

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12734 -2025

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

JONATHAN PETER DURKIN

Respondent

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Before:

Mr M N. Millin (Chair)

Mrs A Sprawson

Ms K Wright

Date of Hearing: 23 July 2025

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## **Appearances**

Tina Whitman, Legal Director at Blake Morgan LLP, for the Applicant.

Jonathan Goodwin, Solicitor Advocate of Jonathan Goodwin Solicitor Advocates for the Respondent.

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## **JUDGMENT ON AGREED OUTCOME**

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## **Allegations**

1. The allegations against the Respondent are that while in practice as a solicitor:
- 2.1 He created a Client Care Letter with appended Terms of Business on 30 January 2023 and backdated the Client Care Letter to make it appear as though it was a document that had been created and/or sent on 22 September 2020.

By doing so he breached any or all of Principles 2, 4[Withdrawn] and 5 and of the SRA Principles 2019 ('the Principles') and paragraph 1.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs ('the Code').

- 2.2 In the alternative to the allegation that the Respondent breached Principle 4 of the Principles, [withdrawn] it is alleged that the Respondent's conduct was reckless. Recklessness is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the allegation.

## **Admissions**

3. On 15 April 2025, the Respondent confirmed that he admitted allegation 2.1 and that his conduct amounted to breaches of Principles 2 and 5 and paragraph 1.4 of the Code. He accepted that his conduct was reckless. He denied breach of Principle 4.

## **Documents**

4. The Tribunal had, amongst other things, the following documents before it: -
  - The Form of Application dated 18 February 2025.
  - Rule 12 Statement dated 18 February 2025 and exhibits.
  - Agreed Outcome submitted 6 June 2025

## **Background**

5. The Respondent is a solicitor, having been admitted to the Roll on 1 March 2012. At the time of the misconduct, the Respondent was the managing partner of the Liverpool office of Prosperity Law LLP ('the Firm'). He joined the Firm on 2 July 2017. He holds a Practising Certificate free from conditions.

## **Withdrawal of the allegation of dishonesty**

6. Ms Whitman explained that the Applicant's case with respect to dishonesty had rested upon the contention that the Respondent had created and backdated a client care letter in January 2023, presenting it as though it had originated in 2020. The Applicant had maintained that this document represented a new item that had never previously existed, and on this basis the alleged misconduct was of a dishonest nature. However, Ms Whitman acknowledged that should the Tribunal accept the Respondent's explanation, namely that he was recreating a document he genuinely believed had existed, such conduct would not constitute dishonesty, though it would nevertheless

demonstrate a lack of integrity and recklessness to which the Respondent had made admissions.

7. Ms Whitman stated that it was now the Applicant's view that given that explanation and the admissions, the proposed sanction, namely a 3-month suspension, represented a proportionate penalty capable of reflecting the seriousness of the admitted conduct, protecting the public and maintaining the reputation of the profession without the need for the matter to be determined at a substantive hearing.
8. Mr Goodwin for the Respondent, stated that the Respondent had maintained throughout that he genuinely believed a Client Care Letter had existed on the file in 2020, though he could no longer locate it. His position was that his actions in January 2023 constituted an attempt to recreate something he genuinely believed had previously existed on the file. He had provided a comprehensive and candid explanation for his conduct, citing significant pressure at the relevant time and his efforts to reconstruct the file. The Respondent's intention had been to reflect the actual earlier state of affairs or regularise the position on the file.
9. Whilst he admitted that his conduct was improper, reckless, and lacked integrity (constituting serious misconduct), the Respondent firmly maintained he had not been dishonest. Mr Goodwin said the argument against a finding of dishonesty relied upon the subjective limb of the test for dishonesty as set out at paragraph 74 of [Ivey v Genting Casinos \(UK\) Ltd t/a Crockfords \[2017\] UKSC 67](#), suggesting that a genuine belief in the prior existence of the document, even if mistaken, could negate dishonesty.
10. Mr Goodwin submitted that there were other SDT findings which demonstrated that backdating, though invariably problematic and constituting misconduct, did not automatically result in a finding of dishonesty
11. Two precedent cases were cited. The first was Evans Jones (July 2021) in which the Tribunal had found a genuine belief that the Respondent was entitled to recreate backdated documents, and accordingly no dishonesty was established. The Tribunal had imposed a financial penalty.
12. The second was Major (August 2023). in which a senior lawyer backdated a loan document but had no intention to deceive. The SRA accepted her explanation and issued a low-level rebuke without referral to the Tribunal.
13. Mr Goodwin caveated his examples with the explanation that each case was fact-sensitive, and '*consistency of approach d[id] not demand uniformity of outcome*', even where superficially similar facts such as backdating are concerned.

