

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12578-2024

BETWEEN:

SADAF IJAZ

Appellant

And

SOLICITORS REGULATION AUTHORITY LTD

Respondent

Before:

Mr J Johnston (in the chair)

Mr A Horrocks

Mr D Kearney

Date of Hearing: 19 September 2025

Appearances

Rory Dunlop KC of 39 Essex Chambers, 81 Chancery Lane, London WC2A 1DD, instructed by Safaz Legal for the Appellant.

Charlotte Elves, counsel of Outer Temple Chambers, instructed by the Solicitors Regulation Authority Ltd for the Respondent.

**JUDGEMENT ON A
SECTION 44E APPEAL**

The Rebuke

1. On 20 November 2023, an Adjudicator of the Respondent considered the following matters:
 - Ms Ijaz failed to comply with a costs order dated 29 July 2019, which required payment in full by 12 August 2019; and
 - Ms Ijaz failed to comply with a costs order dated 8 March 2022, which required payment in full by 22 March 2022.
2. The Adjudicator found both matters proved and determined to issue a rebuke and publish the rebuke once the period for review had expired. Ms Ijaz was also ordered to pay costs in the sum of £600.
3. On 20 December 2023, Ms Ijaz applied to review the decision of the Adjudicator. On 9 February 2024, the Adjudication Panel dismissed the review and upheld the decision of the Adjudicator.

The Appeal

4. On 13 March 2024, Ms Ijaz filed an appeal against the decision of the Adjudication Panel pursuant to Section 44E of the Solicitors Act 1974 (“the Act”).

The Legal Framework

5. Section 44E of the Act provided that:

“(1) A person may appeal against-

 - (a) a decision by the Society to rebuke that person under section 44D(2)(a) if a decision is also made to publish details of the rebuke;*
 -*
 - (c) a decision by the Society to publish under section 44D(3) details of any action taken against that person under section 44D(2)(a) or (b).*

(4) On an appeal under this section, the Tribunal has power to make such order as it thinks fit, and such an order may in particular-

 - (a) affirm the decision of the Society;*
 - (b) revoke the decision of the Society;*
 - ...*
 - (f) make such provision as the Tribunal thinks fit as to payment of costs.”*
6. The procedure for the hearing of the Appeal is governed by the Solicitors Disciplinary Tribunal (Appeals and Amendment) Rules 2011 (“the Rules”).

Appellant's Application for Privacy and Anonymity

7. By way of an application dated 10 September 2025, Ms Ijaz applied for the appeal hearing to be held in private and for the proceedings to be anonymised. The application was 113 pages long and was submitted for the hearing that was due to take place on 15 September 2025. Given the lateness of the application, the Respondent stated it would provide its position on the morning of the hearing. The appeal hearing on 15 September 2025 was adjourned and re-listed to take place on 19 September 2025, at which point Mr Dunlop KC had been instructed by Ms Ijaz. The written application cited harassment by third parties as the reason for requiring privacy and anonymity.

The Appellant's Submissions

8. Mr Dunlop KC submitted that having the hearing in public would defeat the purpose of the relevant part of the Act. The provisions of Section 44E(1)(a) and (c) allowed a solicitor to appeal against the rebuke and the decision to publish. To hold the hearing in public was to put those matters in the public domain when Parliament's clear intention was to prevent information about action taken pursuant to Section 44D going into the public domain.
9. Rule 23 of the Rules stated:
- "(1) Subject to paragraphs (2) and (3) every appeal hearing shall take place in public.*
- (2) Any party and any person who claims to be affected by an appeal may seek a decision from the Tribunal that the hearing or part of it be conducted in private on the grounds of-*
- (a) exceptional hardship; or*
- (b) exceptional prejudice, to a party, a witness or any person affected by the appeal.*
- (3) If it is satisfied that those grounds are met, the Tribunal shall conduct the hearing or part of it in private and make such decision as shall appear to it to be just and proper.*
- (4) The Tribunal may, before or during a hearing, direct that the hearing or part of it be held in private if*
- (a) the Tribunal is satisfied that it would have granted an application under paragraph (2) had one been made; or*
- (b) in the Tribunal's view a hearing in public would prejudice the interests of justice..."*
10. Mr Dunlop KC submitted that it was contrary to the interests of justice to allow a decision that Parliament had intended be private to be discussed in the public domain. It was self-evident in his submission that publication of enforcement action was likely

to be damaging to a solicitor's reputation.

