

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12570-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

TOSLIM UDDIN AHMED

Respondent

Before:

Mr E Nally (in the Chair)

Mr A Horrocks

Ms K Wright

Date of Hearing: 10 September 2024

Appearances

Peter Robert Melleney, Barrister at Capsticks Solicitors LLP, 1 St Georges Road, Wimbledon, SW19 4DR, instructed by the Solicitors Regulation Authority, for the Applicant

The Respondent did not appear and did not participate in the proceedings.

JUDGMENT

Allegations

1. From around 1 November 2021 to 11 May 2022 Toslim Uddin Ahmed (the Respondent) abandoned his sole practice, Universal Solicitors (“the Firm”) and, in doing so, failed to:
 - 1.1 Progress client matters.
 - 1.2 Take appropriate steps to preserve and protect client confidentiality;
 - 1.3 Notify clients and the Solicitors Regulation Authority (the SRA) of the Firm’s closure.

In doing so, the Respondent breached:

- 1.4 Any or all of paragraphs 4.2, 6.3 and 7.6 of the SRA Code of Conduct for Solicitors, RELs and RFLs (“the Code for Solicitors”);
 - 1.5 Any or all of Principles 2, 5 and 7 of the SRA Principles 2019 (“the Principles”).
2. Between around 30 March 2022 and 30 June 2023, the Respondent failed to cooperate with the SRA’s investigation into his conduct by failing to respond to numerous attempts to contact him and requests for information. In doing so he breached:
 - 2.1 Either or both of paragraphs 7.3 and 7.4 of the Code for Solicitors;
 - 2.2 Principle 2 of the Principles.

Executive Summary

3. The company secretary of the Respondent’s landlord reported on 30 March 2022 to the SRA that the Respondent, a sole owner of the Firm, had not been seen in circumstances where a number of confidential files had been left in the Firm’s premises unattended. The SRA received a letter six days later from solicitors acting for the landlord confirming that the Respondent’s office had been abandoned.
4. The SRA made numerous unsuccessful attempts to contact the Respondent before a decision was made to intervene into the practice on the 5 May 2022. A large number of files were uplifted by the intervention agents from the Firm’s premises. From the files uplifted, concerns were revealed ranging from service complaints to clients being invoiced without any evidence that the work being completed.
5. On the 13 January 2023, the Respondent returned a call from the SRA’s investigation Officer confirming that the mobile phone details held by the SRA for him were correct and confirming a home postal address. No further contact was made by the Respondent despite repeated attempts to contact him by the SRA.
6. The Respondent did not engage with the proceedings, and he did not serve an Answer nor offer any explanation for his conduct.

7. The Tribunal found, on the balance of probabilities, that the Applicant had proven all the allegations, and that the Respondent had breached Principles 2, 5 and 7 of the SRA Principles 2019, paragraphs 4.2, 6.3 and 7.6 of the SRA Code of Conduct for Solicitors, RELs and RFLs (“the Code for Solicitors”); paragraphs 7.3 and 7.4 of the Code for Solicitors.

Sanction

8. The Respondent was struck off the Roll of solicitors and ordered to pay £21,000.00 costs.

Documents

9. The Tribunal considered all of the documents in the case which included:
- The Applicant’s Rule 12 Statement and exhibit JTC1
 - The Applicant’s statement of costs dated 29 February 2024 and 2 September 2024.

Preliminary Matters

10. Application to Proceed in Absence

- 10.1 Mr Melleney applied to proceed in the Respondent’s absence.
- 10.2 In dealing with the issue of service, Mr Melleney referred to an order of the Tribunal made on the 22 August 2024, granting the SRA permission for notice of the proceedings, including the Standard Directions, which, amongst other things, set out the date of the substantive hearing, to be served upon the Respondent by first class post at his residential address.
- 10.3 Mr Melleney said that proceedings were served by this method on 30 August 2024.
- 10.4 Mr Melleney said there had been no communication from the Respondent and no application from him to adjourn or vacate the hearing. He referred the Tribunal to the relevant caselaw on proceeding in absence and said that if the Tribunal accepted that the Respondent had been on notice of the substantive hearing, having been correctly served, then it would not be unreasonable for it to conclude that the Respondent had voluntarily absented himself and direct that the substantive hearing should proceed in his absence.