### **The Tribunal's Decision**

14. The Tribunal had initially rejected the proposed Agreed Outcome, expressing difficulty in understanding how the backdating of a document could be anything other than dishonest. Having heard the submissions the Tribunal was still of the view that the issue of dishonesty remained a triable issue given the disparity between the position taken by the parties in relation to dishonesty. The Tribunal observed that should dishonesty be proven at a full hearing, the likely outcome would be strike-off rather

than suspension. However, the Tribunal was persuaded, on balance, that it would not be proportionate to insist on a substantive hearing to determine this discrete issue when the parties accepted that the misconduct had been serious in nature and degree.

15. That said,, the Tribunal did not consider the proposed length of suspension to be sufficient to mark the seriousness of the admitted misconduct which included lack of integrity with aggravating recklessness. The Tribunal further noted that a negligence claim had been brought by the client, indicating client dissatisfaction, despite no direct financial loss being reported.
16. Acknowledging the need for proportionality, the Tribunal invited the parties to negotiate a “substantial” period of suspension.
17. The Respondent and the Applicant reached agreement upon a 12-month suspension, representing a significant increase from the initial three-month proposal. The Tribunal found this revised period of suspension acceptable.
18. Consequently, the Tribunal granted leave for the SRA to withdraw the dishonesty allegation and approved the amended Agreed Outcome as set out below.

#### **Application for the matter to be resolved by way of Agreed Outcome**

19. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.

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

20. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under Section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent’s rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
21. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent’s admissions were properly made.
22. The Tribunal considered the Guidance Note on Sanction (11th edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
23. The Respondent had been in a position of seniority as a partner, a Notary Public, and solicitor of over 10 years’ experience. He admitted creating and backdating the documents and not marking them as retrospectively created. It was to his credit that he accepted responsibility for his conduct which had lacked integrity and was reckless.
24. The Tribunal noted there had been no actual loss to or impact on Client A, though the misconduct had placed a burden on Firm B and undoubtedly harmed the reputation of the legal profession.

25. This was a single instance of misconduct. The Respondent has no prior regulatory history, and he made early admissions to the allegations and accepted the breaches, demonstrating a level of contrition and insight.
26. The Tribunal noted the Respondent's claim as part of his mitigation that his admitted misconduct was the result of being stressed, overworked, and dealing with personal issues.

### **Costs**

27. The parties agreed that the Respondent should pay costs in the sum of £24,885. The Tribunal considered the Applicant's costs schedule and determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

### **Statement of Full Order**

28. The Tribunal ORDERED that the Respondent, JONATHAN PETER DURKIN solicitor, be SUSPENDED from practice as a solicitor for the period of 12 months to commence on the 23 day of July 2025. The Tribunal further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £24,885.00.

Dated this 6<sup>th</sup> day of August 2025

On behalf of the Tribunal

*M.N. Millin*

M.N. Millin  
Chair

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

CASE NO: 12734-2025

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

AND IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

- and -

JONATHAN PETER DURKIN

Respondent

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**STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME**

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1. By its application dated 18 February 2025, and the statement made pursuant to Rule 12(2) of the Solicitors (Disciplinary Proceedings) Rules 2019 ("**Rule 12 Statement**") which accompanied that application, the Solicitors Regulation Authority Limited ("**the SRA**") brought proceedings before the Solicitors Disciplinary Tribunal, making two allegations of misconduct against Jonathan Peter Durkin ("**Mr Durkin**").

**The Allegations**

2. The allegations against Mr Durkin are that while in practice as a solicitor:

- 2.1 He created a Client Care Letter with appended Terms of Business on 30 January 2023 and backdated the Client Care Letter to make it appear as though it was a document that had been created and/or sent on 22 September 2020.