11. With regard to the application for anonymity, Mr Dunlop KC submitted that consideration would be given to an application pursuant to Rule 14 of the Rules (which provided the Tribunal with the discretion to prohibit disclosure or publication of documents or information) in the event that a decision made after the appeal hearing was to be published. Ms Ijaz was particularly concerned about publication of her residential address or any other matter that might exacerbate the risk of harassment.

The Respondent's Submissions

12. Ms Elves opposed the application. Ms Elves submitted that the starting point, in accordance with Rule 23(1) of the Rules, was for the hearing to take place in public. The Rules provided for when there should be any derogation from the open justice principle. In order to do so, Ms Ijaz was required to provide cogent evidence in support of any application for privacy and anonymity. Ms Elves submitted that the evidence provided was insufficient.
13. Ms Elves noted that the grounds upon which the application was now pursued were different to those contained in the written application. The interpretation of Section 44E contended for by Mr Dunlop KC was not accepted. Further, if it was the position that all s44E appeals against a decision to rebuke a solicitor were to be held in private, it was not obvious why this had not been raised earlier in the proceedings. It had not been previously suggested that privacy of the appeal hearing was fundamental to the integrity of the appeal. There had been a number of listings of the matter, all of which were public and had not been anonymised.
14. Mr Dunlop KC, it was submitted by Ms Elves, had been reticent to frame the application on the basis of exceptional hardship and/or exceptional prejudice. Such reticence, it was submitted, was telling. Ms Elves submitted that Ms Ijaz had failed to provide any properly supported evidence that a public hearing would cause exceptional hardship and/or exceptional prejudice. The high-point of the application, was a request on 5 August by an individual (who it was alleged had been harassing Ms Ijaz) for the hearing link. This did not amount to exceptional hardship and/or exceptional prejudice.
15. In reply, Mr Dunlop KC confirmed that the basis of the written application was not withdrawn. Ms Ijaz did not resile from her position that she had suffered harassment by third parties or that if they attended, they would attempt to disrupt the proceedings.

The Tribunal's Decision

16. The Tribunal noted that it had not been submitted that the Tribunal's Rules (as secondary legislation) ran contrary to the Act (as primary legislation) and that the Act thus took priority such that the hearing had to be held privately. The Tribunal did not find that the purposive interpretation of the Act contended for by Mr Dunlop KC was the correct interpretation. The Tribunal considered that had Parliament intended for all appeals against a decision taken under Section 44D be held in private, it would have stated so expressly. The Tribunal thus determined that the starting position was for the appeal to be heard in public in accordance with the well-known principle of open justice. That being the position, a public hearing was not, in and of itself, contrary to the

interests of justice. The application pursuant to Rule 23(4)(b) was thus refused.

17. The Tribunal considered whether there should be any derogation from the open justice principle due to exceptional hardship and/or prejudice. The Tribunal was not satisfied that the matters relied upon by Ms Ijaz amounted to exceptional hardship and/or exceptional prejudice. It noted the assertion that certain individuals would seek to disrupt the hearing. Pursuant to Rule 25(5) or the Rules, the Tribunal had the power to exclude any person whose conduct the Tribunal considered was disrupting or was likely to disrupt the hearing. Accordingly, the Tribunal did not consider that it was necessary to hear the appeal in private due to the risk of disruption by third parties as there were other ways under the Rules of avoiding actual disruption. Further, Ms Ijaz had in any event provided very little evidence to suggest that third parties were likely to disrupt the hearing.
18. The Tribunal was not satisfied that the matters relied upon by Ms Ijaz demonstrated that a public hearing would cause her exceptional hardship and/or exceptional prejudice. The application had failed to articulate what the hardship or prejudice was. It had also failed to evidence conduct that could be considered as harassment. Accordingly, the application for privacy pursuant to Rule 23(2) of the Rules was refused.
19. With regard to the possible application for anonymity the Tribunal confirmed that it did not publish the residential addresses of parties to proceedings and the application was not pursued at the hearing

Respondent's Application for Permission to Pursue an Application to Strike Out the Appeal