Decision of the Tribunal

- 10.5 The Tribunal was aware that it should only decide to proceed in the Respondent’s absence having exercised the utmost care and caution.
- 10.6 In considering the matter, the Tribunal was mindful of the following principles set out by the Court of Appeal in *R v Hayward*, *R v Jones*, *R v Purvis* [2001] EWCA Crim 168 at [22] Paras 3-5:

3 *“The trial judge has a discretion as to whether a trial should take place or continue in the absence of a defendant and/or his legal representatives.*

4 *That discretion must be exercised with great care, and it is only in rare and exceptional cases that it should be exercised in favour of a trial taking place or continuing, particularly if the defendant is unrepresented.*

5 *In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case including, in particular:*

- (i) *the nature and circumstances of the defendant’s behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;*
- (ii) *whether an adjournment might result in the defendant being caught or attending voluntarily and/or not disrupting the proceedings;*
- (iii) *the likely length of such an adjournment;*
- (iv) *whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation.*
- (v) *whether an absent defendant’s legal representatives are able to receive instructions from him during the trial and the extent to which they are able to present his defence;*
- (vi) *the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;*
- (vii) *the risk of the jury reaching an improper conclusion about the absence of the defendant;*
- (viii) *the seriousness of the offence, which affects defendant, victim and public;*
- (ix) *the general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;*
- (x) *the effect of delay on the memories of witnesses;*
- (xi) *where there is more than one defendant and not all have absconded, the undesirability of separate trials, and the prospects of a fair trial for the defendants who are present.”*

- 10.7 The Tribunal also had regard to the Court of Appeal’s judgment in *GMC v Adeogba* [2016] EXCA Civ 162 at [17-20], which established how the principles set out in *R v Hayward* apply in the context of professional disciplinary proceedings:

“... the principles set out in Hayward ..., provide a useful starting ... however, it is important to bear in mind that there is a difference between continuing a criminal trial in the absence of the defendant and the decision ... to continue a disciplinary hearing. ... it is important that the analogy between criminal prosecution and regulatory proceedings is not taken too far. Steps can be taken to enforce attendance by a defendant; he can be arrested and brought to court. No such remedy is available to a regulator. ... Thus, the first question which must be addressed in any case such as these is whether all reasonable efforts have been taken to serve the practitioner with notice. That must be considered against the background of the requirement on the part of the practitioner to provide an address for the purposes of registration along with the methods used by the practitioner to communicate with the [regulator] and the relevant tribunal during the investigative and interlocutory phases of the case. Assuming that the Panel is satisfied about notice, discretion whether or not to proceed must then be exercised having regard to all the circumstances of which the Panel is aware with fairness to the practitioner being a prime consideration but fairness to the [regulator] and the interests of the public also taken into account; the criteria for criminal cases must be considered in the context of the different circumstances and different responsibilities of both the [regulator] and the practitioner.”

- 10.8 The Tribunal noted the various steps taken to locate the Respondent. These attempts involved the SRA instructing two tracing agents to establish the Respondent’s current address and sending correspondence to that address.
- 10.9 After careful consideration, the Tribunal was satisfied that all documents were deemed to have been correctly served on the Respondent. The Tribunal further concluded that despite the Applicant’s endeavours, the Respondent had not engaged and this had been an active decision on his part.
- 10.10 In accordance with the factors set out above, and in all the circumstances of the case, the Tribunal determined that the Respondent was on notice of the hearing but he had voluntarily absented himself. The Respondent had been under a duty to engage with the Applicant as his regulator as well as a duty to participate in the present proceedings, yet he had chosen not to do so.
- 10.11 Given the stance taken by the Respondent, the Tribunal decided that an adjournment of any length would not achieve the objective of the Respondent’s participation and that it was appropriate to proceed with the substantive hearing in his absence.

