

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12585-2024

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

NIRANJANA PATEL

Respondent

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Before:

Mr M N Millin (in the Chair)  
Mrs F Kyriacou  
Ms J Rowe

Date of Hearing: 28-29 August 2024

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## **Appearances**

Robin Horton, Solicitor, Solicitors Regulation Authority, of The Cube, 199 Wharfside Street, Birmingham B11RN for the Applicant.

Jonathan Goodwin, Solicitor, for the Respondent.

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## **JUDGMENT**

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## **Allegations**

1. The allegation against Niranjana Patel (“the Respondent”) by the Solicitors Regulation Authority (“the Applicant”) is that, on or around 29 January 2021, while in practice as a solicitor at Jackson Lees Group Limited (“the Firm”), she created and backdated a letter to make it appear to be a contemporaneous document, as she had not progressed the relevant case.

By doing so, the Respondent breached Principles 2, 4, and 5 of the SRA Principles 2019, and paragraph 1.4 of the SRA Code of Conduct for Solicitors 2019.

## **Executive Summary**

2. The Respondent was the fee earner in respect of a matter involving client K (“K”) who had claims against a landlord in respect of two matters.
3. The allegation was that the Respondent, in respect of one of the matters, created and backdated a letter to K’s landlord to make it appear as if work had been completed on the client file when no such work had been done.
4. She communicated to a colleague that she had sent the letter in question to K’s landlord on the date set out in the letter alleged to have been created.
5. After enquiries commenced by the Firm as to the whereabouts of the letter claimed to have been sent to the landlord on the Firm’s recording systems, the Respondent admitted that she had been mistaken about the date that the letter had been sent. She explained that she had dictated the letter on the date set out in the letter, but the letter had been sent to K’s landlord 17 days later; the day she had emailed her colleague.
6. The Respondent denied the allegation that she had created the letter and backdated it. She further denied that she had acted dishonestly. She asserted that she had only looked at the body of the letter that she had found on the system and had not altered or backdated it.
7. For the reasons set out, the Tribunal rejected the Respondent’s explanation and found the Allegation proved.

## **Sanction**

8. The Tribunal ordered that the Respondent be suspended from practice as a solicitor for a period of 12 months to commence on the 29th day of August 2024 and such suspension be suspended for a period of two years.

## **Documents**

9. The Tribunal considered all of the documents in the case which included but were not limited to:
  - Rule 12 Statement dated 28 March 2024 and Exhibits
  - The Respondent’s Answer to the Rule 12 Statement dated 7 May 2024

- The Applicant's Statement of Costs dated 21 August 2024

### **Factual Background**

10. The Respondent was born in December 1973. She is a solicitor admitted to the Roll-on 15 September 2004. She has a current practising certificate without conditions. She is currently employed at WTB Solicitors.
11. The Solicitors Regulation Authority (SRA) became aware of the matter forming the subject of the allegation after receiving a report from the Firm, who reported the Respondent's alleged conduct on 21 April 2024.
12. At the time the conduct was alleged to have occurred, the Respondent was practising as an associate solicitor at the Firm.
13. The Respondent was dismissed by the Firm for gross misconduct on the 9 March 2024.
14. From April 2020, the Respondent worked on matters for K. K was a client with disabilities who had an ongoing claim against his landlord in relation to housing repair issues.
15. K subsequently instructed the Firm on an alleged unlawful eviction in relation to the same property.
16. The email sent to K on the 12 January 2021 was in relation to the disrepair matter. The Respondent informed K that his draft statement in relation to that matter had not been typed.

### **Chronology**

#### Pre-29 January 2021

17. **At 16:04 hrs** on 27 January 2021, Mr Andrew Holroyd, the Firm's head of risk and compliance, emailed the Respondent identifying concerns about the Respondent's failure to work on K's client file. In particular, he noted:
  - the Respondent had not pushed the landlord into doing the required work in relation to the disrepairs matter;
  - the Respondent had not advised on strategy;
  - the Respondent had not read K's emails from the previous month in relation to the illegal eviction;
  - the file did not contain any written advice provided by the Respondent.

