

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12568-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

JOANNE ELIZABETH ALLEN

Respondent

Before:

Mr G Sydenham (Chair),
Mrs L Boyce,
Mrs E Keen

Date of Hearing: 26 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, Joanne Elizabeth Allen, made by the SRA are that, while in practice as a solicitor and Partner at Bond Turner Limited (previously known as Armstrong Solicitors Limited) (“the Firm”):
 - 1.1 Between 2016 and September 2021, she delayed and or failed in taking adequate steps to progress her clients claim and she provided her client with misleading information about the progress of his claim. In doing so she acted in breach of any or all of:
 - 1.1.1 Principles 2, 4 and 6 of the SRA Principles 2011 and Outcome 1.5 of the SRA Code of Conduct 2011 (insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019)
 - 1.1.2 Principles 2, 4, 5 and 7 of the SRA Principles 2019 and paragraph 3.2 of the Code of Conduct for Solicitors, RELs and RFLs (Insofar as such conduct took place on or after 25 November 2019)
 - 1.2 Between July 2017 and September 2021, she failed to provide her client , or latterly his new solicitors, with the client file despite numerous requests and a Court Order to do so, in breach of any or all of:
 - a) Principles 2, 4 and 6 of the SRA Principles 2011 (for the period July 2017 up to 24 November 2019);
 - b) Principles 2, 5 and 7 of the SRA Principles 2019 (for the period from 25 November 2019 to September 2021)
 - 1.3 Between 8 March 2021 and 29 September 2021, she failed to cooperate with the SRA investigation, by:
 - 1.3.1 failing to provide a copy of her client’s file as requested and required;
 - 1.3.2 providing evasive and/or misleading information about the provision of the copy file and in doing so breached any or all of:
 - a) Principles 2 and 5 the SRA Principles 2019 and Paragraph 7.3 and 7.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs
 - b) Principle 4 of the SRA Principles 2019 (in relation to 1.3.2 only)
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 and Rule 12 Statement with exhibits dated 26 February 2024.
 - Statement of Agreed Facts and Proposed Outcome dated 21 June 2024.

Background

4. The Respondent was admitted to the Roll of Solicitors on 17 November 2008.
5. At the time of the relevant events, the Respondent was as a solicitor and Partner at Bond Turner Limited (previously known as Armstrong Solicitors Limited) (“the Firm”), specialising in personal injury and road traffic accident matters.

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.
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. The Respondent had misled her client over an extended period and failed to deal in a timely way with requests to transfer his file to another solicitor. The continued dishonesty and lack of integrity was so serious that Strike Off from the Roll was the only appropriate sanction.

Costs

11. The parties agreed that the Respondent should pay costs in the sum of £7,000.00. 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, JOANNE ELIZABETH ALLEN, 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 £7,000.00.

Dated this 27th day of June 2024
On behalf of the Tribunal

G Sydenham

G Sydenham
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
27 JUNE 2024

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

JOANNE ALLEN

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. By its application dated 26 February 2024, and the statement made pursuant to Rule 12 (2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Ltd ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal against the Respondent.
2. Definitions and abbreviations used herein are those set out in the Rule 12 Statement.

Allegations

3. The allegations against the Respondent, made by the Applicant are that:

- 3.1. Between 2016 and September 2021, she delayed and or failed in taking adequate steps to progress her client's claim and she provided her client with misleading information about the progress of his claim. In doing so she acted in breach of any or all of:

3.1.1. Principles 2, 4 and 6 of the SRA Principles 2011 and Outcome 1.5 of the SRA Code of Conduct 2011 (insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019)

3.1.2. Principles 2, 4, 5 and 7 of the SRA Principles 2019 and paragraph 3.2 of the Code of Conduct for Solicitors, RELs and RFLs (Insofar as such conduct took place on or after 25 November 2019)

3.2. Between July 2017 and September 2021, she failed to provide her client, or latterly his new solicitors, with the client file despite numerous requests and a Court Order to do so, in breach of any or all of:

3.2.1 Principles 2, 4 and 6 of the SRA Principles 2011 (for the period July 2017 up to 24 November 2019);

3.2.2 Principles 2, 5 and 7 of the SRA Principles 2019 (for the period from 25 November 2019 to September 2021)

3.3. Between 8 March 2021 and 29 September 2021, she failed to co-operate with the SRA investigation, by:

3.3.1. failing to provide a copy of her client's file as requested and required;

3.3.2. providing evasive and/or misleading information about the provision of the copy file and in doing so breached any or all of:

a) Principles 2 and 5 the SRA Principles 2019 and Paragraph 7.3 and 7.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

b) Principle 4 of the SRA Principles 2019 (in relation to 1.3.2 only)

Admissions

4. The Respondent admits all of the allegations in their entirety.

Agreed Facts

Professional Details

5. The Respondent, who was born April 1980, is a solicitor, having been admitted to the Roll of Solicitors on 17 November 2008.
6. At the time of the relevant events, the Respondent was as a solicitor and Partner at Bond Turner Limited (previously known as Armstrong Solicitors Limited) (“the Firm”), specialising in personal injury and road traffic accident matters.
7. The Applicant has no record of the Respondent practising since leaving the Firm, and the Respondent does not hold a current Practising Certificate.

