

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12621-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

MUHAMMED NAZAR HAYAT

Respondent

Before:

Mr W Ellerton (in the chair)

Mrs S Gordon

Mr A Horrocks

Date of Hearing: 6 – 10 January 2025, 21 - 22 May 2025 and 28 - 29 May 2025

Appearances

Michael Collis, Counsel, employed by Capsticks Solicitors LLP, Wellington House, 60-68 Wimbledon Hill Road, London, SW19 7PA, for the Applicant.

Mansoor Fazli, Counsel, 12 Old Square, Lincoln's Inn, London WC2A 3TX for the Respondent.

JUDGMENT

Allegations

1. The Allegation against the Respondent, Muhammad Nazar Hayat, made by the SRA, was that, whilst working as a solicitor at Lincoln Lawrence Solicitors (“the Firm”), he:
 - 1.1. On or around 18 May 2023, advised a person he believed to be a prospective client to provide a false narrative in support of an asylum claim within the United Kingdom, and in doing so breached any or all of Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019 (“the Code”) and Principles 1, 2, 4 and 5 of the SRA Principles 2019 (“the Principles”).

NOT PROVED

Executive Summary

2. The Respondent was a solicitor admitted to the Roll of Solicitors on 2 December 2013.
3. It was alleged by the Applicant that the Respondent advised and encouraged reporters from the Daily Mail, one posing as a man seeking entry in the UK and the other as his uncle, to provide a false narrative upon which to claim asylum. The Applicant’s case relied on transcripts of covert recordings of the Respondent’s meetings with the reporters, conducted partly in English and partly in Punjabi.
4. The Respondent denied the alleged misconduct and challenged the accuracy of the Applicant’s translation of the conversations. Ultimately, both the Applicant and the Respondent commissioned separate translations of the covert recordings, and the Tribunal heard evidence from the translators, among other witnesses in the case.
5. The Tribunal did not find that the Respondent advised his purported prospective client to provide a false narrative. Rather, it accepted that the Respondent conducted an initial exploratory meeting. The furthest he went during that meeting was to rehearse potential arguments at their highest. However, he made it clear that these matters would be revisited at a future meeting, with the grounds to be finalised based on the evidence presented by his prospective client.
6. The Tribunal did not find the allegation proved by the Applicant to the required standard (the balance of probabilities) and it dismissed the allegation. The Tribunal made no order for costs.

Sanction

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

Documents

8. The Tribunal reviewed all the documents submitted by the parties, which included (but were not limited to):
 - Rule 12 Statement and Exhibit JTC/1 dated 13 June 2024.

- Respondent's Answer to the Rule 12 Statement dated 19 August 2024.
- Applicant's Reply to the Respondent's Answer dated 20 August 2024
- Applicant's Schedule of Costs dated 13 May 2025

Background

9. The Respondent was admitted to the Roll on 2 December 2013.
10. At the time of the allegation, the Respondent was registered as an Owner, Manager and Director of the Firm, as well as its Compliance Officer for Legal Practice ("COLP"), Compliance Officer for Finance and Administration ("COFA") and Money Laundering Reporting Officer ("MLRO"). The Respondent's Practising Certificate was suspended on 31 July 2023 as a result of an intervention by the SRA into the Firm.
11. In January 2023, Thomas Kelly, an Investigations Editor at The Daily Mail Newspaper received information regarding the actions of a number of immigration solicitors' firms and their conduct in relation to asylum claims. Following consultation with their legal department, a decision was made by The Daily Mail to conduct an undercover investigation using covert recording equipment.
12. The Daily Mail formulated a scenario that would be the focus for this investigation: An undercover reporter would pose as a recently arrived illegal migrant who had no legitimate reason to claim asylum, and would ask the solicitors if there was anything they could do to normalise their stay in the UK. The parameters of this scenario involved the instructions that the undercover reporter:
 - Could not ask leading questions.
 - Could not themselves suggest making an asylum application; and
 - If asked, they would be clear that there was no basis for a legal claim for asylum.
13. On 1 February 2023, Mr Kelly met with Paul Samrai, one of the undercover journalists tasked with carrying out this investigation. Mr Kelly explained to Mr Samrai the parameters of the investigation, as set out above. It was agreed that Mr Samrai would pose as the uncle of a person who had entered the UK illegally (i.e. they had no legal basis to be in the UK and had not submitted a claim for asylum).
14. Mr Samrai was provided with names of solicitors' firms that should be approached as part of this investigation; he was not provided with the names of individual solicitors. The Firm was not initially one of the solicitors' firms in question but did end up being visited by Mr Samrai; evidence was given as to the reasons why this happened but the Tribunal did not consider that anything turned on it.
15. On 3 May 2023, Mr Samrai attended the Firm's offices, and an appointment was made for 18 May 2023 (subsequently rearranged to 2 June 2023). Mr Samrai attended the Firm's offices on 2 June 2023, accompanied by two other undercover operatives; one posing as his son, and the other as his nephew the "illegal migrant". These three undercover journalists then conducted a meeting with the Respondent.