20. At the hearing on 15 September 2025, the Tribunal noted the protracted nature of the proceedings. Whilst the Tribunal acceded to Ms Ijaz's application for an adjournment, the Tribunal considered that the appeal should proceed on the next occasion it was listed namely on 19 September. The Tribunal directed, in summary, that should Ms Ijaz again seek to adjourn the appeal, the Tribunal would hear any application made by the Respondent as a result, including any application to strike out.
21. On 16 September 2025, the Tribunal received an email on behalf of Ms Ijaz which did request a further adjournment of the hearing on 19 September. That application was formally submitted using the appropriate form on 18 September 2025. At the commencement of the hearing, Mr Dunlop KC confirmed however that no application to adjourn the proceedings was in the end being pursued, and that the Appellant was ready to commence the appeal.
22. Ms Elves submitted that notwithstanding the withdrawal of the application to adjourn, the Respondent intended to proceed with its application to strike out the appeal. Ms Elves submitted that having received a skeleton argument from Mr Dunlop KC that morning, she would require time to consider the submissions made and the authorities relied upon. The time that it would take for her to consider matters and a lunch-break would mean that there was only $\frac{1}{2}$ a day for the appeal to be heard and determined, including a determination on the admission of fresh evidence. When asked, Ms Elves confirmed that she would require approximately 45 minutes to read and consider the

skeleton argument.

23. The application to strike out would be made pursuant to Rule 12(2)(b) as Ms Ijaz, it was submitted, had *“failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the appeal fairly and justly”*.
24. Mr Dunlop KC opposed the application. He submitted that the listing of the appeal was generous. The skeleton argument had been submitted as soon as was practicable given his late instruction in the matter. Given that the adjournment application had been abandoned, the Respondent ought to abandon its strike out application.
25. The Tribunal considered the submissions carefully. The Tribunal’s previous direction had been clear. Given that Ms Ijaz was not now seeking to adjourn the hearing, the Tribunal did not now expect the Respondent to make an application to strike out pursuant to its direction. The Tribunal noted that notwithstanding the protracted nature of the proceedings, including the adjournment of substantive hearings listed in August 2024 and March 2025 and Ms Ijaz’s failure to comply with directions, the Respondent had made no earlier application to strike out the appeal.
26. The Tribunal was not satisfied that it could not consider the matter fairly or justly in the one day listing which had been afforded to the appeal. Ms Elves had stated that she would require time to consider the representations contained in the skeleton argument. The Tribunal was happy to give her the amount of time she had requested (and more time if necessary) and in practice did so. In all the circumstances, the Tribunal was satisfied that the matter could proceed justly and fairly. Accordingly, the application was dismissed.

The Appeal

The Appellant’s Submissions

27. Mr Dunlop KC detailed the background to the proceedings. Ms Ijaz had been in frequent litigation with the landlords of the Firm. She brought a claim against the landlords and they made a counterclaim against her.
28. On 29 July 2019 HHJ Barker QC dismissed Ms Ijaz’s claim and directed that there be a hearing of the counterclaim. On 2 August 2019 HHJ Barker QC ordered:
 - that Ms Ijaz pay costs of the hearing to the landlords in sum of £5,250 by 5 August 2019 and VAT, if payable, by 12 August 2019 (“the 2019 costs order”); and
 - that the costs of the claim be the landlords’ in any event.
29. On 19 August 2019 Ms Ijaz applied for permission to appeal this order and ticked the box applying for a stay. On 4 September 2019 Ms Ijaz wrote to the solicitors for her landlords asking them to hold off enforcement of the costs order pending the outcome of the appeal. On 9 September 2019 Ms Ijaz made partial payment of the 2019 costs order.