Background

8. The conduct in this matter came to the attention of the SRA when it received a report, dated 6 January, from the Respondent’s client Mr R.
9. The client reported that, following a serious car accident in March 2014, he had instructed the Respondent to deal with his personal injury claim.
10. Mr R also confirmed that he had *“been continually requesting confirmation that Court proceedings have been issued and have never had a response in this regard from them. I emailed them in July 2019 asking for this information and further asking for a copy of my file of papers. They have continually brushed over my requests and in emails and telephone calls stated that the matter was proceeding and that it would be going to a hearing in November 2020. None of this happened and I raised a complaint with the Firm by email dated 3 November 2020 (attached) and this was never acknowledged or dealt with.”*
11. Mr R stated that, due to the above issues, he subsequently instructed new solicitors to act for him. However, the new solicitors also experienced problems in trying to obtain Mr R’s file of papers from the Respondent.
12. On 22 January 2021, the new solicitors contacted the third-party insurers and were informed that they had closed their file as they had not received any further

correspondence from the Firm following the initial contact, and that proceedings had never been issued.

13. A number of requests were made by the new solicitors asking for Mr R's file of papers. The Respondent failed to respond to these requests. The new solicitors then made an application to the Court seeking an order requiring the Firm to provide Mr R's full file of papers to him.
14. On 15 April 2021, the Respondent contacted the SRA Investigation Officer to confirm that Mr R's file was in the process of being copied and that it would be sent out that week. The Respondent was unable to confirm whether protective proceedings had been issued.
15. Despite stating that the file was in the process of being copied, no further correspondence was received from the Respondent. Given her failures to respond to requests made by the Investigation Officer, a Production Notice ("PN") was sent to the Respondent on 14 June 2021.
16. The Respondent failed to comply with a Court order, which ordered that the client file for the Claim be passed to the new solicitors, and did not co-operate with the SRA's investigation into this matter

The allegations

Allegation 3.1 – Failed in taking adequate steps to progress her client's claim and provided her client with misleading information about the progress of his claim.

17. Between 2016 and September 2021, the Respondent failed to take adequate steps to progress her client's claim and provided her client with misleading information in respect of his claim.
18. The Firm were instructed by the client on the 11 March 2014. The scope of the instructions were for the Firm to pursue a claim for losses arising from the accident the Respondent had on the 4 March 2014.

19. The complainant's claim should have been issued by March 2017 but was never lodged.

20. At no stage of the case was Mr R informed by the Respondent that there was an issue with his claim

21. Following no substantial updates, despite him chasing, Mr R started to become concerned about the handling of his case

22. Mr R states;

"I was not being informed of the progress of my case in general. I was having to call Ms Allen to find out what was happening, and I found that she was very slow at returning my calls. I was leaving messages for her to call me, but it would be days before she returned my calls."

"I would call the Firm and ask to speak to Ms Allen, but I was always informed that she was busy, or she was not in the office and was reassured that she would call me back. However, Ms Allen would normally only call me back after many weeks had passed."

"In 2016 Ms Allen informed me that proceedings had been issued in my case."

"I was so fed up now hearing that something or another was not being done on my matter. Therefore, on 12 July 2019 I requested to see my full file of papers"

23. The Respondent informed the SRA Investigation Officer that there had been "issues on Mr R's file" and that the "limitation period may have been missed."

24. Ms Moss, who is the senior partner at the Firm, and who was also the supervisor overseeing the client's matter, states in her witness evidence that on 28 September 2021 the Respondent had told her that she had "massively messed up"

25. She further states *"She accepted that she had failed to tell us about the complaint and that she was very sorry. All she said was that no claim has been issued in court as the limitation date had passed and that she had panicked."*

26. In her letter dated 25 November 2021, Ms Moss states that:

"The limitation was missed some years ago dating back to 2017"

“Owing to Joanne’s experience and position within the Firm, I have no hesitation in concluding that Joanne would have known that proceeding had not been issued.”

27. Mr Clements, who was employed as a client liaison/ claims investigator at Bond Turner Solicitors and had been in the role for 20 years, states in his witness evidence that:

“As I did not have conduct of this matter, I would go to see Joanne each time I received an email from Mr R’s to make sure that she had also received the same email. I would ask Joanne, “have you seen the email? “And she would tell me that everything was fine and that she would deal with it.”

