SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 | Case No. 12824-2025

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD | Applicant

and

ZEESHAN SAQIB MIAN | Respondent

Before:

Mrs L Boyce (in the chair)
Mr R Nicholas
Ms L Fox

Date of Hearing: 27 – 30 July 2026

Appearances

Ben Tankel, counsel of 39 Essex Chambers, 81 Chancery Lane, WC2A 1DD, instructed by Blake Morgan LLP.

The Respondent represented himself.

JUDGMENT

Allegations

1. The allegations made against Dr Mian (a non-practising solicitor) by the Solicitors Regulation Authority Limited ("SRA") were that:

1.1 Prior to his call to the Bar on 24 November 2016, he failed to disclose relevant regulatory information and/or gave false or misleading declarations to the Bar Standards Board ('BSB') and / or Lincoln's Inn ('the Inn') as follows:

1.1.1 Having been sent the SRA's letter of 15 December 2015 and the Forensic Investigation Report, he signed the BSB's Application for Admission to the Bar as a Solicitor on 16 February 2016 which contained a declaration that he had disclosed 'any circumstances affecting me which might reasonably be considered to be relevant to the question whether I should be permitted to be called to the Bar'.

1.1.2 Having been notified by the SRA on 7 April 2016 that consideration was being given to imposing conditions on his practising certificate, he signed the Inn's Admission Declaration and Call Declaration on 4 May 2016 which required him, in summary, to 'declare and undertake' that:

a) there were no disciplinary proceedings pending against him [Not pursued: the Applicant no longer relied on any allegation that an investigation or consideration of practising certificate conditions amounted to pending disciplinary proceedings].

b) he was not aware of any matter or circumstance which might reasonably be thought to call into question his fitness to become a practising barrister.

c) he would inform the Inn immediately if any statement in the Admission Declaration ceased to be true before he was admitted to the Inn.

d) that he would comply with the BSB Handbook.

e) he would inform the Inn if there were disciplinary proceedings pending against him [Not pursued: the Applicant no longer relied on any allegation that Dr Mian was required to inform the Inn of pending disciplinary proceedings by reason only of an SRA investigation or consideration of practising certificate conditions]; and

f) he understood that if the Call Declaration was found to have been false in any material respect or he breached any undertaking given in it in any material respect, then that would constitute professional misconduct.

1.1.3 Having conditions imposed on his practising certificate by the SRA on 2 September 2016 and that decision being upheld by an Adjudication Panel of the SRA on 2 November 2016, he failed to notify the BSB or the Inn.

And thereby acted in breach of any or all of Principles 2, 6 and 7 of the SRA Principles 2011 ("the 2011 Principles").

1.2 He failed to disclose relevant regulatory and/or disciplinary information to the BSB between his call to the Bar on 24 November 2016 and the BSB notifying him of its decision to investigate his conduct on 20 December 2018.

And thereby, acted in breach of any or all of Principles 2, 6 and 7 of the 2011 Principles.

2. In addition, Allegations 1.1 and 1.2 were advanced on the basis that Dr Mian's conduct was dishonest. Dishonesty was alleged as an aggravating feature of Dr Mian's misconduct but was not an essential ingredient in proving the allegations.

3. In the alternative to dishonesty, allegations 1.1 and 1.2 were advanced on the basis that Dr Mian's conduct was reckless. Recklessness was alleged as an aggravating feature of Dr Mian's misconduct but was not an essential ingredient in proving the allegations.

Executive Summary

4. The Tribunal found Allegation 1.1.1 not proved. Although Dr Mian had received the SRA's letter of 15 December 2015, had been provided with the Forensic Investigation Report and knew that the SRA process might result in regulatory action, the Tribunal was not satisfied that the wording of the BSB Admission Application created a sufficiently clear obligation to disclose those matters. The declaration did not contain an express warning to disclose if in doubt and the evidence from the BSB's Senior Authorisation and Supervision Officer did not support a finding that Dr Mian had breached a rule by failing to disclose the SRA matter at that stage.

5. Allegation 1.1.2 was found proved. By 4 May 2016, Dr Mian knew that the SRA was considering imposing conditions on his practising certificate, and the Inn's Admission and Call Declarations required disclosure of matters which might reasonably be thought to call into question fitness to become a practising barrister, expressly directing disclosure if in doubt. The Tribunal rejected Dr Mian's contention that the proposed conditions were irrelevant because they concerned only solicitors' practice management. The Tribunal found breaches of Principles 2, 6 and 7; it did not find dishonesty proved in relation to Allegation 1.1.2 but found that Dr Mian had acted recklessly.

6. The Tribunal found Allegation 1.1.3 proved in its entirety, including dishonesty. By September and November 2016, Dr Mian knew that formal conditions had been imposed on his practising certificate and upheld by the SRA Adjudication Panel, knew that those conditions were serious and knew that he had not notified the Inn or the BSB. The Tribunal rejected his explanation that he honestly believed the conditions were irrelevant because they related only to solicitors' practice management, finding that he knew the information was material and deliberately failed to notify the Inn or BSB before call.