Factual Background

11. The Respondent was admitted as a solicitor on 1 October 1998. From 8 March 2005 to 5 November 2022, he was the sole owner and solicitor, as well as the COLP, COFA and MLRO, of the Firm.

12. The Respondent held a practising certificate in 2021/22 but did not now hold a current practising certificate.
13. The Firm began trading on 8 March 2005. Its main area of practice was immigration. The Firm's turnover in its last three years of account was:
- 2021-2022: £31,447
2020-2021: £72,580
2019-2020: £71,265
14. The Firm was a recognised sole practice. The Respondent was the only solicitor and manager of the Firm.

Witnesses

15. The Respondent failed to participate in the hearing and no witnesses were heard.

Findings of Fact and Law

16. The Applicant was required to prove the allegations beyond 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 right to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Facts and Matters relied upon in support of the Applicant's Case

17. Allegation 1 (Abandoning Sole Practice)

- 17.1 On 24 March 2022, Ms Sharon Kuszer, company secretary of Snarecroft Ltd ("the Landlord"), the freehold owner of the premises occupied by the Firm, emailed the SRA to report that the Respondent had not been seen on the premises "for months on end". He had not paid rent due; his telephone had been cut off, and he had not answered emails. Further to this, a number of confidential files had been left in the Firm's premises, which the Respondent had not attended for many months.
- 17.2 On 28 March 2022, Bude Nathan, solicitors acting for the Landlord wrote to the SRA to confirm that the Respondent's office had been abandoned.
- 17.3 In a further email dated 24 April 2022, Ms Kuszer confirmed, amongst other things that:
- the Respondent had not paid rent on the Firm's office since 25 March 2021. The total arrears were £22,400;
 - the last communication the Landlord had received from the Respondent was on 3 November 2021 [Ms Kuszer later corrected this and told the SRA the last time she heard from the Respondent was 4 September 2021];

- the Landlord had issued County Court proceedings and obtained judgment for part of the arrears. [The SRA obtained a copy of the judgment];
- the Respondent did not respond to the Landlord’s attempts to contact him, and his phone had been cut off;
- the Firm’s premises contained client files and papers which Ms Kuszer had not looked at but had asked her contractor to place in storage boxes. Ms Kuszer said:

“There have been a couple of clients crying to the tenant on the second floor that they have paid [the Respondent] £500 and he has done nothing on the matter”; and

“The tenant on the second floor has been throwing away the solicitor’s letters ... since late November 2021 as they were piling up and taking up the corridor and creating a fire hazard”.

- 17.4 The Respondent did not file a Closure Notification form or advise the SRA of the Firm’s intention to close and nor did he advise the SRA of any change to his or the Firm’s address or contact details.
- 17.5 The SRA decided to intervene into the Firm on 5 May 2022 on the basis that the available evidence suggested that the Respondent was absent from the Firm’s office and there was no one present to deal with client files and documents. The client files and documents were likely to contain confidential and privileged information and were held in an unoccupied office which was due to be re-let. They had to be removed to a secure location and made available to clients requesting their return. If there was money in the Firm’s client account, this also had to be returned to the clients. It appeared to the Applicant that the Respondent had abandoned his practice. This decision to intervene was upheld on 9 May 2022 following the receipt of additional documents.
- 17.6 The intervention agents uplifted a total of 1374 files from the Firm’s premises and provided a spreadsheet detailing concerns relating to a number of the files which included:
- several service complaints by clients;
 - complaints from the Legal Ombudsman;
 - delayed invoicing to clients several years after work was completed;
 - invoicing clients without any evidence that the work was completed.
- 17.7 On 13 January 2023, the Respondent returned a call from the SRA’s Investigation Officer. He confirmed that his mobile number ending 822 (held by the SRA on its records) was still active and accessible to him. However, he said that he did not have an active email address, and he confirmed his home postal address. He also stated that he had not been well for the past 10 to 15 years and that he should have closed his practice down sooner.