#### 29 January 2021

18. **At 10:07hrs:** Andrew Holroyd sent a further email to the Respondent chasing a response and suggesting passing the case on to someone else.

19. **At 11.03hrs:** the Respondent sent an email to herself. The email attached a letter addressed to K's landlord dated 9 April 2020.
20. **At 11.08hrs:** the Firm's file software system ('Proclaim') recorded a letter - either created at 11.08 am or saved to the system at that time - as "*RESEND OF DOCUMENT Blank Let ORIGINALLY SENT ON 09/01[sic]/2020 LTR TO MILLGATE PROPERTY LIMITED*" ("the 11:08 letter").
21. **At 11.31hrs:** the Respondent sent an email to Paula Tomlinson asking her to print off and post the attached 11:08 letter.
22. (*At a time not established*) the Respondent's assistant, Paula Tomlinson sent the 11:08 letter to the landlord, with a date of 11 January 2021 on it, being the letter that the Respondent had forwarded to her at 11:31.
23. **At 11.45hrs:** the Respondent emailed Andrew Holroyd, saying that she had written to the landlord on 12 January 2021 stating: "*I honestly hadn't realised that I had until I saw my time recording.*"
24. **At 14:41hrs:** Andrew Holroyd emailed the Respondent stating that he could not find the letter that she stated that she had sent to the landlord on the file.
25. **At 14:43hrs:** Andrew Holroyd further emailed the Respondent asking whether he should write to K confirming that the Respondent had written to him and enclosing a copy of the letter.
26. **At 14:48hrs:** the Respondent emailed Andrew Holroyd's stating that she would send K a copy of the letter once: "*I've finished with a meeting and proclaim stops kicking me out.*"

#### Post 29 January 2021

27. **At 09:48hrs:** on 1 February 2021, in response to the Respondent's email of 14:48hrs on the 29 January 2021, Andrew Holroyd requested that a copy of the letter to the landlord be sent to him and asked whether the letter was on the file.
28. **At 12:23hrs:** on 1 February 2021, the Respondent sent K a copy of the 11:08 letter, confirming she had sent it on 12 January 2021.
29. The Firm investigated the issue sometime after 1 February 2021, after it was suspected that the Respondent had drafted the 11:08 letter on 29 January 2021, backdated it to 12 January 2021, thereby creating a record to cover up the fact that she had not previously worked on the file.

#### **Witnesses**

30. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes

of the oral evidence. 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.

31. The following witnesses provided statements and gave oral evidence:

- Andrew Wallace: Director and Group Head of the Firm's IT called by the Applicant
- The Respondent

#### The Evidence of Mr Andrew Wallace

31.1 Mr Wallace had conducted a thorough analysis of Proclaim. He concluded that he 'firmly believed' the document in question was created by the Respondent at 11:08hrs on 29 January 2021 and the letter within the document had also been manually changed to represent 12 January. Mr Wallace said that he had been unable to find any evidence or reason to support an alternative view despite 'drastically trying to prove the theory wrong.' Whilst he acknowledged there were IT issues, nothing had been presented to him to change his opinion. In addition, he could find nothing that would explain why a document had been added to the matter on 29 January with the content dated 12 January.

31.2 In cross examination, Mr Wallace confirmed that his investigation revealed that the Respondent had done work on the client matter on the 12 January 2021. In addition, Mr Wallace could not categorically rule out that:

- (a) IT issues may have caused the letter that is the subject of the allegations to be typed but not shown the history;
- (b) the Respondent dictated the letter dated the 12 January 2021;
- (c) the letter in question was typed outside of Proclaim.

#### The Evidence of the Respondent

31.3 The Respondent gave oral evidence. The details of her evidence are set out below in the section titled '*Respondent's Case*.'

#### **Findings of Fact and Law**

32. Allegation 1.1 - That, on or around 29 January 2021, while in practice as a solicitor at Jackson Lees Group Limited, she created and backdated a letter to make it appear to be a contemporaneous document, as she had not progressed the relevant case. In doing so, she breached Principles 2, 4, and 5 of the SRA Principles 2019, and paragraph 1.4 of the SRA Code of Conduct for Solicitors 2019.