16. The meeting between the journalists and the Respondent was covertly digitally recorded. Following the meeting, Mr Samrai met with Thomas Kelly, who downloaded the recording to his laptop. Mr Samrai confirmed that he did not edit the recordings before they were downloaded by Mr Kelly.
17. Mr Kelly has confirmed that he did not edit any of the recordings once they had been downloaded to his laptop. Mr Kelly obtained transcripts from the recordings, using a Punjabi interpreter. Extracts from the recordings were then included in articles published by The Daily Mail, both in newspaper and online, and in a video that was uploaded to YouTube during July 2023.
18. Following a request from the SRA, The Daily Mail provided copies of both the recordings and the transcripts to it. Following receipt of the recordings, as the meeting between the Respondent and the three undercover journalists had been conducted partly in English and partly in Punjabi, the SRA sought a transcript of the recordings from Language Line Solutions.
19. Language Line Solutions confirmed that transcripts were prepared by a linguist within the company who is fluent in Punjabi. Upon completion of those transcripts by the Linguist, they were then sent to a proofreader, who also spoke Punjabi, to carry out a quality assurance check.
20. Following completion of the quality assurance check by the Proofreader, Language Line Solutions then also conducted a further quality assurance review of the English part of the transcripts.
21. The recordings themselves were analysed by Stephen Cole, a Technical Director specialising in digital imaging and video. Mr Cole has confirmed that the recordings gave no indication of editing.
22. The Applicant and the Respondent arranged for further translations and transcriptions of the footage in the course of the SRA investigation and the proceedings. These were consolidated into a single document (“the comparator document”) for ease of reference at the hearing setting out the various translations side by side. The comparator document can be viewed [\[here\]](#)

Witnesses

23. The evidence is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.
24. The following witnesses gave evidence in the proceedings:-
 - Mammoza Azam, translator on behalf of Atlas Translations
 - Paul Samrai, Freelance Journalist
 - Thomas Kelly, Investigations Editor at The Daily Mail

- Bushra Mohammed, translator on behalf of Atlas Translations
- Muhammad Nazar Hayat, the Respondent
- Gazala Tariq Khan – AM Translations

Findings of Fact and Law

25. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (on the balance of probabilities). The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Applicant's Case

26. The Rule 12 Statement – [[Click Here](#)]

The Respondent's Case

27. The Respondent's Answer to the Applicant's Rule 12 Statement – [[Click Here](#)]
28. **Allegation 1.1 - On or around 18 May 2023, advised a person he believed to be a prospective client to provide a false narrative in support of an asylum claim within the United Kingdom, and in doing so breached any or all of Paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019 ("the Code") and Principles 1, 2, 4 and 5 of the SRA Principles 2019 ("the Principles").**
- 28.1 The Tribunal reviewed all the material before it and considered the oral evidence and cross-examination of all the witnesses. All findings were made on the balance of probabilities. The burden of proof lay entirely with the Applicant.
- 28.2 The Respondent faced a single allegation namely that he advised a person he believed to be a prospective client to provide a false narrative in support of an asylum application. Breaches of Principles 1, 2, 4 and 5 of the Principles and Paragraph 1.4 of the Code were alleged to flow from this.
- 28.3 The Tribunal noted the context in which the initial call took place between Mr Samrai and the Respondent on 3 May 2023. This was an international telephone call as the Respondent was abroad at that time. The transcript was one-sided in that only Mr Samrai's portion of the conversation was recorded. A meeting was arranged during this initial call at which Mr Samrai could attend the Respondent's offices with his 'nephew' (who was in reality a fellow undercover journalist). Only basic information was provided to the Respondent during the call, of which the Respondent had no prior notice and in advance of which he had been provided with no information about the prospective client. Although asylum was mentioned in the call the Respondent did not provide any detailed advice over the phone and a subsequent in-person meeting was arranged for a time when the Respondent had returned to the U.K. The Tribunal concluded that there was nothing untoward about the initial call on 3 May 2023.