- 17.8 The Investigating Officer disclosed the spreadsheet prepared by the intervention agent to the Respondent on 25 May 2023 and requested his comments on this by 9 June 2023. The Respondent did not respond.
- 17.9 On the basis of the above facts Mr Melleney submitted that from around 1 November 2021 to 11 May 2022 the Respondent abandoned his sole practice and, in doing so, failed to:
- Progress client matters;
 - Take appropriate steps to preserve and protect client confidentiality;
 - Notify clients and the Solicitors Regulation Authority (the SRA) of the Firm’s closure.
- 17.10 He submitted that in doing so, the Respondent breached:
- Any or all of paragraphs 4.2, 6.3 and 7.6 of the SRA Code of Conduct for Solicitors, RELs and RFLs (“the Code for Solicitors”);
 - Any or all of Principles 2, 5 and 7 of the SRA Principles 2019 (“the Principles”).
- 17.11 The SRA has published guidance on *Closing down your practice*. The most recent edition of this guidance was dated 22 February 2022. The guidance sets out the Respondent’s obligations on closing a practice. The guidance includes the following:
- “19.1. A key legal and regulatory requirement is to make sure that clients’ confidentiality is protected ... Files and papers should be stored securely to protect confidentiality (paragraph 6.3 of both Codes of Conduct) and to safeguard any money or assets (paragraph 4.2 of the Code of Conduct for Solicitors, RELs and RFLs ...*
- 19.2. You must inform all clients for whom you are currently acting of your closure so that they can make informed decisions ... (paragraphs 8.6 and 8.11 of the Code of Conduct ...). You should give them as much notice of your intended closure as possible to enable them to instruct another firm ...*
- 19.3. Regulated firms must notify [the SRA] of their intention to close the practice before the firm ceases to practice (paragraph 6.3 of the Code of conduct for Firms) ...*
- 19.4. You should consider what to do with [old files]. They should not be held indefinitely, and you should have a proper and rigorously implemented destruction plan [for old files] ...*
- 19.5. You must protect any client money and assets that you continue to hold (paragraph 4.2 of the Code of Conduct for Solicitors, RELs and RFLs ...*
- 19.6. You must continue to keep your clients’ affairs confidential (paragraph 6.3 of both Codes of Conduct) ...*

19.7. *If you continue to store the files, you will need to consider data protection requirements and make sure the files are stored securely ...”*

17.12 The guidance also provided a checklist of other bodies to notify which included the landlord.

17.13 Mr Melleney submitted that the Respondent failed to comply with any of these requirements.

Breaches of the Principles

Alleged Breach of Principle 2

17.14 Principle 2 of the SRA Principles 2019 requires solicitors to act in a way that upholds public trust and confidence in the solicitors’ profession and in legal services provided by authorised persons. The public should be able to trust solicitors to provide a competent and timely service to their clients, to keep the affairs of their clients confidential and not to abandon their practice and their premises without informing the SRA. The public would also expect a solicitor to close their practice in an orderly manner and to comply with their regulatory obligations and the SRA’s guidance.

17.15 It was submitted by Mr Melleney that the Respondent abandoned his practice. He left up to 1374 client files lying unsecured in an unoccupied office for a period of at least 5 months. He failed to take any steps to store the files securely and to keep those files confidential. He also failed to collect letters delivered to the Firm which may have related to his clients’ affairs. These letters were disposed of by one of the other tenants in the premises. He failed to notify his clients, the SRA or his landlord of the abandonment of his practice. It was submitted that these actions and inactions on the part of the Respondent damaged public trust and confidence in the solicitors’ profession. Principle 2 was therefore breached.

Alleged Breach of Principle 5

17.16 Mr Melleney submitted that Principle 5 of the SRA Principles requires solicitors to act with integrity, relying on Wingate v SRA [2018] EWCA Civ 366, where Jackson LJ stated:

[97] ... the term “integrity” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members ... The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards ... [100] Integrity connotes adherence to the ethical standards of one’s own profession. That involves more than mere honesty.