#### The Applicant's Case

32.1 Mr Horton detailed the background facts in line with the chronology set out above.

32.2 He pointed out that after being sent an email on the 29 January at 10:07hrs, which was a follow up email to one sent on 27 January 2021 at 10:07hrs, the Respondent responded

to Andrew Holroyd's enquiries at 11:45hrs, confirming by email that she had written to K's landlord on the 12 January 2021.

- 32.3 Mr Horton further stated that the Respondent had said that she had not realised this until she had seen her time recording and gone through the history of the file.
- 32.4 Mr Horton, in continuation of the case for the Applicant, stated that the Respondent, on 1 February 2021 emailed K informing him that she had written to his landlord and attached a copy of the letter dated 12 January 2021.
- 32.5 It was further explained by Mr Horton, that following the investigation commenced by the Firm, it was established that the time entries for K's file on 12 January 2021 showed the Respondent recorded time for preparation of K's statement and for the receipt of some correspondence, but did not record time spent creating any documents on 12 January 2021.
- 32.6 It was submitted by Mr Horton that the only recorded letters on the file were from the following dates:
- 9 April 2020
  - 29 January 2021
  - 1 February 2021
- 32.7 It was further submitted that the letter dated 9 April 2020, was very similar to the letter purported to have been sent to the landlord on the 12 January 2021 and forwarded to K on the 1 February 2021.
- 32.8 Mr Horton pointed out that an investigation by the Firm revealed that at 11:03hrs on the 29 January 2021, the Respondent emailed the letter dated 9 April 2020 to herself. This was noted to be a short time after the email had been sent to her by Andrew Holroyd at 10:07hrs.
- 32.9 The letter registered on Proclaim five minutes later as: "*RESEND OF DOCUMENT Blank Let ORIGINALLY SENT ON 09/01[sic]/2020 LTR TO MILLGATE PROPERTY LIMITED*" either created at 11.08hrs or saved to the system at that time.
- 32.10 The above 9 January 2020 reference was an error. There was no letter sent on that date. The correct date of the original letter was 9 April 2020.
- 32.11 Therefore, it was submitted by Mr Horton that at 11:08hrs on 29 January 2021, the Respondent created the letter based on the 9 April 2020 letter, which she backdated to 12 January 2021. The reason for this, it was further submitted, was to address the allegation that no work had been completed on the file prior to that day.
- 32.12 Mr Horton noted that the Respondent attempted to rectify the situation subsequently when asked for a written explanation after the start of the investigation. On the 15 February 2021 via email, she confirmed that the letter was sent on the 29 January 2021 and not the 12 January 2021.

- 32.13 In addition, Mr Horton stated that the Respondent had further explained that she had dictated the letter on the 12 January 2021, but was aware there was a delay in the typing due to relevant staff being off work due to illness. After going into the letter on Proclaim and looking at the date of the letter, she had assumed that was the date that the letter was sent, given: *“the date on the document is always the date of the letter, hence me saying the letter was sent on the 12 January.”*
- 32.14 Mr Horton further submitted that despite the Respondent’s claim that the letter was dictated on the 12 January 2021, there was no time record on Proclaim to evidence that she dictated a letter on that day. Furthermore, there was no evidence that if a letter was typed on that day, it was sent back to her for checking by the typist. In addition to this, an examination of the letter dated the 12 January 2021 shows the first paragraph of that letter ends with an unfinished sentence: *“We write in relation to the above matter and in particular our letter dated the 4th April 2020 and note that we do not appear to have received a reply. We also attempted to contact you by telephone on the 18th December 2020 and.”* This was suggestive of the fact that it was not produced by an experienced typist.
- 32.15 Although the Respondent stated she did not create the 11:08 letter and that this was the time she *“went in to look at it”* and did not notice the issue with the date, it was submitted by Mr Horton that Proclaim was sophisticated enough to differentiate between a document being reviewed and being created.