30. In November 2019 judgment was given for the landlords on the counterclaim. Ms Ijaz paid the damages and costs relating to this judgment.
31. On 11 September 2020 Ms Ijaz’s appeal against HHJ Barker QC’s order was struck out. Ms Ijaz, it was submitted on her behalf, did not become aware of this fact for a long time.
32. The landlords’ solicitors complained to the SRA that HHJ Barker QC’s order had not been paid. On 22 December 2021, the SRA wrote to Ms Ijaz asking various questions. The landlords made further claims against Ms Ijaz. Ms Ijaz filed a defence and made counterclaims. On 17 January 2022 there was a preliminary issue hearing in relation to these claims before HHJ Rawlings. He struck out the defence and counterclaim. By an order dated 27 January 2022 HHJ Rawlings made an order giving judgment on the claim, ordering Ms Ijaz to pay the landlords’ costs (summarily assessed at £11,000) and refusing permission to appeal. On 31 January 2022 Ms Ijaz filed a notice of appeal against that order and applied to stay it.
33. At a hearing on 9 February 2022, DJ Rouine considered the landlords’ bill of costs relating to Ms Ijaz’s original claim, dismissed by HHJ Barker QC. DJ Rouine ordered her to pay the landlords £9,220.19, for outstanding costs, by 22 March 2022. This order was then dated 8 March 2022 (“the 2022 costs order”).
34. Following further requests for information from Ms Ijaz by the SRA in June 2022, her former representatives, 3D Solicitors Ltd (“3D”), made representations to the SRA, accepting that the 2019 costs order had not been paid but seeking to explain the reasons why not. 3D explained that an appeal was filed and that Ms Ijaz was concerned that the appeal might be rendered futile if she paid the costs order (as the landlords were disposing of their assets and she might not be able to recover the money). 3D stated that Ms Ijaz had *“intended to appeal and apply for a stay of the costs order, pending appeal. Unfortunately, the appeal was dismissed without [her] knowledge...”* 3D also stated that Ms Ijaz was making urgent efforts to reinstate the struck-out appeal and would pay the balance by 8 August 2022 if unable to secure a stay in the meantime.
35. On 8 August 2022 Ms Ijaz paid the balance due under the 2019 costs order. On 2 June 2023 she paid the outstanding sums on the 2022 costs order.
36. On 8 August 2023, the SRA’s investigating officer drafted a notice recommending a rebuke. On 20 November 2023 Adjudicator Underhill made a decision to rebuke Ms Ijaz for failing to pay the 2019 and 2022 costs orders by the required deadlines. Mr Dunlop KC summarised the Adjudicator’s reasoning as follows:
- “6.6. *Ms Ijaz tried to explain her conduct through her representative’s letter of 4 July 2022. In summary they said this:*
- ...
- She intended to apply for an order staying payment of the costs while her appeal was pending. **She did not...***
- 6.8 *I consider her explanation why she [failed to pay the 2019 costs order] to be unpersuasive. Here are my reasons:*

- *Appealing an order does not stay it. It is immaterial whether the appeal was dismissed with [her] knowledge or not. **Conventional practice is to apply for a stay of the costs order at the same time as lodging the appeal. [She] did not do that.***
 - *If [she] feared that if she paid the judgments amounts, including costs, she may never see them again if her appeal succeeded, **she should make the appropriate application to the court...***
 - *...The court ordered [her] to do something. Unless and until the court varies that order, she must obey it...” (Mr Dunlop KC’s emphasis)*
37. The Adjudicator determined that the finding was enough and it was not necessary to consider the 2022 costs order but he would do so anyway. As to the 2022 costs order, 3D’s letter of 10 August 2022 was relevant. It referred to an application to appeal and stay the order. The Adjudicator did not accept those submissions stating:
- “I have seen no evidence of an application for a stay of the costs order. I do not know when it was made. It is not at Ms Ijaz’s option to ‘wait and see’ the outcome... Unless and until the court varied or stayed its own order [she] was bound by it.”*
38. On 12 December 2023 Ms Ijaz withdrew her application for permission to appeal against the HHJ Barker QC order on the basis that the respondents had disposed of their assets and so the appeal was no longer commercially viable. On 20 December 2023 Ms Ijaz’s former representative made representations to the SRA seeking a review of the Adjudicator’s decision.
39. On 9 February 2024, the Adjudication Panel dismissed the review and upheld the decision of the Adjudicator to impose a rebuke. Much of the reasoning addressed arguments that were not pursued in this appeal. The Adjudication Panel did, however, find a material flaw in the Adjudicator’s decision, in that the Adjudicator had failed to explain why Ms Ijaz’s conduct amounted to professional misconduct.
40. The Adjudication Panel concluded that this material flaw did not justify overturning the decision because the reasons for the finding were *“contained within his decision. It is based on a thorough consideration of the context of her non-compliance as set out earlier in his decision with which we agree.”*
41. The Adjudication Panel gave its own reasons why the non-compliance found by the Adjudicator amounted to professional misconduct. The Adjudication Panel found that Ms Ijaz knew what a stay was and knew she had to apply for one. It stated: **“However, she did not apply for a stay.”**
42. The Adjudication Panel agreed with the Adjudicator that given Ms Ijaz was aware of the options (i.e. to apply for a stay), she had not had any good reason not to comply with the order and **“she should have made an appropriate application to the court rather than withhold payment in breach of a court order” (Mr Dunlop KC’s emphasis)**
43. The Adjudication Panel also pointed to other matters – e.g. that Ms Ijaz knew “by

September 2020” that the appeal had not succeeded and yet did not comply with the order until 8 August 2022. The Adjudication panel considered that the length of time the orders were not complied with aggravated the seriousness.

