SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12563-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD Applicant

and

DAVID MARK TURNER Respondent

Before:

Mr E Nally (in the chair)
Mrs A Sprawson
Dr S Bown

Date of Hearing: 21 - 22 August 2025

Appearances

Tom Walker, Counsel employed by Blake Morgan LLP of New Kings Court, Chandlers Ford, Eastleigh, SO53 3LG for the Applicant.

Jonathan Goodwin, Solicitor Advocate, 69 Ridgewood Dr, Pensby, Birkenhead, Wirral CH61 8RF for the Respondent.

JUDGMENT

Allegations

1. The allegation against the Respondent, David Mark Turner, made by the SRA is that, whilst in practice as a Solicitor at Kitson Boyce LLP ("the Firm"):

1.1. From 21 January 2019 to 18 March 2019, the Respondent provided misleading information to Client A by failing to inform them of the true outcome of a Summary Judgment Hearing against them.

1.2 In doing so, the Respondent has breached any or all of Principles 2 and 6 of the SRA Principles 2011.

2. In addition, allegation 1.1, is advanced on the basis that the Respondent's conduct was dishonest. Dishonesty is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the allegation.

ALLEGATIONS 1 and 2 NOT PROVED

Executive Summary

3. The Respondent was a solicitor admitted to the Roll of Solicitors on 2 November 1992.

4. Respondent was a partner within the Firm's litigation team. His main area of work included commercial litigation disputes, including those relating to financial services. The Firm was instructed by Client A, a small building firm, engaged in a contractual dispute with a client regarding work it had carried out. A hearing was listed on 21 January 2019 at which an application for Summary Judgment against Client A was to be heard.

5. The allegations against the Respondent centred around communications sent by the Respondent to Client A after that hearing. The Applicant's case was that despite the Respondent being aware of the outcome of the hearing, he provided misleading information to Client A by failing to inform them of the true outcome. It was also alleged that the Respondent acted dishonestly.

6. The Tribunal found the allegations not proved and consequently dismissed the allegations.

Sanction

7. The Tribunal ordered that the allegations against the Respondent be dismissed and therefore no sanction was imposed.

Documents

8. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):

- Rule 12 Statement and Exhibit JD1 dated 24 February 2024.

- Respondent's Answer to the Rule 12 Statement dated 3 April 2024.
- Applicant's Statement of Costs dated 13 August 2025.
- Respondent's Statement of Means dated 17 July 2025.

Background

9. The Respondent was admitted to the Roll of Solicitors on 2 November 1992. The Respondent was employed as a salaried partner at the Firm from 2 May 2013. On 1 April 2014, he became a self-employed member of the Firm and remained in that position until 31 July 2021, having previously given the requisite notice of six months of his retirement from the Firm.

10. The relevant conduct in this matter came to the attention of the SRA following a self-referral from the Respondent in August 2021 in respect of matters occurring between January to March 2019. Separately, referrals regarding the same conduct were also made by the Firm and another law firm.

11. Whilst at the Firm, the Respondent was a partner within the litigation team, based in the Firm's Exeter office. His main area of work was centred on commercial litigation disputes, including those relating to financial services.

12. At the relevant time, the Firm was instructed by Client A, a small building firm, engaged in a contractual dispute with two of their clients (Mr and Mrs B) in respect of work that Client A had carried out.

13. In August 2018, an Adjudicator awarded Mr and Mrs B £81,386.68 against Client A in respect of the contractual dispute. This sum was not paid. Consequently, Mr and Mrs B applied for Summary Judgment against Client A, which was listed for a hearing on 21 January 2019 at the Technology & Construction Court of the Queen's Bench Division.

14. It is understood that Mr and Mrs B were successful in their application for Summary Judgment, and also in respect of their claim for legal costs against Client A. Oral judgment was given on the day, with the outcome communicated by instructed Counsel to the Respondent by email, that same day.

15. The Applicant's case was that despite the Respondent being made aware of the outcome of the hearing on 21 January 2019, he provided misleading information to Client A by failing to inform them of the true outcome of that hearing and that he did not communicate this outcome to Client A until the written judgment was received on 18 March 2019.