- 28.4 The Tribunal also considered the context in which the in-person meeting took place on 2 June 2023 involving the Respondent and the undercover journalists. There was no retainer in place, no fees were paid prior to or at the meeting and no client care letter had been provided at the time of meeting. The Tribunal concluded taking this context into account that the Respondent was advising his purported client at what was an exploratory meeting during which the Respondent sought to establish what steps were appropriate and potentially available to his prospective client. The Respondent provided advice on the type of evidence that should be obtained and on the asylum process generally.
- 28.5 The advice at the meeting on 2 June 2023 led to a suggestion of a substantive further in-person meeting on a date to be agreed by which point a retainer would be in place and an asylum application would be prepared.
- 28.6 The Respondent indicated at the exploratory meeting on 2 June 2023 that he would prepare an application on behalf of his prospective client for a reduced fee should the matter proceed. The Tribunal did not infer from that indication that the Respondent was communicating a willingness to mislead on his prospective client's behalf.
- 28.7 In the Tribunal's view the fact that the allegation arose from a 'sting operation' was immaterial to the issues before it. It made its decision on the basis of all the evidence as to the Respondent's conduct in relation to what he believed at the time (wrongly, although he did not know this) was a prospective client matter. The Tribunal took a similar approach to the criticisms of the journalists' conduct and the way in which the Daily Mail had gathered its material made by the Respondent. The Tribunal did not find the evidence and cross examination arising from these criticisms particularly helpful to the issues it had to decide since there was no submission of no case to answer and/or abuse of process submission made on behalf of the Respondent in reliance on them.
- 28.8 The Tribunal was assisted in its determination of the allegation by the comparator document which consolidated and set out side by side the various versions of the translations prepared by three translation companies Atlas, AM and Absolute. Ms Azam and Ms Mohammed gave evidence regarding their understanding of what had been said by the Respondent during the meetings with the journalists as captured by the covert recordings.
- 28.9 The Tribunal noted that whilst there were some important differences between the various translations detailed within the comparator document, there was for the most part substantial agreement and consistency across them. The quality of the audio content recorded during the meeting meant that the translators heard some words and translated metaphorical and nuanced language differently and it was therefore inevitable there would be some differences across the three versions of the translation. The Tribunal noted that translation was an art rather than a science.
- 28.10 The Tribunal considered that each of the translations had been prepared by capable and competent individuals and did not (and did not need to) prefer any one version over another as a whole. Where the differences were material to determining the allegation against the Respondent the Tribunal was mostly able to resolve any uncertainty by making findings of fact based on the audio recording of words spoken in English.

Where the material differences were not words spoken in English the Tribunal relied on the oral and written evidence of the translators and other witnesses to resolve them.

