 2022, to discharge the interim care order. On 31 May 2022, District Judge Hesford discharged the interim care order dated 11 February 2019.

Admissions and representations made by Respondent in SRA Investigation

29. During the SRA investigation, the Respondent accepted that she had misled the client department.
30. In response to a Notice containing the same allegation as allegation 2.1 in this statement, the Respondent admitted the conduct.
31. She also admitted to making the false entries on the case list spreadsheet.

32. The Respondent explained her conduct in a note that she sent to the Investigation Officer on 29 September 2022, which contained information about her emotional and physical health. In summary, the note included the following:

- She was extremely devastated and distraught that her career had taken this turn and whilst she accepted that she provided false information there was information that needed to be considered in explanation of her personal circumstances.
- She had a large caseload of twenty-three cases to manage.
- She had hoped to rectify issues with the discharge case that she failed to issue but she did not have the capacity to be able to do that due to her poor physical health.
- Lockdown and working on safeguarding cases resulted in her breakdown.
- She was aware that the Council had checked all her cases as part of their investigation and that the discharge case was the only case where there was an issue.
- She accepts that she misled the client department, but she did this out of panic and did not wish it to be viewed negatively.
- This was an isolated incident in an otherwise unblemished career. It was not a repeated pattern of behaviour, and she admitted it as soon as she could.

33. The Respondent provided a letter from her GP Dated 22 December 2022 to the Investigation Officer

Breaches of Principles 2,4, and 5 of the SRA Principles 2019 and Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs

34. The Respondent misled her colleagues over the course of some 18 months that she had made an application to discharge a care order in respect of child A. She further misled them that Court hearings had been listed (and postponed) at which the application would be considered. She also entered false and misleading details into a case list spreadsheet about the date that she had issued the application, that the hearing had been listed on 18 March 2022 and she included a false court case number.

35. Although the Respondent was experiencing difficult personal circumstances at the time and these may have impeded her ability to progress the application to discharge the interim care order, that is no justification for providing her colleagues with false and misleading information, which she would have known was also being relayed to child A's mother.

36. The misconduct was not isolated but took place over a sustained period of time and involved the Respondent misleading a number of colleagues on numerous occasions as

to the status and progress of the application to discharge the interim care order. The Respondent's conduct resulted in a considerable delay in discharging the interim case order which no doubt caused stress and inconvenience to child A's mother.

37. The Respondent's actions in providing false and misleading information to her colleagues and inputting false and misleading information into a case list spreadsheet amounts to a serious lack of integrity¹ on her part in breach of Principle 5. A solicitor acting with integrity and in accordance with the higher standard which society expects from professional persons (including solicitors) would only provide correct information to colleagues and only include correct information in documents.
38. The Respondent's conduct would diminish the trust and confidence that the public places in solicitors' profession and in legal services in breach of Principle 2.

Principle 4 – 'you act with honesty'

39. The Respondent's actions were dishonest in accordance with the test for dishonesty laid down in **Ivey (Appellant) v Genting Casinos (UK) Ltd t/a Crockfords (Respondent) [2017] UKSC 67** ("Ivey v Genting Casino"): The following paragraph from the authority is relevant to the assessment of whether the Respondent acted dishonestly:

"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 factfinder 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."

40. The Respondent acted dishonestly according to the standards of ordinary and decent people because she deliberately provided false and misleading Information to her colleagues over the course of 18 months about the status and progress of the application

¹ It is well established that the word integrity connotes moral soundness, rectitude and a steady adherence to an ethical code., See, for example, *Hoodless & Blackwell v FSA* [2003] FSMT 007. Lack of integrity is capable of being identified as present or not by an informed tribunal by reference to the facts of a particular case., see *Newell Austin v SRA* [2017] EWHC 411 (Admin). Lack of integrity and dishonesty are not synonymous. A person may lack integrity even though not established as being dishonest. In *Wingate & Evans v SRA v Malins* (2018) EWCA Civ 366, [2018] P.N.L.R. 22) the Court of Appeal held that "*integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty.*"

to discharge the interim care order and by inputting false and misleading information into a case list spreadsheet.