Witnesses

16. The evidence 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. 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.

17. The Respondent was the only person who provided oral evidence at the hearing.

Findings of Fact and Law

18. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (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.

19. **Allegation 1.1 - From 21 January 2019 to 18 March 2019, the Respondent provided misleading information to Client A by failing to inform them of the true outcome of a Summary Judgment Hearing against them.**

Allegation 1.2 - In doing so, the Respondent has breached any or all of Principles 2 and 6 of the SRA Principles 2011.

The Applicant's Case

The Rule 12 Statement – [Click Here]

The Respondent's Case

The Respondent's Answer to the Applicant's Rule 12 Statement – [Click Here]

19.1 The Tribunal reviewed all the material before it and considered with great care the oral evidence (and cross-examination) of the Respondent, along with the submissions made by Mr Walker and Mr Goodwin. All findings were made on the balance of probabilities. The burden of proof lay entirely with the Applicant.

19.2 In view of the construction of Allegation 1, which included the underlying facts relating to the Respondent's failure to inform Client A of the true outcome of a summary judgment hearing against them by providing misleading information (as set out in sub-particular 1.1) and the associated breaches of the SRA Principles 2011 (as set out in sub-particular 1.2) the Tribunal determined Allegation 1 collectively. It did so by first making findings of fact and then considering which, if any, of the pleaded breaches or aggravating features were established on the basis of the proven facts.

19.3 The allegation arose following a hearing on 21 January 2019. Client A, a family-run building firm, had been represented by the Respondent in legal proceedings stemming from an adjudication that went against them in late 2018. The dispute involved work carried out by Client A on a residential property.

19.4 Their opponent applied for summary judgment. The hearing on 21 January 2019 was for that application to be heard. Counsel was instructed to attend on behalf of Client A and neither the Respondent nor his client/s were present at the hearing. Counsel emailed the Respondent with an update later the same day in the following terms:-

"…Unfortunately, as expected, the hearing went against the clients today. I expect a judgment to be forthcoming in the coming days or weeks. However, until then and by way of summary, the judge thought that the argument over the proper identity / name of the Defendants was not only a technical argument but was a bad point. Further or in any event, he held that no reservation of rights had been made as it would have to have been in order for D1 and D2 to succeed in an argument of the type that I made before the judge.

The judge gave judgment against D1 and D2 on that basis and, further, gave default judgment against D3. The judgment sum is that claimed in the Claimant's court documents, plus interest in respect of the period between the filing and service of the proceedings and the present date. I am waiting for the draft Order to be sent to me by counsel for the Claimants which will confirm the final figure, but my notes suggest that the final figure is £82,746.33 (exclusive of costs). On top of that sum, D1 and D2 are liable to pay the Claimants' costs, which have been summarily assessed on the indemnity basis in the sum of £20,000.

Whilst I am not instructed on behalf of D3, I note that D3 has been ordered to pay the Claimants a fixed costs amount"

19.5 The content of, and the Respondent's interpretation of, that email became central to the subsequent allegation against him specifically, whether the email conveyed the true outcome of the hearing and whether the Respondent accurately and transparently relayed that outcome to his client.

19.6 The Respondent later submitted a self-report ("the report") to the Applicant on 3 August 2021. The report included what appeared to be admissions concerning the matters now before the Tribunal. The Applicant relied on the statements within the report, asserting that they amounted to admissions in relation to Allegation 1. The Tribunal rejected that submission.

19.7 The Tribunal found it entirely proper for the Respondent to distance himself from statements made in the report. Nonetheless, the Respondent faced the consequences of having made those statements as they played a role in prompting the SRA's investigation.

19.8 The Respondent gave evidence on oath, and during cross-examination, he dealt with questions about the report consistently and robustly. The Tribunal considered whether the statements within the report touched upon the core allegations. The Respondent explained that he had not properly reviewed the contents of the report which was submitted on his behalf. The report had been prepared by someone else at his firm or by an external legal adviser instructed by his firm. Due to IT issues experienced by the Respondent at the time, (as the Respondent had by then left the firm and was only able to access e mails via his mobile phone)) the Respondent had been unable to review the document in its entirety and could not review the sections in which the specific admissions were set out. As soon as the Respondent became aware of the detail of the admissions that had been made in his name he retracted them. Mr. Goodwin emphasised during submissions that the Respondent had disavowed those statements on at least four separate occasions.