By doing so he breached any or all of Principles 2, 4 and 5 and of the SRA Principles 2019 ("**the Principles**") and paragraph 1.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs ("**the Code**").

- 2.2 In the alternative to the allegation that the Respondent breached Principle 4 of the Principles, it is alleged that the Respondent's conduct was reckless. Recklessness is alleged as an aggravating feature of the Respondent's misconduct but is not an

essential ingredient in proving the allegation

3. On 15 April 2025, Mr Durkin's representative confirmed that Mr Durkin admitted allegation 2.1 and that his conduct amounted to breaches of Principles 2 and 5 and paragraph 1.4 of the Code. It was also confirmed that Mr Durkin admitted allegation 2.2 and accepted that his conduct was reckless. Mr Durkin denied breach of Principle 4.

#### **Withdrawal of Allegation**

4. Given the admissions made by Mr Durkin, and the pleading of the allegation in the alternative, the SRA does not consider it to be in the public interest or proportionate to proceed with the allegation that Mr Durkin's conduct was dishonest and a breach of Principle 4.
5. The SRA applies to the Tribunal pursuant to Rule 24 of the Solicitors (Disciplinary Proceedings) Rules 2019 for permission to withdraw the allegation of breach of Principle 4 included in allegation 2.1.

#### **Agreed Facts**

6. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraph 2 of this statement which are being pursued, are agreed between the SRA and Mr Durkin.
7. References to certain individuals and entities have been anonymised as per the attached schedule.

#### **Professional Details**

8. Mr Durkin, who was born on [redacted] December 1984, is a solicitor, having been admitted to the Roll on 1 March 2012. He holds higher rights of audience for civil proceedings.
9. Mr Durkin has been a Notary Public since 2016.
10. At the time of the alleged misconduct, Mr Durkin was the managing partner of the Liverpool office of Prosperity Law LLP ('the Firm'). He joined the Firm on 2 July 2017.
11. Mr Durkin was based at the Firm's offices at 4 St Paul's Square, Liverpool L3 9SJ.

12. Mr Durkin remains at the Firm's Liverpool office.
13. Mr Durkin holds a Practising Certificate free from conditions.

#### Background

14. The conduct in this matter came to the attention of the SRA on 28 March 2023 when the Firm's COLP, Mr Edward Smethurst, made a referral following an internal investigation
15. In summary, it was alleged that the Respondent created a client care letter ('CCL') and terms of business ('ToB') on 30 January 2023, but backdated the CCL so that it appeared that it had been created and/or sent on 22 September 2020.

#### The facts and matters relied upon in support of all allegations

16. On 7 September 2020, AB contacted Mr Durkin, asking him if he could advise Client A in a partnership dispute. Mr Durkin confirmed on the same date that the Firm could assist. A chronology of communications relevant to the inception of Client A's files is as follows:
  - 16.1 AB followed up with Mr Durkin on 20 October 2020, asking him to write to Client A's former partner to obtain payment. Client A was copied into the email.
  - 16.2 Mr Durkin re-confirmed to AB that he could assist on 23 October 2020 and requested information so that he could prepare a pre-action letter. Client A was copied into the email.
  - 16.3 There was an exchange of emails between Mr Durkin and AB on 28 October 2020 which established that Client A wanted a letter of claim to be sent. Client A was copied into this exchange, but played no part in it.
  - 16.4 On 9 November 2020, Mr Durkin sought further information and, for the first time, addressed Client A directly in correspondence, although AB remained copied in.
  - 16.5 Correspondence between Mr Durkin and AB continued during November and December 2020 and January and February 2021, with Client A copied in.