- 28.11 The Respondent was assisted by appropriate reasonable adjustments in the form of regular breaks whilst giving evidence.
- 28.12 The Respondent was unfocused and erratic during his oral evidence albeit he demonstrated knowledge of immigration law which was his primary area of practice. The Respondent could not readily or consistently refer back to his witness statement when answering questions. Overall, the Tribunal found the Respondent to be an unsatisfactory witness and many of his answers were irrelevant and incoherent.
- 28.13 Notwithstanding this finding, the Tribunal accepted the Respondent's evidence on several key aspects of the case, for the following reasons.
- 28.14 English was not the Respondent's first language. This was a relevant consideration for the Tribunal, as it affected both the specific phrases and terminology he used when speaking with the undercover journalists during the recorded meetings, and his explanations to the Tribunal. His choice and use of language may otherwise have appeared unusual if not viewed in this context.
- 28.15 The Tribunal found that where the Respondent used terms like "*create*" or "*make*" evidence or "*make a story*" he was referring to the evidence that would need to be brought before the Home Office. The Respondent was not referring to or advising on fabricating evidence; his words instead reflected the process by which evidence would be collated and pulled together, including by the client ahead of their next meeting.
- 28.16 The Tribunal found that the word "*Dunki*" was used by the prospective client to describe how he had come to the UK and that the Respondent's genuine belief, rightly or wrongly, was that this was synonymous with people trafficking which could found a claim for asylum.
- 28.17 The Respondent may have been mistaken in his understanding of an automatic connection between the "*Dunki*" route and people trafficking, as it is conceivable that a migrant could pay an agent to enter the UK via an irregular route without necessarily being a victim of trafficking.
- 28.18 However, the Tribunal found that, to the Respondent, this was what the term "*Dunki*" signified.
- 28.19 Later during the second meeting¹ the Respondent moved on from advising on what was theoretically required for an asylum application to rehearsing the arguments that could be put forward on behalf of his client.
- 28.20 The Respondent referred to the prospective client being a victim of human trafficking. The Tribunal found that this was a legitimate potential ground to mention because of the earlier reference to "*Dunki*" and the Respondent's genuine albeit possibly erroneous understanding of that term.

¹ From around 24:21 in the transcript as indicated in the comparator document.

- 28.21 The Respondent also referred to a fear of persecution and assassination by his prospective client. Again, context was central to the Tribunal's determination. The Respondent's evidence was that he formed the view that this may be a basis for an asylum claim because the purported nephew 'Gurpinder'² told him that the Police likely took his name as he had been encouraged to support Amritpal³ and that he had subsequently fled to Dubai from his native India following protests involving Amritpal. In determining whether the Respondent went beyond merely exploring conceptual issues when referencing persecution and assassination in his remarks at the meeting, the Tribunal found that he was rehearsing grounds on which a claim may be founded, subject to further exploration of the evidence, rather than advising that anything should be fabricated
- 28.22 The Respondent stated⁴ at the meeting that that these matters would be explored further during their next meeting and that they represented "clues" or "directions" rather than definitive grounds. The specific grounds to be included within any application would be finalised based on the evidence presented by 'Gurpinder'.
- 28.23 The Tribunal did not therefore find that the Respondent advised his client to create a false narrative. Instead, the Tribunal accepted that the Respondent conducted an initial exploratory meeting. The furthest that he went in that meeting was to rehearse potential arguments at their highest. However, he made clear that these matters would then be explored further at a future meeting with the grounds to be finalised based on the evidence presented at that meeting.
- 28.24 The Tribunal concluded therefore that the Respondent did not act dishonestly as was alleged and he did not breach the SRA principles or code that he was alleged to have infringed.
- 28.25 The Tribunal found Allegation 1.1 not proven and consequently none of the alleged breaches were established.

Costs

29. Mr Fazli applied for costs on behalf of the Respondent, although no costs schedule had been filed as required by the Tribunal's case directions.
30. Mr Fazli submitted that, from the outset of the proceedings and throughout, the Applicant had been invited to acknowledge the deficiencies in the evidence, as reflected in the transcripts of the recorded meetings on which it relied in support of the allegations. He stated that it would have been reasonable for the Applicant to reconsider its position at any of those stages.
31. Mr Fazli also referred to a separate, similar case⁵ previously determined by the Tribunal, arising from the same 'sting operation' that had led to the proceedings against

² A pseudonym of one of the undercover journalists present at the meeting.

³ A politician and advocate of Khalistan who had previously been arrested by Indian authorities in connection with his senior role within that movement.

⁴ From 25.17 onwards in the transcript as indicated in the comparator document.

⁵ Rashid Ahmad Khan - Case No. 12644-2024

the Respondent. He submitted that this case had been brought to the Applicant's attention in advance of the hearing and provided a further opportunity to the Applicant to reconsider its decision to proceed.