19.9 The Tribunal carefully examined the extent of the Respondent's communications with Client A, considering their content, context, the client's responses, and how the client may have interpreted the correspondence. The Respondent acknowledged that on reflection he had concerns about how he had presented information to his client. The emails overall reflected a collaborative and strategic approach between solicitor and client, indicating a well-informed and intelligent client. The discussions revolved around next steps in the litigation and how best to respond to both setbacks and developments.

19.10 Nevertheless, the Tribunal found that several of the Respondent's emails were problematic. One email sent on the day of the hearing contained the sentence: "*The truth is,* [the Judge] *did not give much away, but I will update you in full tomorrow*." The Respondent later admitted that he was unhappy with this phrasing, describing it as foolish, clumsy and a misstatement. He denied intending to mislead the client, but the Tribunal found that the statement, on its face, was misleading.

19.11 Another email sent on 22 January 2019 stated: "*The judge was not particularly vocal, basically kept silent and heard the arguments. It is difficult to make the call either way at this point*." Again, this was found to be misleading based on the contents of the email that the Respondent received from Counsel on the previous day.

19.12 A third email dated the 4th of March 2019 read: "*Until I do see a copy of that order, I must assume (as you say) that we are awaiting a decision on the main event*." This was also considered misleading. While the Respondent did not accept this characterisation, the Tribunal found that, objectively, this statement misrepresented the state of the proceedings.

19.13 Client A replied to the Respondent on 10 March 2019 raising queries about the various procedural permutations that could potentially explain the delay and possible developments in the litigation since January 2019. The content of that email signified that Client A was continuing to be under a misapprehension as a consequence of the Respondent's previous emails.

19.14 The Tribunal noted however that Client A's understanding of the proceedings was wider than solely the content of the emails exchanged with the Respondent between January and March 2019. Client A knew that an adjudication had gone against them in late 2018 and that a significant judgment debt was a likely consequence. The Respondent had, prior to the hearing on 21 January 2019, provided detailed advice to Client A indicating that their prospects of success in the litigation were low. The Respondent's actions in January 2019 and thereafter represented a rearguard effort to overturn or at least prevent a significant judgment debt (arising from the earlier adjudication) from crystallising and being enforced against Client A . This strategic objective was reflected in the tone and content of the emails exchanged between them and were indicative of a clear level of understanding and considered thought as to how best to ameliorate their position. The Tribunal's finding that several of the Respondent's emails contained misleading statements were made with that wider context in mind.

19.15 In light of these factual findings, the Tribunal assessed whether the Respondent's conduct constituted a breach of Principle 2 of the SRA Principles 2011, which required him to act with integrity, and/or Principle 6 of the SRA Principles 2011 which required

him to behave in a way that maintains the trust the public placed in him and in the provision of legal services. The Tribunal noted that the Applicant's case was not advanced on the basis that the Respondent had breached Principle 4 of the SRA Principles 2011 by failing to act in the best interests of his client. The Tribunal's determination was restricted to only those breaches contained with the Applicant's Rule 12 statement.

19.16 The Tribunal considered the comments of Jackson LJ in *Wingate v SRA* [2018] EWCA Civ 366 ("Wingate"), where he stated:

> "[97] ... *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 ... [100] Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty*."

19.17 In applying the principles set out in Wingate, the Tribunal considered that, in sending four carelessly drafted sentences across three emails to a client with whom he had worked collaboratively throughout the course of litigation over a period of approximately six months (including a period of time after the written judgment was received and passed by the Respondent to Client A) and who had, unusually, submitted a very positive character reference in his support, the Respondent did not demonstrate a lack of integrity. While aspects of the Respondent's wording were clumsy and caused the client to be misled between January – March 2019, the Tribunal concluded that these shortcomings taken in their wider context did not amount to professional misconduct. Whilst high standards are expected and required, solicitors are not paragons of virtue held to a counsel of perfection. The alleged breaches in this case were determined by reference to the applicable caselaw and considered on the basis of reasonableness as not every error or misjudgement constitutes professional misconduct.