17.17 He further submitted that a solicitor acting with integrity would not abandon their practice and their clients. If they intended to close their practice they would comply with their regulatory obligations and the SRA Guidance as set out above. They would also not abandon their Firm’s office without notifying the Landlord and would not leave rent unpaid. A solicitor acting with integrity would not leave confidential client files

lying unsecured in an unoccupied office. They would not ignore correspondence delivered to the Firm and leave it to pile up in the corridor outside their office such that another tenant of the building felt he had to remove it as it was a fire risk. A solicitor acting with integrity would inform the SRA and their clients of the intended closure of the practice. They would make arrangements to transfer ongoing client matters and for the secure storage of client files and documentation and the destruction of old client files.

- 17.18 The Respondent failed to act in the manner set out in the previous paragraph. Instead, he abandoned his practice without notice to his clients, the SRA or his landlord and without complying with the SRA guidance set out in paragraph 19 above. It was submitted that he therefore breached Principle 5 of the SRA Principles.

Alleged Breach of Principle 7

- 17.19 Principle 7 requires solicitors to act in the best interests of each client. The Respondent abandoned his practice and left confidential client files at the Firm's rented offices for a period of at least 5 months. He failed to collect and deal with correspondence delivered to the Firm. The issues identified by the intervention agent with a number of the client files set out on the spreadsheet show that the Respondent failed to deal with outstanding matters and complaints on a number of client matters.

- 17.20 It was submitted that Principle 7 of the SRA Principles was therefore breached.

Alleged Breach of Paragraph 6.3 of the SRA Code

- 17.21 Paragraph 6.3 of the SRA Code for Solicitors states that:

"You keep the affairs of current and former clients confidential unless disclosure is required or permitted by law or the client consents"

- 17.22 It was submitted that the Respondent abandoned his practice. He left up to 1374 client files lying unsecured in an unoccupied office for a period of at least 5 months. He failed to take any steps to keep those files confidential and safe from discovery by third parties including the Landlord. He also failed to collect letters delivered to the Firm which may have related to his clients' confidential affairs. These letters were disposed of by one of the other tenants in the premises. It is not known if they were disposed of securely. The Respondent allowed confidential files, correspondence and other documents relating to his clients to be exposed to the risk of discovery by third parties.

- 17.23 It was submitted that Paragraph 6.3 of the SRA Code was therefore breached.

Alleged Breach of Paragraph 7.6 of the SRA Code

- 17.24 Paragraph 7.6 of the SRA Code requires solicitors to notify the SRA promptly if they become aware:

"Of any material changes to information previously provided to the SRA about them or their practice;

That information provided to the SRA about them, or their practice may be false, misleading, incomplete or inaccurate.”

- 17.25 It was submitted that the Respondent failed to notify the SRA either promptly or at all that he had abandoned his practice and the Firm’s offices in or around November 2021 and that the Firm was no longer effectively operating. He failed to inform the SRA of any change in his or his Firm’s address or contact details. Paragraph 7.6 of the Code was therefore breached.

The Respondent’s Case

- 17.26 The Respondent’s position upon these allegations was not known given that he had not engaged with the proceedings, and he had not provided an Answer.

The Tribunal’s Findings

- 17.27 The Tribunal reminded itself with respect to all the allegations that the Applicant must prove its case on the balance of probabilities; the Respondent was not bound to prove that he did not commit the alleged acts, and that great care must be taken to avoid an assumption (without sufficient evidence) of any deliberate failure or act on the Respondent’s part.
- 17.28 The Tribunal carefully considered the evidence it had heard and observed that its task in determining the allegations was made more difficult in circumstances where the Respondent had not engaged in the proceedings and had presented no evidence.
- 17.29 However, the Tribunal approached all the allegations on the basis that they were denied by the Respondent and by applying the requisite standard of proof, namely the balance of probabilities.