7. Allegation 1.2 was also found proved in its entirety, including dishonesty. The Tribunal relied on its findings in relation to Allegation 1.1.3 and found that, after call, Dr Mian was subject to Rule C65.3 of the BSB Handbook and was required to report the SRA conditions, continuing regulatory enquiries, the open complaint and, from 3 April 2018, the referral to the SDT. His disagreement with the SRA's position and his assertion that matters had been closed did not remove the obligation to report regulatory information

and the later referral. The Tribunal found that his failure to notify the BSB was deliberate, breached Principles 2, 6 and 7, and was dishonest by the standards of ordinary decent people.

8. The Tribunal's Findings can be accessed here:

- Allegation 1.1.1
- Allegation 1.1.2
- Allegation 1.1.3
- Allegation 1.2

9. The Tribunal determined that in all the circumstances, the only reasonable and proportionate sanction was to strike Dr Mian off the Roll of Solicitors. The Tribunal's reasoning can be accessed [here].

Documents

10. The Tribunal reviewed all the documents submitted by the parties and contained within the electronic hearing bundle.

Preliminary Matters

11. Applicant's application to withdraw alleged breaches of Outcome 11.2

11.1 The allegations originally alleged a breach of Outcome 11.2 of the Code of Conduct 2011. Mr Tankel submitted that on review of the case, the Applicant considered that the declarations to the BSB and the Inn were not properly characterised as undertakings given by Dr Mian as a solicitor within the meaning of the 2011 Code. Accordingly, the Applicant applied to withdraw the alleged breach pursuant to Rule 24 of the Solicitors (Disciplinary Proceedings) Rules 2019. The application was unopposed.

11.2 The Tribunal granted the application.

12. Applicant's application to amend the Rule 12 Statement to remove reliance on pending disciplinary proceedings

12.1 Mr Tankel submitted that for the purposes of the declarations, the Applicant, in the Rule 12 Statement, referred to its regulatory investigations and its consideration of the imposition of practising conditions as pending disciplinary proceedings. Mr Tankel submitted that on review of the wording of the declarations and their explanatory notes, the Applicant did not consider that an investigation, or the fact of consideration being given to the imposition of practising conditions were pending disciplinary proceedings for the purposes of the declarations.

12.2 Accordingly, Mr Tankel applied to amend the Rule 12 Statement to remove those references. The application was unopposed.

12.3 The Tribunal granted permission for the Rule 12 to be amended to remove those matters upon which the Applicant no longer relied. For the avoidance of doubt, whilst allegation 1.1.2 (a) and (e) referred to pending disciplinary proceedings, the Tribunal made no findings in that regard, the Applicant having clarified that those matters were no longer relied upon.

13. Respondent's Application to stay the proceedings pending Judicial Review

13.1 Dr Mian applied for the substantive hearing to be stayed pending the outcome of his Judicial Review challenge in the Administrative Court. His position was that he had issued a claim challenging earlier case-management decisions of the Tribunal, including the refusal of his application to dismiss or stay the proceedings. He submitted that if the Tribunal proceeded with the substantive hearing before the Administrative Court had considered his challenge, the Judicial Review would be rendered academic, and he would lose the opportunity to challenge what he characterised as the Tribunal's jurisdiction to proceed. Dr Mian therefore invited the Tribunal to exercise its discretion to adjourn or stay the proceedings until the Judicial Review had been determined.

13.2 Mr Tankel opposed the application. He submitted that Dr Mian had previously applied to stay the proceedings on abuse of process grounds and that application had been heard and dismissed by the Tribunal at a case management hearing on 30 March 2026. Directions had then been set for the service of Dr Mian's Answer and witness evidence. When Dr Mian later issued Judicial Review proceedings challenging that earlier decision, the issue had been considered again at a non-compliance hearing in June 2026. The Tribunal had determined that the disciplinary proceedings should not await the conclusion of Dr Mian's public law challenges. Mr Tankel submitted that the application now made was, in substance, a repeat of an application that had already been decided. There had been no material change of circumstances, and the Tribunal had no jurisdiction to reopen its previous decision. In any event, the Judicial Review was at an early stage, the claim had only been sealed on 13 July 2026, the Applicant had not yet been served with the full statement of facts and grounds, and there was a strong public interest in the disciplinary proceedings continuing without further delay.

13.3 The Tribunal refused the application. It found that there had been no change of circumstances since the earlier decision and that it had no jurisdiction to reconsider a stay application which had already been determined. The Tribunal further noted that Dr Mian had now served his substantive Answer and witness evidence and that the hearing was ready to proceed. The application for a stay pending the Judicial Review was therefore refused.

14. Respondent's Application to adduce witness statements produced in Court of Appeal proceedings

14.1 Dr Mian applied to rely on witness statements and related documents which had been produced in his Court of Appeal application arising from the BSB proceedings. He explained that the statements went to his knowledge and belief in 2016. In particular, he said they concerned discussions with Professor Chatterjee and others about the SRA conditions and whether those matters needed to be disclosed in connection with his admission and call to the Bar. Dr Mian accepted that the application was late, but said the documents were relevant to the central issue of his state of mind and that some of the witnesses might be available to attend for cross-examination.