17. At no time between September 2020 and February 2021 did Mr Durkin mention a CCL or ToB in correspondence.
18. A claim was issued on behalf of Client A in February 2021. Mr Durkin failed to serve a witness statement on behalf of Client A in line with court directions and the subsequent application for relief from sanctions was dismissed on 31 August 2022, which was the first day of trial. Client A settled his claim that day on the basis that he would pay costs to the Defendant.
19. On 29 November 2022, Mr Durkin received a letter from Firm B, which had been instructed by Client A. Firm B asked Mr Durkin to supply a copy of his file. The following then occurred:
  - 19.1 Firm B advised on 22 December 2022 that an application for delivery up of Client A's file would be made within 14 days in the absence of disclosure. Mr Durkin replied on the same day and stated he would send the file as soon as possible.
  - 19.2 On 18 January 2023, Firm B emailed Mr Durkin as they had not received Client A's file. Mr Durkin was given a further 7 days to supply the file.
  - 19.3 Mr Durkin informed Firm B on 23 January 2023 that he was awaiting Counsel's conference and trial notes.
  - 19.4 Firm B expressed concerns regarding the ongoing failure of Mr Durkin to attend to their request to release Client A's file promptly on 26 January 2023.
  - 19.5 Mr Durkin sent Client A's file to Firm B on 31 January 2023.
20. On 17 March 2023, Mr Durkin received a Preliminary Notice for claim of professional negligence relating to his conduct of Client A's partnership dispute.
21. The Firm acknowledged the Preliminary Notice on 24 March 2023. Andrew Farrell, Head of Commercial Litigation for the Firm, had conduct.
22. Firm B emailed a Letter of Claim to the Firm on 6 April 2023. The Letter of Claim expressed concerns that the Firm had not sent the complete file of papers and requested that the Firm *'carry out a full review of your file'* and to *'take proper and appropriate steps to ensure that no relevant documents (including electronic documents) which are in your control are altered, lost, destroyed or disposed of'*.

23. In response, the Firm undertook an internal investigation:

- 23.1 On 6 April 2023 at 15.33, Mr Smethurst emailed Mr Farrell asking him to *'send a copy of this letter To Jonathan ASAP, and make it very clear that we must have copies of all documents NOT provided to the other side immediately otherwise he risks regulatory action against him and ultimately striking off. He needs to come completely clean or he will put himself at serious risk'*.
- 23.2 Mr Farrell sent Mr Durkin a copy of the Letter of Claim at 15.46 on 6 April 2023, requesting that all correspondence, file notes, and documents that were not included in the file as sent to Firm B now be made available.
- 23.3 Mr Durkin responded at 15.50 on 6 April 2023 advising he would carry out a review of Client A's file.
- 23.4 On 9 April 2023, Mr Durkin emailed Mr Farrell with an update on his review process and confirmed that he would search for any documents which had not been included on the LEAP document management system.
- 23.5 Mr Farrell provided Mr Durkin with a spreadsheet produced from the time and fees data on Client A's matter on 11 April 2023. This showed that the first billable time had been recorded on the file on 9 November 2020 and that a note had been added retrospectively for 14 September 2020. There were no time entries between these dates.
- 23.6 Emails passing between Mr Smethurst and Mr Farrell on 11-12 April 2023 show that they were concerned about the possibility of *'a cover up', 'dishonesty' and 'deliberate fraud/falsification'*. At this stage, Mr Smethurst and Mr Farrell were concerned about entries which had been added to the time ledger retrospectively to act as notes of events in the past.
- 23.7 At 13.47 on 12 April 2023, Mr Farrell emailed Mr Smethurst to advise that, after close scrutiny of the LEAP file that morning, he could *'see that there was a lot of activity on 27 and 30 January 2023. Mostly, it appears that Jonathan was copying emails from outlook into Leap'*. However, he had also *'found a newly created client care letter and terms of business! Jonathan has found a word document that existed at around the time he should have produced those documents for the client and has then done a copy and paste job to change the content. Awkwardly, the original content he used appears to be [redacted] log in details for a Barclays account...'*.