Allegation 1 (Abandoning the Sole Practice)

- 17.30 The Tribunal found as a fact that the Respondent had abandoned his firm, leaving behind confidential client files containing privileged material in open view and making no provision for the storage and return of the files to his clients nor accounting for any monies they may have been due.
- 17.31 The Tribunal also found as a fact that the Respondent did not file a Closure Notification form or advise the SRA of the Firm’s intention to close as he was required to do, nor did he advise the SRA of any change to his or the Firm’s address or contact details.
- 17.32 The Respondent had offered no explanation for his conduct, other than a single comment to an SRA investigator after the firm had been intervened, that *“he should have closed the firm down 10-15 years ago.”*
- 17.33 The Tribunal found that on the balance of probabilities the Applicant’s case on this allegation had been proven on the balance of probabilities.
- 17.34 Having found the factual matrix of Allegation 1 proved the Tribunal went to consider the alleged breaches of the Principles.

Maintaining Public Trust (Principle 2 of the SRA Rules 2011)

- 17.35 The Respondent's conduct of abandoning 1374 immigration client files would have seriously affected a vulnerable cohort of clients as well as affecting public trust in the legal profession. The spreadsheet compiled by the intervention agent set out various complaints by clients who had received little or no service from the Respondent.
- 17.36 The Tribunal found on the balance of probabilities that the Respondent had failed to maintain public trust and confidence in the legal profession by abandoning the practice of which he was a sole practitioner

Integrity (Principle 5 of the SRA Rules 2011)

- 17.37 The Tribunal determined that closing down a practice, peremptorily and without notice to any client and/or accounting to them, was an act lacking in integrity.
- 17.38 The Tribunal therefore found upon the balance of probabilities that the Respondent acted without integrity.

Acting in the Best Interests of Clients (Principle 7 SRA Rules 2011)

- 17.39 The Tribunal found on the balance of probabilities that the Respondent did not act in the best interests of his clients. Although it was not clear how many active files were amongst the 1374 abandoned, the Tribunal found that client confidentiality was compromised by the Respondent who demonstrated a very casual disregard for the privacy of these clients. The Tribunal noted the evidence that office correspondence sent to the Firm from a variety of agencies and clients was eventually disposed of by another tenant because it was believed to be creating a fire hazard. It was quite clear that the Respondent had not made any arrangements for dealing with or forwarding the Firm's mail.

Paragraphs 4.2, 6.3 and 7.6 of the SRA Code of Conduct

- 17.40 The Tribunal found on the balance of probabilities that the Respondent did not safeguard assets which included client documents entrusted by the Firm's clients to him. In addition, the Respondent failed to keep the affairs of current or former clients confidential in abandoning the practice and failing to make any discernible arrangements for the winding down of the firm. Lastly, the Respondent failed to notify the SRA promptly, or at all, of any changes to the practice and failed to comply with the 2022 guidance issued by the SRA titled *Closing down your practice*, or the earlier 2013 guidance of the same title.
- 17.41 The Tribunal found Allegation 1 proved in full, including all alleged breaches of the Principles 2019.

18. Allegation 2 (Failure to cooperate with SRA)

- 18.1 Mr Melleney told the Tribunal that the SRA made the following attempts to contact the Respondent using the addresses and telephone numbers known to the SRA:

Date (2022)	Method	Address/telephone number	Details
30 March	Telephone Call x 3	0207 3775511 [Firm's Landline]	09:56hrs 09:57hrs 09:59hrs No answer
31 March	Letter	3 rd Floor Whitechapel High Street, Lonon [Firm's Address]	Advising of Report from Landlord and asking for Response No response
20 April	Email	Universalsolicitors1@googlemail.com (contact email address for the Firm)	Advising of Report asking for urgent response
21 April	Telephone Call	Respondent's number ending 822	10:29hrs Rang Several times and went through to voicemail message " <i>Toslim cannot take your call</i> ". Voicemail message left advising of intervention if no response
21 April	Letter	The Respondent's address at 9 H Road, London E11	Recorded delivery. April Asking Respondent to contact. Delivered on 23 April No response.
21 April	Email	Universalsolicitors1@googlemail.com Universalsolicitors1@gmail.com Toslim2@yahoo.co.uk	Chasing response by 25 April 2022 before intervention proceedings commenced; Automated relay and one delivery failure notification