### Principle Breaches

#### *Maintaining Public Trust (Principle 2 of the SRA Rules 2019)*

- 32.16 Principle 2 requires solicitors to act in a way that upholds public trust and confidence in the solicitor’s profession and in legal services provided by authorised persons. Mr Horton submitted that members of the public trust solicitors to be open and transparent with clients and to admit when errors occur. Members of the public would not expect solicitors to create false records to demonstrate work which had not been done.
- 32.17 It was finally submitted on behalf of the Applicant that creating a letter on the 29 January 2021 and backdating it to 12 January 2021 was done by the Respondent with the specific intention to cover up for work not done and to mislead both the client and her colleague and that by so doing, the Respondent diminished the trust and confidence that the public places in solicitors.

#### *Honesty (Principle 4 of the SRA Rules 2019)*

- 32.18 Principle 4 requires solicitors to act honestly. Mr Horton referred to the test of dishonesty set out in Ivey v Genting Casinos [2017] UKSC 67 set out 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.”*

- 32.19 Mr Horton submitted that at the time when the Respondent created and backdated the letter dated the 12 January 2021 on the 29 January 2021, she knew or believed:
- (a) she had not dictated the letter she claimed to have dictated on the 12 January 2021;
  - (b) she had created a letter addressed to K’s landlord from an existing letter on the Proclaim system;
  - (c) she had not sent a letter to K’s landlord dated 12<sup>th</sup> January 2021 on the date she claimed to have sent it.

As a result, the Respondent was dishonest by the standards of ordinary decent people and had therefore acted in breach of Principle 4.

*Integrity (Principle 5 of the SRA Rules 2019)*

- 32.20 Mr Horton stated that Principle 5 requires solicitors to act with integrity. He referred to the test set out in Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366, where it was stated that integrity connotes adherence to the ethical standards of one’s own profession. It was submitted that a solicitor acting with integrity would have taken responsibility for her failure to progress matters on behalf of her client.
- 32.21 It was submitted that by backdating a letter and therefore creating a false record, the Respondent had failed to act with integrity.

*Paragraph 1.4 of the Code of Conduct.*

- 32.22 Paragraph 1.4 of the Code imposes a duty on solicitors not to mislead clients or others. Mr. Horton submitted that on the 29 January 2021, the Respondent was aware that no letter had been sent to K’s landlord. The information provided to her colleague on the 29 January 2021, and also to K on 2 February 2021, was incorrect. Rather than explaining the correct position to K, the Respondent sought to mislead K by creating a false record, thus breaching paragraph 1.4 of the Code of Conduct.

The Respondent’s Case

- 32.23 The Respondent explained that on the 29 January 2021 she had been experiencing technical issues with Proclaim. Proclaim kept freezing at certain times whilst she was typing or moving a document, and on occasion, she would be thrown out of the system entirely. It was only after the 29 January 2021 that she came to learn that other members of staff had also experienced problems with Proclaim.
- 32.24 The Respondent had been working from home in January 2021 as COVID restrictions still applied. She further explained that she had a had a work mobile phone or desktop from which she dictated work to the secretaries through the ‘Big Hand’ application.



The secretaries too were having a lot of IT problems with Proclaim and this caused delays in work being typed.