44. In February 2024 Hanne & Co, Ms Ijaz’s former representatives, asked the Adjudication Panel to review the decision as it contained a factual inaccuracy, namely that Ms Ijaz had not applied to stay the 2019 costs order. On 4 March 2024, the SRA declined to review the decision.
45. On 13 March 2024 Ms Ijaz filed a notice of appeal against the SRA’s decision. She changed representatives again and in October 2024 filed amended grounds of appeal. On 31 March 2025, the Tribunal gave directions, including a direction for any application to adduce new evidence to be made, supported by a witness statement, by 14 April 2025.
46. Ms Ijaz’s application to rely on new evidence was made on 11 June 2025. The supporting witness statement was filed on 17 June 2025. On 17 July 2025, the SRA opposed the application to adduce fresh evidence.
47. Mr Dunlop KC submitted that the parties agreed that it was appropriate to deal with the substantive appeal and the application to adduce fresh evidence together. Ground 1 of the appeal was on the basis that there had been a mistake of fact. Mr Dunlop KC submitted that an appeal on the grounds of mistake of fact might succeed where:
 - There was an objectively verifiable mistake of fact;
 - The appellant and their advisers were not responsible for that mistake;
 - The mistake played a material (not necessarily decisive) part in the reasoning of the decision-maker below.
48. Mr Dunlop KC submitted that where mistake of fact was being pursued, fresh evidence in support may be admitted even if it did not meet the test under Ladd v Marshall [1954] 1 WLR 1489.
49. The Appellant applied to admit her appellant’s notice filed on 19 August 2019 following the 2019 Costs Order. This notice had not been submitted to the Adjudicator or the Adjudication Panel. On the notice, the Appellant had ticked the box stating that she wished to apply for a stay. Whilst the notice required the completion of section 11 of the notice to give information in support of the application for a stay, Mr Dunlop KC submitted that the failure to complete section 11 did not nullify the application; at best it was an irregularity. Mr Dunlop KC referred the Tribunal to cases where (i) the failure to sign a document with a Statement of Truth (contrary to the rules) was considered to be an irregularity (Governor of the Bank of Ireland v Philip Pank Partnership [2014] EWHC 284 (TCC), and (ii) the signing of a document by someone other than prescribed by the rules was considered to be an irregularity (Americhem Europe Ltd v Rakem Ltd [2014] EWHC 1881 (TCC). Accordingly, he submitted, as she had ticked the box stating that she applied for a stay, Ms Ijaz’s failure to complete section 11 did not mean that a stay had not been applied for.

50. The Ladd v Marshall principles were that: (i) the fresh evidence could not have been obtained with reasonable diligence; (ii) if provided, it would probably have had an important influence on the result; and (iii) the evidence is apparently credible although not necessarily incontrovertible.
51. Mr Dunlop KC submitted that Ms Ijaz met those principles. In the letter of 4 July 2022, 3D stated: *“After the Costs Order was made, an appeal was lodged ... [Ms Ijaz] had however intended to appeal and apply for a stay of the Costs Order, pending appeal. Unfortunately, the Appeal was dismissed without the knowledge of Ms Ijaz”*
52. Ms Ijaz, it was submitted, had acted with due diligence. She could not have anticipated that the Adjudicator and the Adjudication Panel would misunderstand the content of the 3D letter, and interpret it as meaning that no application for a stay had been made, such that it was necessary for her to file evidence of the application to stay.
53. Mr Dunlop KC referred to the Adjudicator’s reasoning. Two of the three reasons given, he submitted, proceeded on the mistaken basis that Ms Ijaz had not applied for a stay when she had. Such an error, it was submitted, was material if not decisive. Likewise, the Adjudication Panel, when providing its reasons, had made the same mistake of believing that no stay had been applied for. Accordingly, it was submitted, both decisions were tainted by a mistake of fact.
54. Mr Dunlop KC submitted that evidence of the stay application would probably have had an important (though not necessarily decisive) influence on the result in circumstances where both the Adjudicator and the Adjudication Panel had placed reliance on the mistaken understanding that no stay had been applied for. The notice, it was submitted, was incontrovertible evidence that a stay had been applied for.
55. Even if the Tribunal considered that Ms Ijaz had not succeeded in surpassing limb 1 of the Ladd v Marshall principles, in that the Tribunal found that she had not acted with reasonable diligence, Mr Dunlop submitted that justice required a flexible approach to the Ladd v Marshall principles. In E & R v SSHD [2004] EWCA Civ 49, the Court of Appeal stated:
- “Without seeking to lay down a precise code, the ordinary requirements for a finding of unfairness are apparent from the above analysis of the Criminal Injuries Compensation Board case. First, there must have been a mistake as to an existing fact, including a mistake as to the availability of evidence on a particular matter. Secondly, the fact or evidence must have been “established”, in the sense that it was uncontentious and objectively verifiable. Thirdly, the appellant (or his advisers) must not ... have been responsible for the mistake. Fourthly, the mistake must have played a material (not necessarily decisive) part in the tribunal’s reasoning.”*
56. The Court of Appeal agreed with the reasoning of Carnwarth LJ in Khan v SSHD [2003] EWCA Civ 530:
- “Whatever the precise limits of this court’s power to admit new evidence in such cases as this, I have no doubt that we should do so where there is material which appears to show that the factual basis on which the tribunal proceeded*