19.18 On the basis of the Tribunal's factual findings and the underlying evidence in support of Allegation 1, the threshold for establishing a lack of integrity or a failure to behave in a way that maintained the trust the public placed in him and in the provision of legal services was not met. The Tribunal therefore found on the balance of probabilities that the Respondent did **not** breach Principles 2 or 6 of the SRA Principles 2011.

19.19 The Tribunal went on to consider the issue of dishonesty and applied the test set out by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 67 ("Ivey") as follows:

> *"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."

19.20 The Tribunal had also been referred to the guidance of Lord Nicholls[1] who stated that **"***The more serious the allegation, the more cogent the evidence required to overcome the unlikelihood of what is alleged and thus to prove it"*. This did not imply that a higher standard of proof is required for serious allegations, but rather that more persuasive and cogent evidence may be needed to satisfy the same standard.

19.21 In ascertaining the Respondent's subjective, actual state of knowledge as to the facts, the Respondent consistently maintained that he did not have full knowledge of the judgment[2] following the hearing on 21 January 2019 and had wanted to see it in writing before giving firm advice to his client. The email from Counsel of 21 January 2019 had suggested that a written judgment would follow soon. The Respondent was concerned that had he prematurely (and potentially inaccurately, absent the full details of the outcome) advised the client he could cause unnecessary distress to Client A. The Tribunal noted that even if this belief was unreasonable the important consideration, pursuant to the guidance in Ivey, was whether it was genuinely held. The Tribunal found that the Respondent's genuine understanding was that the judgment was either reserved or delayed. He consistently stated that he preferred to wait for the full judgment before advising his client in order, *inter alia*, to ensure accuracy and to resolve the uncertainties that he had identified in Counsel's email of 21 January 2019, uncertainties which he considered would be addressed upon receipt of the judgment, thereby enabling him to provide a comprehensive update to his client.

19.22 The Tribunal noted that elements of the communication from Counsel on 21 January 2019 were ambiguous and unclear. The anomalies included discrepancies in the figures stated, references to the third defendant's involvement in the proceedings and questions about whether Counsel had been instructed to represent the third defendant at all which caused the Respondent confusion. These issues supported the Respondent's position explained in his evidence that the situation was unclear and that his updates to Client A were based on his honest understanding at the time. Although the Respondent's statements did lead to some misunderstandings and confusion by Client A, the Tribunal was satisfied that the Respondent's belief in his version of the facts was genuinely held and that he did not act dishonestly.

19.23 Supporting this conclusion was a range of character references, all of which described the Respondent as honest, reliable and of high integrity. Unusually, one such reference came from Client A, the client involved in the allegations, who described the Respondent as considerate, frank, and objective in difficult circumstances. Client A expressed no ill will and believed the Respondent should not suffer as a result of the conduct of their former opponents, whom they viewed as dishonest.

19.24 The Tribunal found on the balance of probabilities that the Respondent did **not** act dishonestly.

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[1] Re H (Minors) [1996] AC 563

[2] The Respondent adopted Counsel's lexicon, using the terms 'Judgment' and 'Order' interchangeably in updates to Client A and in his evidence.

19.25 In conclusion, while the Tribunal made certain factual findings relating to misleading statements in the emails referenced above, the Tribunal did not find that Allegation 1 was substantiated. Accordingly, the Tribunal dismissed Allegation 1 in relation to Principles 2 and 6 of the SRA Principles 2011, and, by extension, the allegation of dishonesty was also dismissed.

Previous Disciplinary Matters

20. The Respondent had no previous disciplinary findings recorded against him.

Costs

21. There was no application for costs by the Respondent.

22. Mr Walker made an application for costs on behalf of the Applicant and submitted that there were several unusual features of the case which justified a costs order in favour of the Applicant, notwithstanding the Tribunal's findings.