- 32.25 On 28 January 2021, the Respondent recalled that there had been a Head of Departments' away day which was held remotely. She had not felt well and was still recovering from the effects of the intense work she had completed on some difficult cases from the day before. She had dealt with a particularly difficult case the previous day which involved the taking of a lengthy statement during a Zoom conference. The conference lasted from 14:30hrs till the evening. After the statement had been obtained from the client, she had an hour's break, after which she began dictating the client's instructions.
- 32.26 The Respondent stated that she had not had much sleep that night as her mother had been very unwell and in severe pain. Being the only person at home at the time, she provided her mum with personal care. As a result of lack of sleep, she was unable to concentrate properly the next day.
- 32.27 The Respondent explained that on the 29 January 2021 she held remote meetings with various members of the Firm's billing teams given concerns that had been expressed about work not being billed by the housing, community care and housing departments. These were the three teams within the Firm that she was managing.
- 32.28 The only solicitor in the community care team was heavily pregnant and was due to go on maternity leave the next day. The Respondent explained that she therefore had to ask one of the members of staff on the welfare benefits team, who did not have litigation experience, to provide cover for the team. This member of staff was on the phone advising the Respondent on the progress of various matters and whilst this was going on, the Respondent was dealing directly with Clients' complaints over the phone.
- 32.29 The Respondent asserted that what she had tried, unsuccessfully, to convey to Andrew Holroyd in her email of 11.45hrs on the 29 January 2021, was that she had not originally realised that there was a letter of the 12 January 2021. However, this letter had been sent to the landlord on the 29 January 2021. In addition, she was trying to inform him that she had only realised the existence of the letter when she saw her time recording on Wednesday after she had gone through the history of the case.
- 32.30 The Respondent further asserted that she had not created the letter dated 12 January 2021 on 12 January 2021. As far as she was aware, she had dictated it on 12 January 2021. She must therefore have dictated it immediately after she had completed K's Statement.
- 32.31 When the issue was eventually brought to her attention, the Respondent stated that she looked at the time recording on the case management history and had 'seen' that the letter was posted on the 12 January 2021. She could not understand why it was not recorded on the printout of the history of the case.
- 32.32 The Respondent recalled that having seen the letter, she emailed the letter to herself due to the IT problems she was experiencing. Her aim in doing this was to save it on her desktop and then go through it.

- 32.33 The Respondent further explained that all she had seen was the body of the letter in Proclaim and did not check the date on the letter as she was focusing on amending the letter that was already on Proclaim. The purpose of her emailing the letter to herself was to move matters forward. Her assumption was that the letter was typed on the same day that it was dictated. She did not check the date on the letter.
- 32.34 The Respondent asserted that she did not think about backdating the letter. Rather, all she was thinking about was 'getting the letter sent out.'
- 32.35 The Respondent stated that her error was in not checking the date on the document produced from the system and furthermore not proofreading the e-mail before sending it to Andrew Holroyd. She maintained that she was not trying to mislead Andrew Holroyd and her representation to him was informed by her genuine, and honest, belief that the letter had been dictated and typed on 12 January 2021.

### The Tribunal's Findings

- 32.36 The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to the Respondent's right to a fair trial and to respect her rights to private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 32.37 The Tribunal carefully considered all the written and oral evidence presented to it. The Tribunal found that, despite the Respondent 's insistence that she had dictated a letter to K'
- 32.38 The Tribunal accepted the written report and the oral evidence of Mr Andrew Wallace. His evidence was that the only correspondence registered on the proclaim system with reference to *Millgate Property Landlords* were the following:
- (a) The letter dated the 9 April 2020;
  - (b) The letter accompanying the email to K dated the 1 February 2021;
  - (c) The letter 'dated' 12 January 2021 but registered on proclaim as being created on 29 January 2021 at 11.08hrs
- 32.39 The Tribunal noted the similarities in the letter of the 9 April 2020 and the letter registered as being created on Proclaim at 11:08hrs on the 29 January but dated 12 January 2021.
- 32.40 The Tribunal found that the timeline set out within the chronology of events built a clear picture of the events of the 29 January 2021. The Tribunal found it to be significant that the Respondent's activities of:
- (a) emailing the document to herself at 11.03hrs and;
  - (b) subsequently attaching that letter to the email sent to the Paula Tomlinson at 11:31hrs occurred a short time after Andrew Holroyd sent a 'chaser' email to her at 10:07hrs on the 29 January 2021.