28. On the 20 December 2021, the Respondent wrote to the Investigation Officer, stating *“I can confirm that I accept protective proceedings were not issued and therefore Mr R was misled. I sincerely apologise to you, Mr R, and the Firm in this regard.”*

Allegation 3.2 – Failed to provide Mr R, or latterly his new solicitors, with the client file despite numerous requests and a Court Order

29. The Respondent failed to provide Mr R, or latterly his new solicitors, with the client file despite numerous requests and a Court Order to do so.

30. The following evidence shows some of the dates Mr R had made such requests;

- 9 July 2019 the client emailed explaining his dissatisfaction with how his matter had been dealt with and requesting to collect his files.
- 8 July 2019 the client requested to be provided with his full case on a memory stick
- 12 July 2019 the client requested again for his full case.
- 12 September 2019 the client requested again for when he can collect his file
- 17 September 2019 the client requested again for his file and makes his dissatisfaction and disappointment clear.
- On the 3 November 2019 he chased the Firm again.

31. The new solicitors made a number of requests to the Firm asking for Mr R's file of papers. The following shows evidence of some of the requests made by the Firm;
- On the 6 November 2020, an email was sent to the Firm from Versus Law requesting Mr R's file.
 - A chaser email was sent to the Firm on the 10 November 2020.
 - Another email was sent to the Firm again on the 18 November 2020.
 - On the 7 December 2020, an email expressing concern was sent to the Firm.
 - On the 18 December 2020, another email was sent to the Firm, this time advising that a complaint would be made to the SRA and another request for the client file to be sent.
 - Another three emails were sent making requests for the client file again, expressing disappointment in how the matter has been handled by the Firm and the failure to provide the client's file.
32. The Respondent failed to respond to these requests. The new solicitors then made an application to the Court on the 27 January 2021, seeking an order requiring the Firm to provide Mr R's full file of papers to him.
33. The order required the Firm to provide the file of papers to Mr R within 14 days. An order for costs in the sum of £2,260 was also made.
34. Although the Firm paid the costs order, they failed to provide Mr R, or his representatives with his full file of papers.
35. In the witness statement provided by Ms Moss, she states *"I was shocked to see that there were several file transfer requests from Mr R's new representatives, which has not been dealt with by Joanne. I saw many letters sent by VL where they noted that they had been informed by Joanne that the file of papers were being copied, but no file was ever sent to them."*

Allegation 3.3 – Failed to co-operate with the SRA investigation

36. The Respondent failed to co-operate with the SRA's investigation.

37. On 8 March 2021, the SRA Investigation Officer contacted the Respondent to inform her that the SRA was investigating the complaint received from Mr R. The Respondent was asked to confirm whether the full file of papers had been sent to Mr R and his representative and whether the Firm had issued protective proceedings on his behalf.
38. She was asked to provide her response by 15 March 2021.
39. Following no response from the Respondent, a reminder email was sent to her on 16 March 2021.
40. The Respondent called the Investigation Officer on 29 March 2021 to confirm that she had received the original request, she asked for a further week to enable her to look at the file and respond to our queries.
41. On 15 April 2021, the Respondent contacted the Investigation Officer to confirm that Mr R's file was in the process of being copied and that it would be sent out that week.
42. The Respondent continued to assure the Investigation Officer that the file was still being copied and that she required more time before the file was sent to Mr R. Despite numerous correspondence from the Respondent confirming that the file was in the process of being sent over it never was.
43. A Production Notice ("PN") was then served upon the Respondent on 14 June 2021.
44. On 7 July 2021, the Respondent provided the Investigation Officer with a tracking number. She confirmed that the file had been sent via special delivery but that when she had tried to track the item on the Royal Mail website, a message was displayed stating the item could not be found.
45. On 14 July 2021, the Investigation Officer sent an email to the Respondent informing her that the file of papers for Mr R had not arrived, and that the tracking number which she had provided did not appear to exist as it could not be tracked on the Royal Mail website.
46. The Respondent could not offer any explanation for why the item could not be tracked.

47. The file was eventually received on 5 October 2021, following the Senior Partner, Ms Moss, sending the file relating to Mr R's personal injury matter to the Investigation Officer.

Non-Agreed Mitigation

48. I have accepted the allegations and offered my full apologies and regret from a very early stage in this process. I have never had any allegations or prior misconduct levied against me and this is an isolated incident that is very much regretted and I once again offer my full apologies.