was, through no fault of its own, simply wrong”

57. Mr Dunlop KC submitted that it was plain that both the Adjudicator and the Adjudication Panel had considered the matter on a materially incorrect factual basis. Accordingly, justice required that the fresh evidence be admitted and considered by the Tribunal. The correct test was whether the mistake was material, not whether it was the sole basis or decisive (as per E & R v SSHD above). It was not now possible to determine what the outcome would have been but for the mistake of fact. For the purposes of allowing the appeal, it was sufficient to show that the mistake was material. The other reasoning contained in the decision was therefore irrelevant to the outcome.
58. Although it was true, he submitted, that Ms Ijaz was a qualified solicitor, there was no requirement that the flexibility of approach advocated for was limited to vulnerable persons. The flexibility was applied in public law and regulatory law contexts where the matters to be decided were of fundamental importance and thus different to civil law contexts where the issues generally related to money.
59. In SRA v Arslan [2016] EWHC 2862 Admin, Leggatt J stated:
- “Rule 52.11 [of the Civil Procedure Rules] makes it clear that a court or tribunal conducting a review should not generally receive new evidence that was not before the original decision-maker, although it may do so if justice requires it; and it should interfere with a decision under review only if satisfied that the decision was wrong or that the decision was unjust because of a serious procedural or other irregularity in the proceedings.”*
60. Mr Dunlop KC submitted that the mistake as to fact was an irregularity in the process such as to render the decision both wrong and unjust. It was unfair and unjust for Ms Ijaz to receive a public rebuke imposed using incorrect factual assumptions.
61. Mr Dunlop KC submitted that for the reasons stated above, the appeal should be allowed.

The Respondent’s Submissions

62. Ms Elves opposed the application to adduce the Appellant’s notice. No sufficient explanation had been provided by Ms Ijaz as to why she failed to provide the notice. It was Ms Ijaz’s case that she was not to know that the Adjudicator would read the letter of 4 July 2022 and mistakenly understand that no application for a stay had been made.
63. Ms Elves submitted that the notice was readily available. Ms Ijaz had failed to explain why this was not provided to the SRA during the investigation, when Ms Ijaz was informed that the matter was to be considered by an Adjudicator, when the Adjudicator’s decision was received, when Ms Ijaz applied for the decision of the Adjudicator be reviewed by an Adjudication Panel or when she applied for the Adjudication Panel decision be reviewed. She had not therefore acted with reasonable diligence.
64. Given the availability of the document, and the lack of reasonable diligence on her part, Ms Ijaz, it was submitted, could not pass limb 1 of the Ladd v Marshall principles,

namely that the fresh evidence could not have been obtained with reasonable diligence. Accordingly, the Tribunal should refuse the application to adduce fresh evidence.

65. Ms Elves submitted that the flexibility of approach contended for by Mr Dunlop KC was not appropriate in this case. The fact that this matter was in a public law context was not sufficient; Ms Ijaz was required to demonstrate some exceptionality to justify the exercise of flexibility; she had not done so. Ms Elves referred the Tribunal to the comment of Sir John Donaldson MR in R v SSHD Ex p Momin Ali [1984] 1 WLR:

“This fresh evidence was clearly available and should have been placed before Webster J. It is not the function of this court, as an appellate court, to retry an originating application on different and better evidence. We are concerned to decide whether the trial judge’s decision was right on the materials available to him by the exercise of reasonable diligence or there is some other exceptional circumstance which justifies its admission and consideration by this court.”