- 23.8 At 14.59 on 12 April 2023, Mr Farrell emailed Mr Durkin asking him for his comments on a CCL and ToB which had been created on 30 January 2023. Mr Farrell commented that it looked like the CCL and terms of business *'have been created after the event for the purpose of inclusion in the file sent to [Firm B] but were not sent to the client on 22 September 2020, the date inserted in the client care letter – is that correct?'*
- 23.9 Mr Farrell and Mr Durkin spoke at 15.35 on 12 April 2023. Mr Farrell's note of that conversation recorded that *'Jonathan confirmed that the client care letter and terms of business had been produced after the event as he had wanted to make the file look as good as it could when it was disclosed to [Firm B]...'*
- 23.10 In an email to Mr Farrell dated 13 April 2023, Mr Smethurst set out his understanding of the position; *'There was No engagement letter, client care, CFA etc etc. Jonathan has tried to create one in Jan 23 and pass it off as contemporaneous'*.
- 23.11 Mr Durkin advised Mr Farrell that he had completed the review of Client A's file on 17 April 2023.
- 23.12 Mr Farrell and Mr Smethurst met on 18 April 2023 to discuss the investigation. Mr Farrell showed Mr Smethurst the CCL and terms of business. The view reached was that the Respondent's *'actions were ill advised but he has not caused any loss to clients, client money is not involved in the actions he has taken and he has not gained personally. While he cannot be said to have acted entirely honestly, he has acted when impaired by stress'*.
- 23.13 Mr Durkin was demoted from his position as managing partner for the Firm's Liverpool office at the end of the Firm's investigation.
24. Mr Smethurst reported the Respondent to the SRA on 28 April 2023.
25. On 27 September 2023, Mr Farrell confirmed to the SRA that Mr Durkin had not provided a CCL and ToB to Client A at the outset of the instruction.
26. Mr Farrell gave a witness statement to the SRA on 11 April 2024. In that statement, he gave a step by step account of how he gathered evidence of the Respondent's creation of the backdated CCL and associated terms of business on 30 January 2023. At paragraph 40 of his statement, Mr Farrell concluded *'In the case of the CCL and Terms of Business documents, the extent of the amendments revealed...confirmed that these documents had not been created until 30 January 2023'*.

27. On 14 January 2025, Mr Smethurst confirmed that Mr Durkin would usually create his own CCL. Creating a CCL would not be a chargeable activity. CCLs would usually be emailed, but they may be sent by post if appropriate for the client.
28. Client A's son, NS, supplied a copy a letter from the Firm's solicitors dated 22 June 2023. The letter states 'we are also advised that the Letter of Engagement dated 22 September 2020 and terms of business, were in fact produced by [Mr Durkin] during January 2023. These documents were not therefore sent to [Client A] at the outset of this instruction'.

Allegation 2.1 - Integrity

29. Mr Durkin admits that he failed to act with integrity in accordance with *Wingate v Solicitors Regulation Authority v Malins* [2018] EWCA Civ 366, where it was said that integrity connotes adherence to the ethical standards of one's profession:

*"Integrity is a broader concept than honesty. In professional codes of conduct 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".*

30. Mr Durkin admits that

- 30.1 He knew that Client A had engaged Firm B which had requested a copy of the file relating to Client A's partnership dispute and that Firm B would be reviewing the file.
- 30.2 He created and backdated the CCL giving the impression that the CCL had been created and sent out to Client A on or around 22 September 2020 when it was not in fact sent to Client A.
- 30.3 He knew when he provided Client A's file to Firm B on 31 January 2023 that it contained a CCL and ToB that were not created and/or sent on the date stated in the CCL.
- 30.4 He did not tell the Firm and Firm B that the documents had been created when he reviewed the file in January 2023 nor did he mark the documents as having been created retrospectively or make a note to that effect on the file.
- 30.5 He did not indicate to the Firm or Firm B that the CCL and ToB were intended to be recreations of previously drafted documents.
- 30.6 He used an unrelated confidential document which had been created on 22 September 2020 to form the basis of the CCL and ToB to reinforce the



impression given of the documents having been created on 22 September 2020.

- 30.7 He did nothing to avoid creating a misleading impression as to the way in which Client A's file had been conducted, the information given to Client A at the outset of the retainer or the accuracy of the contents of the file.

31. For these reasons, Mr Durkin's conduct amounts to a breach of Principle 5.

Allegations 2.1 - Principle 2 – Public Trust

32. Mr Durkin admits that the conduct alleged also amounted to a breach by the Respondent of the requirement to behave in a way which maintains the trust placed by the public in them and in the provision of legal services. Mr Durkin knew that the CCL and ToB included in the file sent to Firm B had not been prepared and sent to Client A at the start of the retainer, as he only created the CCL on 30 January 2023, using an unrelated document. The Respondent did not inform the Firm or Firm B that he had created the CCL and ToB retrospectively.