32. Mr Fazli argued that these factors constituted good reason to depart from the default position on costs in unsuccessful prosecutions—namely, that no order is made against the regulator.
33. Mr Collis confirmed that there was no application for costs on behalf of the Applicant and that the Respondent's application for costs was opposed. Mr Collis cited **Baxendale-Walker v The Law Society** [2007] EWCA Civ 233 which stated, at Paragraph 40, that: -

“...Unless the complaint is improperly brought, or, for example, proceeds as it did in Gorlov, as a “shambles from start to finish”, when the Law Society is discharging its responsibilities as a regulator of the profession, an order for costs should not ordinarily be made against it on the basis that costs follow the event. The “event” is simply one factor for consideration. It is not a starting point. There is no assumption that an order for costs in favour of a solicitor who has successfully defeated an allegation of professional misconduct will automatically follow. One crucial feature which should inform the Tribunal's costs decision is that the proceedings were brought by the Law Society in exercise of its regulatory responsibility, in the public interest and the maintenance of proper professional standards. For the Law Society to be exposed to the risk of an adverse costs order simply because properly brought proceedings were unsuccessful might have a chilling effect on the exercise of its regulatory obligations, to the public disadvantage.”

34. Mr Collis submitted that this case did not fall into that category as it was properly investigated and properly brought before the Tribunal. The case was certified by Tribunal and no submission of no case to answer or abuse of process had been advanced by the Respondent. It would therefore be wrong to conclude that the case was improperly brought or a “shambles from start to finish”.
35. Mr Collis also referred the Tribunal to Paragraph 57 of **Solicitors' Regulatory Authority v Tsang** [2024] EWHC 1150 (KB) (Admin) (“Tsang”)

“The principle that costs follow the event is displaced in cases of this kind and, instead, when an allegation is dismissed the starting point is that there should be no order as to costs. For costs to be awarded against the SRA there must be a good reason justifying the departure from that starting point. In considering whether there is such a good reason the fact that the proceedings were brought in exercise of the SRA's regulatory function is to be seen as a crucial factor and regard is to be had to the risk that the making of adverse costs orders will have a chilling effect on the exercise of the regulatory jurisdiction.”

36. Mr Collis submitted that no order as to costs should therefore be the starting point and there was no good reason to depart from that position in this case. Mr Collis invited the Tribunal to refuse the costs application made on behalf of the Respondent.

The Tribunal's Decision

37. The Tribunal noted that under Rule 43 (1) of The Solicitors (Disciplinary Proceedings) Rules 2019 it has the power to make such order as to costs as it thinks fit, including the payment by any party of costs or a contribution towards costs of such amount (if any) as the Tribunal may consider reasonable. Such costs are those arising from or ancillary to proceedings before the Tribunal.
38. By Rule 43(4), the Tribunal must first decide whether to make an order for costs and when deciding whether to make an order, against which party, and for what amount, the Tribunal must consider all relevant matters. In the case where the regulator is not successful an order for costs should not ordinarily be made against it as this would otherwise lead to a chilling effect on the exercise of its regulatory obligations, to the public disadvantage though such an order could be made if there was 'good reason' to do so in line with the guidance detailed in Tsang:-
- “Good reasons are not confined to those cases where the proceedings have been improperly brought or so badly conducted as to have amounted to “a shambles from start to finish”. However, those examples are to be seen as indicating the kind of matters which can amount to a good reason and for other matters to amount to a good reason they must be of a comparable gravity.”*
39. In the present matter, the Tribunal could find no justification to depart from the normal position as to costs. The Applicant presented the case with professionalism and rigour and had properly discharged its duty to the public and the Tribunal.
40. The Tribunal considered that the case had been properly brought by the Applicant. The evidence including the words used by the Respondent at the meeting with the journalists was such that it was entirely appropriate for the case to be heard and the Respondent's explanations thoroughly examined to enable the Tribunal to determine the allegation brought by the Applicant against the Respondent.
41. There would be no order for costs. Each party would therefore bear its own costs.

Statement of Full Order

42. The Tribunal Ordered that the allegations against the Respondent, MUHAMMAD NAZAR HAYAT, solicitor, be DISMISSED.

The Tribunal further Ordered that there be no Order as to costs.

Dated this 18th day of August 2025

On behalf of the Tribunal

W. Ellerton

W Ellerton
Chair