Date (2022)	Method	Address/telephone number	Details
22 April	Telephone Call	822	11:16 Rang Several times; Voicemail left requesting urgent call back
26 April	Post and Email	9 H, London E11 Universalsolicitors1@googlemail.com Universalsolicitors1@gmail.com Toslim2@yahoo.co.uk	Enclosing intervention notice Recorded delivery Delivered and signed for Email delivered to two addresses, but no delivery notification sent

18.2 The Respondent failed to respond to any communications between 30 March 2022 and 26 April 2023, with the exception of one phone call in which he confirmed his mobile number and address. The Respondent was further written to on 25 May 2023 seeking his comments on the spreadsheet produced by the intervention agent. The Respondent failed to respond.

Breaches of the Principles

Alleged Breach of Principle 2

18.3 It was submitted that the public would expect a solicitor to cooperate with their regulator in circumstances where they had abandoned their practice. Further, the public would also expect a solicitor to respond to their regulator's requests for information following an intervention into their firm.

18.4 By failing to cooperate with the regulator the Respondent had therefore breached Principle 2 of the SRA Principles.

Alleged Breach of Paragraph 7.3 of the Code

18.5 The Applicant pointed out that Paragraph 7.3 of the SRA Code provides:

“You cooperate with the SRA, other regulators, ombudsmen, and those bodies with a role in overseeing and supervising the delivery of, or investigating concerns in relation to, legal services.”

Alleged Breach of Paragraph 7.4 of the Code

18.6 Paragraph 7.4 of the SRA Code provides:

“You respond promptly to the SRA and (a) provide full and accurate explanations, information and documents in response to any request or requirement.”

18.7 Mr Melleney said that by failing to respond to the SRA as set out in paragraphs and above, the Respondent breached both or either of paragraphs 7.3 and 7.4 of the SRA Code.

The Respondent’s Case

18.8 The Respondent’s position upon this allegation was not known given that he had not engaged in the proceedings, and he had not provided an Answer.

The Tribunal’s Decision

18.9 The Tribunal reviewed the attempts made by the Applicant to contact the Respondent following the commencement of its investigation and it found as a fact that despite the opportunities given to him the Respondent had not co-operated in any meaningful way or at all.

18.10 The Tribunal found this allegation proved to the requisite standard, namely the balance of probabilities., Having found the factual matrix of Allegation 2 proved the Tribunal went to consider the alleged breaches of the Principles.

Maintaining Public Trust (Principle 2 of the SRA Rules 2011)

18.11 The Tribunal found that on the balance of probabilities that the Respondent had failed to maintain public trust and confidence in the legal profession by failing to cooperate with the SRA investigation in circumstances where the public would expect that a solicitor should cooperate and assist the regulator with an investigation that had been conducted into a report that had been made to it about his conduct.

Breach of Paragraphs 7.3 and 7.4 of the Code for Solicitors

18.12 The Tribunal also found that on the balance of probabilities the Respondent failed to cooperate with the SRA who were investigating concerns in relation to his provision of legal services to the public by his failure to respond to emails, telephone calls and letters sent to him.

18.13 The Respondent had only contacted the SRA on a single occasion, on 13 January 2023, on which date he provided details of an address where he could be contacted and confirmed a phone number that was active. Not only had the SRA received no response to letters sent to that address, after he contacted the SRA, he also failed to respond to calls on the telephone number he provided. Subsequent to 13 January 2023 he failed to make any further contact with the SRA.

18.14 The Tribunal found Allegation 2 proved in full, including all alleged breaches of the Principles 2019 and the Codes of Conduct.