33. By his conduct, Mr Durkin breached Principle 2.

Allegations 2.1 - Paragraph 1.4 of the Code – You do not mislead or attempt to mislead your clients, the court or others

34. Mr Durkin admits that:

- 34.1 By creating a CCL and ToB on 30 January 2023 and backdating the CCL to 20 September 2020, the CCL gave the misleading impression that it, and the ToB, had been created and/or sent to Client A on or around 20 September 2020. He also used a document which had been created on 20 September 2020 as the basis for the CCL and terms of business in order to reinforce this misleading impression.
- 34.2 He did not mark the CCL and ToB as being created retrospectively and he did not make any notes on the file to this effect. Mr Durkin knew or ought to have known that creating and backdating the CCL would create a misleading impression as to when the documents had been created and/or sent. Anyone reading the documents would have no reason to believe that they had not been created and/or sent on the dated stated in the letter.
- 34.3 He did not inform Firm B or the Firm that the documents were created retrospectively.

- 34.4 He had a duty to ensure that he did not mislead or attempt to mislead his client or others by his own acts or omissions.

35. By his conduct, Mr Durkin breached Paragraph 1.2 of the Code.

Allegation 2.2 - Recklessness

36. Mr Durkin admits that he acted recklessly according to the test in *Brett v SRA* [2014] EHC 2974. At paragraph 78 in that case, Wilkie J said that he adopted the working definition of recklessness from the case of *R v G* [2004] 1 AC 1034. He said that the word recklessly is satisfied: *with respect to (i) a circumstance when {the solicitor} is aware of a risk that it exists or will exist and (ii) a result when {the solicitor} is aware that a risk will occur and it is, in circumstances known to them, unreasonable for them to take the risk.*

37. Mr Durkin admits that he was reckless as follows:

37.1 He created the CCL and ToB on 30 January 2023 and backdated the CCL to 22 September 2020 when he knew that Client A's file was going to be reviewed by Firm B.

37.2 He knew that the CCL and terms of business were created on 30 January 2023 using an entirely different document which had been created on 22 September 2020. Mr Durkin backdated the CCL to 22 September 2020. Mr Durkin knew that there was a risk that anyone reviewing the documents would be under the impression that:

37.2.1 the CCL, and the accompanying ToB, had been prepared and/or sent on or around 22 September 2020.

37.2.2 he had complied with his obligations to set out the basis of the retainer between the Firm and Client A at the beginning of the retainer

37.2.3 Client A's file was more comprehensive than it in fact was.

37.3 Mr Durkin knew or ought to have known that accuracy in respect of dates and provenance of documents is paramount and that backdating any document is a serious matter.

37.4 It was not reasonable for Mr Durkin to risk creating a misleading impression as to the accuracy of Client A's file and the way in which the matter had been conducted. That risk could have been avoided by marking the documents as retrospective or placing a note on the file to that effect. Mr Durkin did neither.

**Non-Agreed Mitigation**

38. The following mitigation, which is not agreed by the SRA, is advanced by Mr Durkin:

- 38.1 At the time he had conduct of Client A's matter, he was stressed, over worked and had personal issues.
- 38.2 He was of the genuine and honest belief that he had created a CCL and terms of business in September 2020. On reviewing the file, when requested by Firm B in January 2023, he could not locate a CCL and ToB, and created the documents to provide an accurate reflection of that which he believed had been done on the file. The documents were created, and dated, to reflect the actual date he genuinely believed they would have been created. In acting as he did in creating in the documents in January 2023, there was no intention to mislead.
- 38.3 His decision to create and backdate the documents was with the intention to accurately represent the position on Client A's file as he understood it to be, and which he believed would provide clarity and an accurate reflection of the file. There was no intention to deceive or to reduce his exposure to any potential claim.
- 38.4 He did not sign the CCL or seek to suggest that the client had signed it.
- 38.5 It was an error of judgement to act as he did and to have failed to make it clear on the face of the CCL and ToB and/or on the file that these documents had been prepared at a later date.
- 38.6 His conduct on 30 January 2023 was a lapse in judgment and an isolated incident.