66. That comment was specifically endorsed by the court in E & R v SSHD. The court did not consider that the Ladd v Marshall principles had no place in public law, rather they were the starting point with “a discretion to depart from them in exceptional circumstances”. Ms Elves submitted that there was nothing exceptional in the circumstances of Ms Ijaz’s failure to provide the Appellant’s notice. Accordingly, the Tribunal should not exercise its discretion in favour of admitting the evidence Ms Ijaz now wanted it belatedly to admit.
67. The application of flexibility in the approach of the court in the cases relied on by Mr Dunlop was designed to temper unfairness. There was no unfairness in this case, particularly given the numerous opportunities Ms Ijaz had to provide the Appellant’s notice.
68. Further, it was not accepted that Ms Ijaz had, in fact, applied to stay the proceedings. The Appellant’s notice required supporting reasons to be provided. Ms Ijaz failed to do so. Mr Dunlop KC characterised this as no more than an irregularity and had referred the Tribunal to cases where a statement of truth had not been signed or had been signed by the wrong person. Those cases were materially different to the current case. This was not a case where there had been a small administrative error. Instead, Ms Ijaz had wholly failed to provide any supporting evidence. It was not accepted by the SRA that ticking a box stating that a stay was applied for equated to an application for a stay when the required evidence in support of that application was not provided.
69. As to the materiality of the Appellant’s notice to the decision, Ms Elves submitted that this was overplayed by Ms Ijaz. The Adjudicator and the Adjudication Panel had been dealing with a long period of deliberate non-compliance by Ms Ijaz. The court ordered that the 2019 Costs Order be paid in full by 12 August 2019 at the latest; payment in full was not made until August 2022. During that period, the appeal against the decision was live for a short period of time; the period of non-compliance following the failed appeal was significantly longer.
70. The evidence that Ms Ijaz deliberately failed to comply with the 2019 Costs Order went far beyond the application for a stay, namely

- By September 2020, Ms Ijaz knew that the appeal had failed (this was clearly stated on the court order of that date) and therefore also knew that there was no stay of the 2019 Costs Order but she still did not comply with that order.
 - In December 2021, Ms Ijaz was contacted by the SRA in relation to her non-compliance but still did not comply with the 2019 Costs Order.
 - In the representations of 4 July 2022, Ms Ijaz accepted that she was required to comply with the 2019 Costs Order, but did not do so until August 2022.
71. Ms Ijaz, it was submitted, did not dispute any of those factual findings. Ms Elves submitted that the admission of the Appellant's notice would not alter those findings. Ms Ijaz mischaracterised the issue of whether she had deliberately failed to comply with the 2019 Costs Order as an issue to be solely determined with reference to the sole fact of whether or not a stay had been applied for. Such an approach, it was submitted, was wrong.
72. Given the factual findings in relation to Ms Ijaz's failure to comply with the 2019 Costs Order, Ms Elves submitted that the admittance of the Appellant's notice would not have had an important influence the Adjudication Panel's decision.
73. Ms Elves submitted that in the circumstances, Ms Ijaz had failed to identify any unfairness. Even if there was a mistake of fact (which was not accepted) the application of Arslan required the Tribunal to determine that the decision of the Adjudication Panel was wrong or unjust. She submitted it was not.
74. For the reasons detailed above, Ms Elves submitted that the appeal should not be allowed and the decision to rebuke Ms Ijaz should be affirmed.

The Tribunal's Findings

75. In determining whether to admit the fresh evidence, the Tribunal applied the Ladd v Marshall principles detailed above and firstly considered whether the fresh evidence could not have been obtained with reasonable diligence.
76. The Tribunal noted the numerous opportunities Ms Ijaz had to provide that evidence. Even if she had relied upon the representations in the 4 July letter, and she had not realised the importance of the Appellant's notice on the referral of the matter or at the time of the consideration of the matter by the Adjudicator, it must have been clear to Ms Ijaz once she received the Adjudicator's decision, that the Adjudicator considered that no stay had been applied for. This was plain on the face of the decision and was a factor that the Tribunal had no doubt Ms Ijaz would have noted. Notwithstanding that clarity, Ms Ijaz did not seek to provide the Appellant's notice when she applied for a review of the Adjudicator's decision by an Adjudication Panel or when she applied for the Adjudication Panel decision be reviewed.
77. Ms Ijaz, the Tribunal determined, had not provided any sufficient explanation for that failure. The Tribunal found that Ms Ijaz had failed to act with reasonable diligence. The Appellant's notice was readily available to her, and she had failed, without sufficient reason, to provide that document on more than one occasion after she was aware that,

on her case, the Adjudicator had made a material mistake of fact. She was represented by solicitors for at least some of that time. She was also herself a solicitor and knew or could be expected to know the significance of the document, at least once she had read the Adjudicator's decision.