41. The Respondent knew that the information she was providing to her colleagues was false and misleading and that she was inputting false and misleading information into the case list spreadsheet, as she knew that she did not make an application to discharge the interim care order and consequently the Court would not have listed any hearings in respect of it and there would be no Court case numbers.
42. The Respondent admits that she provided false information to her colleagues and misled the client department and that she inputted false information into the case list spreadsheet.

Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs

43. Paragraph 1.4 states *“You do not mislead or attempt to mislead your clients, the Court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).”*
44. The Respondent breached Paragraph 1.4 because she misled her colleagues about the status of the application to discharge the interim care order and further by inputting false and misleading details into a case list spreadsheet used by the family team.

MITIGATION

45. The following mitigation is advanced by the Respondent. It is not endorsed by the SRA:
 - she has a clean disciplinary record.
 - she admitted her conduct to OMBC and the SRA.
 - She had a large caseload of twenty-three cases to manage.
 - She suffers from chronic health conditions, vasculitis, IGA Nephropathy, a longstanding Kidney condition and diabetes.
 - Her chronic conditions impacted her ability to undertake day to day activities and to work full time.
 - She had hoped to rectify issues with the discharge case that she failed to issue but she did not have the capacity to be able to do that due to her poor physical health.
 - A close family member has been diagnosed with a significant illness .
 - She had an emotional breakdown whilst working at OMBC whilst handling a complex and difficult case.
 - Lockdown and working on safeguarding cases resulted in her breakdown.
 - She was aware that the Council had checked all her cases as part of their investigation and that the discharge case was the only case where there was an issue.

- She accepts that she misled the client department, but she did this out of panic and did not wish it to be viewed negatively.

PROPOSED SANCTION

46. The proposed outcome is that the Respondent is struck off the Roll of Solicitors and pays the SRA costs in the fixed sum of £2,780

Explanation as to why the sanction is in accordance with the SDT's Guidance Note on Sanctions²

47. In assessing the seriousness of the misconduct, the SDT will consider a combination of the factors, including:
- the respondent's level of culpability for their misconduct.
 - the harm caused by the respondent's misconduct.
 - the existence of any aggravating factors.
 - the existence of any mitigation factors.

Culpability

48. The Respondent is very culpable for her actions despite her poor health. This is because:
- She is an experienced solicitor. She had approximately 8 years post qualification experience when she was asked to deal with child A's case.
 - She had direct responsibility for the circumstances that gave rise to the misconduct. She had conduct of the application to discharge the interim care order in respect of child A and was solely responsible for all the false and misleading statements made to her colleagues and for inputting false details in the case list spreadsheet.
 - Her actions were deliberate and took place over an 18-month period.
 - Her actions involved a breach of trust that OMBC placed in her.

Harm

49. The application to discharge the interim care order was delayed for several months and was likely to have caused distress and inconvenience to the mother of child A, which the Respondent should have foreseen.
50. Public trust and confidence in the Respondent, in the solicitors' profession and in the provision of legal services is likely to be undermined by the Respondent's conduct in misleading her colleagues in OMBC.

² The current edition of the SDT's Guidance note is dated 10 June 2022 and is the 10th edition.

Aggravating and mitigating factors

51. The Respondent's conduct is aggravated by:

- repeated dishonest conduct over a period of some 18 months involving misleading her colleagues about the progress of the application to discharge the interim care order.
- misconduct, which was deliberate, calculated, and repeated.
- misconduct which she knew or ought reasonably to have known was in material breach of her obligations to protect the public and the reputation of the legal profession.

52. Mitigating features include

- Her admissions about her conduct to both OMBC and the Applicant.
- Her poor health;
- Her cooperation with the Applicant.