Previous Disciplinary Matters

19. There were no previous disciplinary matters against the Respondent.

Mitigation

20. None was provided by the Respondent.

Sanction

21. The Tribunal referred to its Guidance Note on Sanctions (10th Edition June 2022).
22. The Tribunal noted that in determining the most appropriate sanction its primary duty was to protect the public and maintain public confidence in the profession.
23. In determining the seriousness of the misconduct, the Tribunal first considered the Respondent's culpability for the misconduct and the level of harm, together with any aggravating and mitigating factors.
24. In assessing the Respondent's culpability, the Tribunal had received very little by way of information from the Respondent and, without speculating, it was unable properly to assess the motivation for Respondent's conduct. It was not clear whether he planned to detach himself from the practice or whether it was a spontaneous act. What was clear, however, was that in abandoning the firm there was a clear breach of a position of trust given the profile of his clients.
25. By the very nature of the matters, he had been dealing with clients who had been vulnerable and dependent on his expertise and professionalism. Furthermore, there was no obvious and reasonable excuse to explain the Respondent limiting the entirety of his contact with the regulator to a single telephone call he made one year after the regulator had commenced an investigation into his conduct.
26. He was a sole practitioner in direct control of the firm and therefore was wholly responsible for his actions. He was a very experienced practitioner who had been practising for over twenty years and he could have been expected to have known the rules and what had been required of him in closing his firm. The Tribunal concluded on the basis of the evidence before it that the Respondent's culpability was high.
27. The Tribunal next considered the issue of harm. The impact of the Respondent's actions in abandoning client files and documents likely to contain confidential and privileged information, in an office that was due to be re-let, was considerable. The Tribunal noted that no solicitor, let alone one with the Respondent's level of experience, would abandon their practice and leave it in such a chaotic state. The Respondent's conduct demonstrated a lack of care for anyone affected by the closure, principally his clients who were seemingly 'left high and dry'.

28. There was an indication within the papers that before the SRA intervened, some of the Respondent's clients attending the premises were reduced to tears. The Respondent had failed to collect office correspondence delivered to the firm and the unattended letters were later disposed of by a tenant within the building.
29. As a result of the Respondent's misconduct, the landlord had had to contact the regulator, and the regulator expended considerable effort attempting to contact the Respondent. The harm caused by the Respondent's misconduct was therefore not limited to the firm's clients.
30. The harm caused by the Respondent's conduct had been entirely foreseeable by him. The seriousness of the offence was aggravated by the fact that the Respondent's abandonment of the practice remained undiscovered over a relatively lengthy period of time. The principal aggravating feature of the misconduct was the fact that the Respondent knew, or ought to have known, that the misconduct complained of was in material breach of his obligations to protect the public and the reputation of the legal profession.
31. Given the serious nature of the misconduct which the Tribunal had found proved, including failing to progress the cases of hundreds of clients, failing to protect clients' confidentiality and failing to demonstrate any form of accountability to the regulator, the Tribunal considered and rejected the lesser sanctions available to it. Imposing no order, a reprimand, a fine, or restrictions were sanctions clearly not commensurate with the seriousness of the misconduct.
32. The Tribunal determined that the protection of the public and the protection of the reputation of the legal profession required nothing less than the Respondent's removal from the profession and it ordered that he be struck off the Roll of Solicitors.

Costs

33. The Applicant's schedule of costs amounted to £22,408.56.
34. The Respondent had not submitted any statement of means and had not, in any other way, commented on the Applicant's schedule of costs.
35. Having carefully reviewed and considered the Applicant's costs schedule and considering the factors set out in rule 43(4) of its Rules the Tribunal was satisfied that the Applicant's application for costs was reasonable and proportionate and it had been properly made. However, the Tribunal applied a modest reduction to the amount claimed, discounting three hours of work where it was considered that there was an overlap in the work completed by several fee earners for the preparation of the Rule 12 statement, the preparation of witness A interview and the finalising of the witness statement.
36. Accordingly, the Tribunal ordered the Respondent to pay the Applicant's costs of and incidental to this application fixed in the sum of £21,000.00.

Statement of Full Order

37. The Tribunal ORDERED that the Respondent, TOSLIM UDDIN AHMED solicitor, be STRUCK OFF the Roll of Solicitors and it further ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £21,000.00.

Dated this 23rd day of October 2024
On behalf of the Tribunal

E. Nally

E Nally
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
23 OCTOBER 2024