**Proposed Sanction**

39. It is proposed that Mr Durkin should be suspended from the Roll of Solicitors for a period of 12 months commencing with the date of the SDT's order.

**Explanation as to why such an order would be in accordance with the Tribunal's sanctions guidance**

40. The SDT's "Guidance Note on Sanction" (10th edition), paragraph 8, states that the SDT's

approach to sanction involves consideration of a) seriousness, b) the purpose for which sanctions are imposed and c) the choosing of the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

41. In considering seriousness, factors which the SDT may take into account include:

- 41.1 Culpability.
- 41.2 Harm
- 41.3 Aggravating factors
- 41.4 Mitigating factors

42. The primary factors going to culpability are:

- 42.1 Mr Durkin's seniority as a partner, Notary Public and solicitor of 10 years experience (at the time of the conduct).
- 42.2 The fact that he decided to create the CCL and ToB on 30 January 2023 at a time when he knew that the file would be scrutinised by Firm B.
- 42.3 That he did not mark the CCL and ToB as having been created retrospectively and/or as replacements, or make any note on the file to this effect.
- 42.4 That Mr Durkin utilised an existing, but unrelated, document which had been created on 22 September 2020 to support the impression that the CCL and ToB were created at that time, demonstrating planning and calculation.
- 42.5 That he did not admit to the creation of the CCL and ToB on 30 January 2023 until these actions were identified by the Firm as a part of its internal review.
- 42.6 Mr Durkin's acceptance that he lacked integrity and was reckless.

43. In terms of harm, Mr Durkin's conduct departed from the integrity, probity and trustworthiness expected of a solicitor, thus harming the reputation of the legal profession.

44. Aggravating factors:

- 44.1 Those matters referred to paragraph 42.
- 44.2 The burden placed on the Firm in investigating the allegations made by Firm B and Mr Durkin's misconduct.

45. Mitigating factors:



- 45.1 This was a single episode of misconduct.
- 45.2 Mr Durkin had no previous regulatory history.
- 45.3 Mr Durkin made early admissions, accepted breaches and has shown contrition.

46. The parties consider and submit that, in light of the admissions set out above, and taking due account of the mitigation put forward by Mr Durkin, the proposed outcome represents a fair and proportionate resolution to the matter consistent the "Guidance Note on Sanction" (10th edition), which states at paragraph 38 that suspension from the Roll will be appropriate where:

- *the seriousness of the misconduct is such that neither a Restriction Order, Reprimand nor a Fine is a sufficient sanction or in all the circumstances appropriate.*
- *there is a need to protect both the public and the reputation of the legal profession from future harm from Mr Durkin by removing their ability to practise, but neither the protection of the public nor the protection of the reputation of the legal profession justifies striking off the Roll.*
- *public confidence in the legal profession demands no lesser sanction.*
- *professional performance, including a lack of sufficient insight by the respondent (judged by the Tribunal on the basis of facts found proved and the respondent's evidence), is such as to call into question the continued ability to practise appropriately.*

47. The proposed sanction also reflects the comments of Sir Thomas Bingham MR at paragraph 14 of his judgement in *Bolton v Law Society* [1994 WLR 512]: 'If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthy ness, his lapse...remains very serious indeed...only in a very unusual and venial case of this kind would the tribunal be likely to regard as appropriate any order less severe than one of suspension'.

48. When conducting an overall balancing exercise, the Tribunal should take into account that although the harm caused by Mr Durkin's conduct was not of the highest level of seriousness, Mr Durkin held a senior position as a Partner and Notary Public and has accepted that his conduct was reckless.

49. In all the circumstances, a suspension is the only fair, reasonable and proportionate sanction that would have an appropriate effect on public confidence in the legal profession and adequately reflects the serious misconduct.

**Costs**

50. The parties are agreed that the proper order for costs is for Mr Durkin to pay the SRA's costs in the sum of £24,885.

...

Dated: 25 July 2025

For and on behalf of the SRA

Dated: 24-07-2025

✓ Mr Jonathan Peter Durkin  
Respondent in these proceedings