Agreed Outcome

49. The Respondent admits all of Allegations 3.1, 3.2 and 3.3 above and agrees:

49.1. To be struck off the Roll of Solicitors.

49.2. With respect to costs, agrees to pay the SRA's costs of this matter agreed in the sum of £7,000.

Explanation as to why such an order would be in accordance with the Tribunal's Sanction Guidance (10th edition)

50. The parties consider and submit that, in light of the admissions set out above, and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanction (10th edition).

51. The Respondent is highly culpable for her actions. This is because:

- She is a very experienced solicitor, having been admitted on 17 November 2008 and was some 10 years post qualification experience at the time of the misconduct.
- She was a former partner at the Firm.

- She had direct control and responsibility for the circumstances giving rise to the misconduct.
- The Respondent's conduct caused harm to the reputation of the profession. There was also harm to client Mr R, by the delay caused in the failure to progress his case.

52. The Respondent's conduct is aggravated by the following:

- She knew or ought reasonably to have known that her conduct was in material breach of obligations to protect the public and reputation of the profession.
- Her misconduct resulted in her acting without integrity.
- The misconduct continued for a prolonged period of time.

53. In *Wingate v Solicitors Regulation Authority v Malins* [2018] EWCA Civ 366, it was said that integrity connotes adherence to the ethical standards of one's own profession. The Respondent was an experienced solicitor at the time of the alleged misconduct. Prior to the misconduct, she had been a partner at the Firm.

54. As a consequence of her conduct, the Respondent admits that she failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code and therefore breached Principle 2 of SRAP11 in so far as the conduct predated 25 November 2019 and Principle 5 of SRAP19 in so far as the conduct occurred on or after 25 November 2019.

55. The public would expect a solicitor to understand the importance of progressing their client's case. By failing to do so, the Respondent demonstrated a serious lack of integrity¹.

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.*"

56. The Respondent failed to act in a way which maintained the trust placed in her and in the provision of legal services. A solicitor acting in accordance with the trust placed in them would:

- a. have progressed their client's matter to an adequate standard expected of such an experienced and senior solicitor.
- b. not have allowed the client's limitation period to be missed or provided their client with misleading information about the progress of their case.

57. The conduct alleged amounted to a breach by the Respondent of the requirement to behave in a way which maintains the trust placed by the public in them and in the provision of legal services. Public confidence in the Respondent, in solicitors and in the provision of legal services is likely to be undermined by such conduct. She therefore breached Principle 6 of SRAP11 in so far as the conduct predated 25 November 2019 and Principle 2 of SRAP19 in so far as the conduct occurred on or after 25 November 2019.

58. The Respondent failed to act in the client's best interests in that she delayed and failed to adequately progress the client's matter. The Respondent was instructed to assist the client with his accident claim and it was crucial to those instructions that certain actions were undertaken by her to protect her client's interests. It is clear that the Respondent's failure to progress her client's matter has impacted him and the harm caused to him could have been avoided had the Respondent conducted this matter accordingly. She has failed to act in his best interests and therefore breached Principle 4 of SRAP11 in so far as the conduct predated 25 November 2019 and Principle 7 of SRAP19 in so far as the conduct occurred on or after 25 November 2019.

59. The Respondent was under an obligation to provide a competent level of service to her client. By failing to issue protective proceedings, the Respondent did not provide competent service to Mr R and has therefore breached paragraph 3.2 of the Code of Conduct for Solicitors.
60. The parties consider and submit that, in light of the admissions set out above, and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanction (10th edition).
61. The Respondent has admitted a number of Principle breaches including dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanctions" (10th edition), states that: "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)).**"
62. In Sharma [2010] EWHC 2022 (Admin) at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:
- "(a) 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...*
- (b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...*
- (c) 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..."

63. Applying the (objective) standards of ordinary decent people, they would regard a solicitor deliberately misleading their client over the course of some years as to the progress of their case as dishonest.
64. Ms Allen admits that her conduct was dishonest and does not assert that exceptional circumstances which might justify a departure from the inevitable consequence of striking off arise in this case.
65. In respect of mitigating features, the Respondent's mitigation is set out at paragraphs 48 above.
66. The Applicant considers that, in the context of the admitted misconduct, an immediate strike-off is the only appropriate sanction and will have an appropriate effect on public confidence in the legal profession and adequately reflects serious misconduct.
67. The Parties consider that, in light of the admissions set out above, the proposed outcome represents a proportionate resolution of the matter which is in the public interest. These were serious acts of dishonesty, and the case plainly does not fall within the small residual category where striking off would be a disproportionate outcome. Accordingly, the fair and proportionate outcome in this case is for the Respondent to be struck off the Roll of Solicitors.

68. The parties therefore 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.

Signed by the parties.

Jagjeet Gibson, Legal Adviser upon behalf of the SRA

Joanne Allen

21 June 2024