- 32.41 The Tribunal noted the Respondent's reply to Andrew Holroyd's email at 11:45hrs where she clearly confirmed that she had sent the letter to the landlord on the 12 January 2021. The Tribunal additionally noted the Respondent's email to K on 1 February 2021 similarly informing him that the letter to his landlord had been sent on 12 January 2021.
- 32.42 Whilst the Respondent was unequivocal that she merely '*looked*' at the letter on Proclaim and did not notice the issue with the date, the Tribunal found on the balance of probabilities that this was not the case. The Tribunal found that she had emailed the document to herself at 11:03hrs on the 29 January 2021, after which Proclaim registered the document as having been created on that system at 11:08hrs. The Tribunal on the balance of probabilities accepted that the Respondent as being properly identified as both the typist, and the handler of letter created.
- 32.43 The Tribunal was careful to focus specifically on the evidence before it in relation to the events of the 29 January 2021 and in so doing found on the balance of probabilities that the Respondent:
- (a) did not dictate a letter on the 12 January 2021 as claimed;
  - (b) after emailing the document to herself at 11:03hrs, created the letter dated 12<sup>th</sup> January 2021 at 11:08hrs on the 29 January 2021 on Proclaim;
  - (c) created the letter at 11:08hrs in response to the email that had been sent to her by Andrew Holroyd;
  - (d) had manually changed the date on the document to make it appear as if she had been working on the document on that date in circumstances where she had not.
- 32.44 Having found the factual matrix of Allegation 1 proved to the requisite standard, the Tribunal went to consider the alleged breaches of the Principles.

*Maintaining Public Trust (Principle 2 of the SRA Rules 2019)*

32.45 The Tribunal found on the balance of probabilities that the Respondent had backdated the letter to demonstrate that work which had not been completed at the time the record was created, had been done. Such actions would undermine the public trust and confidence in the solicitor's profession and in the legal services provided by authorised persons.

32.46 The Respondent had therefore breached Principle 2.

*Honesty (Principle 4 of the SRA Rules 2019)*

- 32.47 The Tribunal found on the balance of probabilities that the Respondent on the 29 January 2021 knew or believed:
- (a) that she had not dictated a letter dated 12 January 2024;
  - (b) that she had created a letter addressed to K's landlord from an existing letter on the Proclaim system on that day;

- (c) she had not sent a letter to K's landlord dated 12<sup>th</sup> January 2021 on the date she claimed to have sent it.

32.48 In those circumstances, the Tribunal found that the conduct of the Respondent was dishonest by the standards of ordinary decent people.

*Integrity (Principle 5 of the SRA Rules 2019)*

32.49 The Tribunal determined the creation and backdating of a document by the Respondent with the aim of demonstrating that work had been done on a client file when it had not, was an act lacking integrity.

32.50 The Tribunal therefore found upon the balance of probabilities that the Respondent acted without integrity.

**Previous Disciplinary Matters**

33. The Respondent had no previous disciplinary findings recorded against her.

**Mitigation**

34. The Respondent had an unblemished and exemplary professional and regulatory history.

35. At the relevant time, in 2021, The Respondent had been qualified for 15 years and at the time of the misconduct, had been managing three departments within the firm.

36. At the relevant time, the Respondent had been struggling with the volume of work within the firm and the day before the misconduct had a very challenging work schedule resulting in her working till late in the evening of the 28 January 2021.

37. Between 29 January 2021 and 2 February 2021, The Respondent had been feeling unwell, suffering from migraines, and stomach-ache. She was also dealing with matters in her personal life, which included caring for her mother.

**Sanction**

38. Mr Goodwin, on behalf of the Respondent, advanced, and asked the Tribunal to consider whether exceptional circumstances existed in relation to the matters as found by the Tribunal. His view was that if exceptional circumstances existed that might justify a sanction other than a striking off.

39. Mr Goodwin submitted that the dishonest conduct could properly be described as isolated, discrete and momentary and did not occur over a sustained period of time with the events forming the subject of the allegation taking place on a single day. He further stated that whilst the conduct may have been found to be deliberate, it was neither planned nor calculated but was instead the Respondent's direct reaction to the events that occurred on the 29 January 2021 and the chaser email from Mr Holroyd. Looking at the matter in the round, her actions could be categorised as a '*moment of madness*' and a significant error of judgement in an otherwise unblemished 18-year post-qualification career. In conclusion, he averred that having regards to particular

circumstance of this case, the lesser sanction of a fine or a period of suspension would be more proportionate than the career ending sanction of a strike off.