Dishonesty

53. As the Respondent has admitted that she acted dishonestly, paragraphs 51 to 55 of the SDT's Guidance Note on Sanctions on dishonesty apply in determining the appropriate sanction.

54. Paragraph 51 of the Guidance note on sanctions is repeated here:

“Some of the most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).”

55. Paragraph 52 to 55 of the Guidance Note on Sanctions deals with exceptional circumstances and provides the following:

“In considering what amounts to exceptional circumstances: 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.” (Sharma above). The exceptional circumstances must relate in some way to the dishonesty (James above).

The principal focus in determining whether exceptional circumstances exist is on the nature and extent of the dishonesty and the degree of culpability (Sharma and R (Solicitors Regulation Authority) v Imran [2015] EWHC 2572 (Admin)).

As a matter of principle nothing is excluded as being relevant to the evaluation, which could therefore include personal mitigation. In each case the Tribunal must when evaluating whether there are exceptional circumstances justifying a lesser sanction, focus on the critical questions of the nature and extent of the dishonesty and degree of culpability and engage in a balancing exercise as part of that evaluation between those critical questions on the one hand and matters such as personal mitigation, health issues and working conditions on the other. (James above).

Where dishonesty has been found mental health issues, specifically stress and depression suffered by the solicitor as a consequence of work conditions or other matters are unlikely without more to amount to exceptional circumstances: “The SDT having concluded that, notwithstanding mental health issues, each of the respondents was dishonest, I consider that it was contrary to principle for it then to conclude that those mental health issues could amount to exceptional circumstances”. “...in my judgment, pressure of work or extreme working conditions whilst obviously relevant, by way of mitigation, to the assessment which the SDT has to make in determining the appropriate sanction, cannot either alone or in conjunction with stress or depression, amount to exceptional circumstances. Pressure of work or of working conditions cannot ever justify dishonesty by a solicitor....” per Flaux LJ in James (above)

56. The appropriate sanction in light of the Respondent’s admission to dishonesty is a striking off from the roll, save in exceptional circumstances. The principal focus in determining whether exceptional circumstances exist is on the nature and extent of the dishonesty and the degree of culpability.
57. In relation to the nature and extent of the Respondent’s dishonesty:
- The dishonesty was not momentary and took place over a lengthy period of time, some 18 months.
 - The dishonesty was elaborate in that it involved the Respondent misleading several colleagues that an application had been made to discharge a care order and that Court hearings had subsequently been listed and adjourned for a number of reasons. It also involved the Respondent inputting false details about the application (including the date on which the application was purportedly issued and the date and court reference for a fictitious Court hearing) into a spreadsheet that was used by her colleagues.

- The Respondent was aware that the false and misleading information she was providing to her colleagues about the progress of the application was relayed to Child As mother.
58. Although the Respondent did not benefit from her dishonesty, there would have been obvious distress and inconvenience caused to Child A's mother by the delay in making the application to discharge the interim care order.
59. The Respondent is very culpable for her actions for the reasons set out at paragraph 48 above.
60. The Respondent's poor health at the time of the misconduct (of which there is limited medical evidence and principally relates to her poor physical health) and her working conditions do not amount to exceptional circumstances although those are factors that should be considered as part of the balancing exercise required in the assessment or evaluation of whether there are any exceptional circumstances.
61. The Respondent accepts that this case does not fall within the small residual category were striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors.
62. The Respondent's misconduct is at the highest level. Protection of the public and public confidence in the provision of legal services requires the Respondent to be struck off the roll.
63. The parties invite the SDT to impose the sanction proposed as it meets the seriousness of the admitted misconduct and is proportionate to the misconduct in all the circumstances.

I believe that the facts and matter stated in this statement are true.

Dated this 4 June 2024

Signed.....

INDERJIT S JOHAL
Senior Legal Adviser
For and on behalf of the Solicitors Regulation Authority

Signed.....
KATHRYN HAZLEHURST