23. It was submitted that, when considered in isolation, the communications at the heart of the matter were misleading. These were serious matters that warranted the instigation of regulatory proceedings. The Tribunal's findings reflected that element of the case and, it was argued, also supported the imposition of a costs order.

24. The Respondent had self-reported to the regulator and made certain admissions. Mr Walker contended that this made it inevitable that the matter would be placed before the Tribunal. The Respondent adopted an inconsistent position as to whether he had seen the self-report before it was submitted to the Applicant. Further, the Respondent's ongoing communications with the Applicant introduced additional ambiguity, which, it was submitted, compounded the complexity of the matter. These actions, taken together, formed a significant part of the procedural tapestry of the case and, in the Applicant's view, justified an award of costs in favour of the Applicant. It was argued that the Applicant should not be prejudiced in performing its regulatory functions as a result of the Respondent's conduct, regardless of the outcome of the allegations.

25. In addition, the Respondent had made an application to adjourn the proceedings to enable him to challenge decisions made by the Applicant at earlier stages of the case. The Applicant accommodated this, resulting in increased costs incurred in addressing those ancillary matters. These were advanced and pursued by the Respondent but were ultimately dismissed by the civil courts. Costs had been awarded against the Respondent in those separate civil proceedings. However, Mr Walker confirmed that the Applicant's schedule of costs in the present proceedings included only those costs incurred in relation to the disciplinary proceedings before the Tribunal, with no duplication of costs from the civil matters.

26. The Applicant sought an award of costs in the amount of £30,630.00 or alternatively, £17,190.00 if the Tribunal was minded to reduce the amount awarded in light of its findings. Mr Walker submitted that any issues relating to the Respondent's means or proposals for time to pay could be addressed in discussion with him.

27. Mr Goodwin opposed the Applicant's application for costs, challenging the basis on which the amount claimed by the Applicant had been calculated and maintaining that the contractual arrangements between the Applicant and its external legal services provider should not be determinative of the quantum of a costs order. The Tribunal should only award costs by reference to what is fair reasonable and proportionate given the complexity of the case. This was a case with small quantity of documentary evidence and only one witness had given oral evidence.

28. Mr Goodwin reiterated that the Respondent had withdrawn the self-report early into the proceedings and the Applicant should have kept its case under review when the Respondent made this clarification. In the event that the evidence did not sustain the allegations, the case could then have been withdrawn.

29. Mr Goodwin concluded that the fair and proportionate outcome would be no order as to costs.

The Tribunal's Decision on Costs

30. The Tribunal assessed the Applicant's Statement of Costs in detail, guided by reference to Rule 43 of the Solicitors (Disciplinary Proceedings) Rules 2019, and had regard for the conduct of the parties (including the extent to which the Tribunal's directions and time limits imposed had been complied with), whether the amount of time spent on the matter was proportionate and reasonable and whether any or all of the allegations were pursued or defended reasonably.

31. The allegation had been dismissed however the Applicant's case was properly brought. The Respondent had resiled from the admissions made on his behalf and the Applicant had reassessed its case accordingly. The Tribunal had made findings criticising the Respondent who, to his credit, accepted some of the shortcomings identified. Albeit the Tribunal concluded that these shortcomings did not amount to professional misconduct.

32. The Applicant had been required to bring its case having been fixed with information available at the time of its application and it was therefore appropriate for the Tribunal to award costs in its favour.

33. The Respondent had provided information pursuant to Rule 43(5) of The Solicitors (Disciplinary Proceedings) Rules 2019 regarding his means. The Tribunal had regard for the Respondent's current circumstances in determining the quantum of costs ordered.

34. The Tribunal reviewed the Applicant's costs schedule and identified work undertaken that was essential in exhibiting the evidence and producing the hearing bundle before it and upon which the case had been determined.

35. On that basis the Tribunal therefore ordered that the Respondent do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,854.00.

Statement of Full Order

36. The Tribunal ORDERED that the allegations against DAVID MARK TURNER be DISMISSED. The Tribunal further ORDERED that the Respondent pay the costs of and incidental to this application and enquiry fixed in the sum of £10,854.00.

Dated this 16th day of September 2025
On behalf of the Tribunal

E. Nally

E. Nally
Chair