40. The Tribunal had regard for its Guidance Note on Sanction (10th Ed) and the proper approach to sanctions as set out in Fuglers and others v SRA [2014] EWHC 179.
41. The Tribunal assessed the seriousness of the misconduct and in doing so it considered both culpability and harm. The Tribunal found that:
  - (a) the Respondent was dishonest;
  - (b) she was directly responsible for her actions;
  - (c) she was an experienced solicitor in a leadership role;
  - (d) the act of dishonesty was an isolated incident as it had not been elaborately pre-planned.
42. When considering the harm caused by the Respondent's misconduct, the Tribunal took account of the fact that although the misconduct resulted in very little impact on the client, it was nonetheless capable of affecting the reputation of the profession.
43. Next, the Tribunal considered the purpose for which sanctions are imposed. The Tribunal noted that an important purpose of a sanction is to maintain the reputation of the solicitor's profession (Bolton v The Law Society [1994] 1 WLR 512). The Tribunal determined that the reputation of the profession was undermined in the circumstances where a solicitor, particularly one in a senior role, created a false document to create the impression that work had been done on a date when it had not been done.
44. The Tribunal determined that the conduct in question was dishonest. The Tribunal observed that a finding of dishonesty would, absent exceptional circumstances, require an order striking the solicitor from the roll.
45. On the question of exceptional circumstances, the Tribunal considered the comments of Coulson J., in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin):

*"It seems to me, therefore, that looking at the authorities in the round, that the following impartial points of principle can be identified:*

- (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.”*

46. In addition, the Tribunal also noted the decision in SRA -v James [2018] EWHC 2058 (Admin), in particular at para 101:

*“...it is clear from the decisions in Sharma, Imran and Shaw, that the most significant factor carrying most weight and which must therefore be the primary focus in the evaluation is the nature and extent of the dishonesty, in other words the exceptional circumstances must relate in some way to the dishonesty.”*

47. In this case, the nature of the dishonesty was the creation and backdating of a document in order to create the impression that she had completed work that had not been done at the time she stated it had been. The Tribunal believed the conduct to have been motivated by a desire to avoid further criticism from a colleague repeatedly demanding to be furnished with an immediate update as to what work had been done on behalf of the client.
48. The Tribunal considered that, if there was any benefit to the Respondent from the conduct in question, it was very marginal and would have involved no more than the Respondent being relieved of the pressure of further email enquiries.
49. Matters of personal mitigation were not excluded from consideration as such matters can and should be considered as part of the balancing exercise required in the evaluation. The Tribunal considered the working conditions of the Respondent, the pressures of work that she had been subject to during this period, and her surrounding ill-health and personal circumstances, but ultimately concluded that it should afford them limited weight.
50. Nevertheless, the Tribunal on the facts of this case found exceptional circumstances given the nature and scope of the misconduct in question and all the surrounding facts and circumstances when viewed holistically. It determined that this was not a carefully planned act of dishonesty, but was rather misconduct which was a response to the pressure experienced from her colleague’s enquiries. The action of creating and backdating the document lasted a very short period of time and was in effect a momentary lapse of judgment in an otherwise unblemished legal career.
51. Accordingly, the Tribunal determined that the appropriate sanction would be for the Respondent to be suspended from practice for a period of 12 months and that period to be suspended for 24 months. The Tribunal’s decision had been a finely balanced one based on the particular circumstances of the case and in reaching its decision on the duration of the suspension, the Tribunal also reflected the length of time it had taken to bring this matter to the Tribunal during which the Respondent had been issued with a practicing certificate by the Applicant free from conditions. In that time the Respondent had practiced without any other matters relating to her conduct being raised by the Applicant.

**Costs**

52. The Applicant and the Respondent agreed costs in the sum of £10,000.00, which the Tribunal considered reasonable and proportionate for a case of this nature.
53. Accordingly, the Tribunal ordered the Respondent to pay costs in the agreed sum of £10,000.00.

**Statement of Full Order**

54. The Tribunal Ordered that the Respondent, NIRANJANA PATEL, solicitor, be suspended from practice as a solicitor for period of 12 months to commence on the 29<sup>th</sup> day of August 2024 such suspension be suspended for a period of two years and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00

Dated this 12<sup>th</sup> day of December 2024  
On behalf of the Tribunal

*M.N. Millin*

M.N Millin  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**12 DECEMBER 2024**