78. Having determined that Ms Ijaz had not surpassed limb 1 of Ladd v Marshall, the Tribunal then considered whether it should nevertheless be prepared to exercise a flexible approach so as to ensure fairness. The Tribunal considered the authorities and agreed with the submission of Ms Elves that in order for it to be prepared to exercise flexibility, there had to be some exceptionality to the circumstances. The circumstances of this matter were wholly distinguishable from the cases the Tribunal had been referred to by Mr Dunlop KC which were on their facts exceptional not least as they involved vulnerable parties. Whilst the Tribunal accepted that vulnerability was not a necessary criterion, it was satisfied that there did need to be some exceptionality of circumstances to justify the admission of the evidence. The Tribunal found that there was nothing exceptional in the circumstances of this case. As detailed above, the Tribunal had found that the failure to submit the Appellant's notice was due to Ms Ijaz's lack of reasonable diligence. She was on notice, by virtue of the Adjudicator's decision, of the facts upon which the Adjudicator relied. Despite a number of opportunities to correct the facts that she considered were wrong and adduce the evidence available to her in order to do so, Ms Ijaz had not done so. Given those findings, the Tribunal did not consider that there was any unfairness to Ms Ijaz in its refusal of her application to adduce fresh evidence. Accordingly, the Tribunal refused the application to adduce fresh evidence.
79. The Tribunal reviewed the decision of the Adjudication Panel. It was Ms Ijaz's case that in finding that no application for a stay had been made, the Adjudication Panel had made a material error of fact. The Tribunal found that the Adjudication Panel had set out its reasons for its findings including why it considered that the conduct amounted to professional misconduct. In particular, the Adjudication Panel had found that the non-compliance with the 2019 Costs Order had been deliberate. Given the reasoning of the Adjudication Panel, the Tribunal was satisfied that any error of fact as regards the stay application was not material to the Adjudication Panel's decision such that it would have altered that decision. The Tribunal was satisfied that the decision of the Adjudication Panel was one that was open to it on the facts of the case. The Tribunal did not find that the decision was wrong or unjust due to a serious procedural or other irregularity. Accordingly, the Tribunal dismissed the appeal and affirmed the decision of the Adjudication Panel.
80. Notwithstanding its findings, the Tribunal also considered whether, if it had admitted the fresh evidence, it would have revoked the decision. The Tribunal found that even if there had been a mistake of fact as to the stay application, it would not interfere with the decision. Arslan required the Tribunal to assess whether the decision was wrong or unjust due to a serious procedural or other irregularity. The Tribunal determined that this required the Tribunal to assess the decision as a whole, taking into account the entirety of the reasoning provided. The Tribunal was satisfied that even if the Adjudication had made an error of fact in relation to the stay application, as detailed above, that error was not material to its decision such that the error nullified the decision made. The Tribunal thus did not accept the level of materiality contended for by Ms Ijaz. Having determined that any error in relation to the stay application was not a material error, and that knowledge of the stay application would not have had an

important influence on the result, the Tribunal did not find that the Adjudication Panel decision was wrong or that it was unjust due to a serious procedural or other irregularity.

Costs

- 81 Ms Elves applied for costs in the sum of £11,199.00. Mr Dunlop KC queried the addition of VAT to the costs claimed. It was also submitted by him that the costs of £1,500 claimed for the hearing on 19 June 2025 were excessive. The hearing had been short. Costs of £750 were more appropriate.
82. The Tribunal routinely ordered costs inclusive of VAT where applicable and no reasons had been given why it was not applicable to the SRA's costs in this case. -Accordingly, the Tribunal was not prepared to order costs exclusive of VAT. As regards the submissions in relation to the costs of the hearing on 19 June 2025, the Tribunal noted that the parties had submitted a draft order where it was agreed that Ms Ijaz would pay costs of £1,300 for that hearing in any event. Given that agreed position, the Tribunal reduced the costs of £1,708 claimed for that hearing to the agreed amount. Accordingly, the Tribunal ordered Ms Ijaz to pay costs in the sum of £10,791.00 (including the £1,300 to be paid in any event), which, it found, was a reasonable and proportionate amount.

Dated this 22nd day of October 2025
On behalf of the Tribunal

J. Johnston

J. Johnston
Chair