14.2 Mr Tankel opposed admission of the statements unless the witnesses attended for cross-examination. He submitted that the statements were unusual. Although they appeared at first to be character evidence, each contained passages about a meeting said to have taken place in 2016 at which Professor Chatterjee allegedly gave Dr Mian reassurance, or words to that effect, about whether disclosure was required. The statements had been made in 2024, many years after the events, for different proceedings, and contained hearsay evidence of what Professor Chatterjee was said to have stated. Mr Tankel submitted that Professor Chatterjee himself was not giving evidence and that the hearsay nature of the statements raised concerns. However, he accepted that if the witnesses were prepared to attend and be cross-examined, the Applicant would not be unduly prejudiced by the statements being admitted.

14.3 The Tribunal did not determine that application immediately. It indicated that the application would be considered later, after the Applicant's case once Dr Mian had clarified whether the witnesses could attend and be available for cross-examination. Dr Mian later indicated that Mr Vekaria was prepared to attend and that Dr Mustafa might be able to give evidence remotely, subject to his health. Once the attendance of those witnesses was confirmed, the Tribunal granted the application in relation to Dr Mustafa and Mr Vekaria.

15. <u>Respondent's Application to exclude evidence</u>

15.1 Dr Mian applied to exclude specific documents exhibited to the statement of Mr Bint. He submitted that the documents had not been provided earlier, that they had emerged very late, and that their authenticity was in issue. In particular, Dr Mian relied on a preliminary forensic IT report concerning one closure validation form. He contended that the report showed that the form had been modified in 2025 and that the presence of a future date in the form supported his concern that it was not a genuine contemporaneous document. His primary application was that the documents be excluded; alternatively, he sought a fair opportunity for forensic examination of the documents and their amendment history. Dr Mian also made clear that he wished to rely on the file closure form itself but sought exclusion of a particular sentence in the central box which, on his case, referred to a handover or hyperlinking to Regulatory Supervisor B and to an intervention date which he did not accept reflected what had occurred in 2016.

15.2 Mr Tankel opposed the application. He submitted that the documents had been disclosed because they were responsive to one strand of Dr Mian's defence, namely his contention that the SRA had closed its investigations in 2016 and therefore had no power later to refer matters to the SDT. Mr Tankel submitted that the documents were, in large part, documents upon which Dr Mian himself had relied in support of that argument. The Applicant's position was that the documents were not central to the substantive allegations, but if the Tribunal considered it necessary to examine Dr Mian's wider regulatory-history argument, the documents would assist. In relation to the forensic report, Mr Tankel submitted that it concerned only one document and did not establish fraud or tampering. The report identified metadata showing an original creation date and a later date associated with transmission or saving in 2025, which was consistent with the document having been emailed and saved during disclosure. It was not evidence that the content had been fraudulently altered.

15.3 As to the future date, Mr Tankel submitted that the intervention was in October 2016 and that the reference to 2017 appeared to be a typographical error, not evidence of fabrication.

15.4 The Tribunal allowed the application in part and refused it in part. It agreed to exclude a number of documents, being the documents which were the subject of Dr Mian's exclusion application. Dr Mian had sought to rely on the closure validation form, save for one particular sentence. The Tribunal considered that any issue about that sentence, including the intervention date or whether it reflected a handover to Regulatory Supervisor B, could properly be dealt with in cross-examination. The Tribunal did not consider that the inclusion of the sentence caused exceptional prejudice, nor was it more prejudicial than probative. Accordingly, the closure validation form remained in evidence in its entirety, while the other challenged documents were excluded.

16. <u>Respondent's Application for further particularisation of conduct and dishonesty</u>

16.1 Dr Mian applied for the Applicant's case to be further particularised, particularly in relation to dishonesty. He submitted that the case was not simply that he had failed to disclose information. He argued that, where dishonesty was alleged, the Applicant was required to identify with precision the particular conduct said to be dishonest and the basis on which it was alleged to be dishonest, rather than relying on broad assertions that he would have known or ought to have known that matters were reportable. He submitted that he was entitled to know the case he had to meet and that the Applicant's case had shifted as he challenged aspects of it.

16.2 Mr Tankel opposed the application. He submitted that the case had been pleaded sufficiently and that references had been provided in the Applicant's skeleton argument identifying where dishonesty and recklessness were set out. The allegation was not, in his submission, complex: Dr Mian had completed declarations; the Applicant alleged that he should have disclosed the relevant background; and the Applicant's case was that he knew he ought to have disclosed it but failed to do so. Mr Tankel submitted that Dr Mian could be in no real doubt about the case he faced. He further submitted that the application was made far too late, on the business afternoon before the substantive hearing, and would inevitably require adjournment if granted. Dr Mian had made previous applications to amend or require amendment of pleadings, and any application for further particulars should have been made earlier.

16.3 The Tribunal refused the application. It found that the case was sufficiently particularised and that Dr Mian knew the case he had to meet. The Tribunal considered that the dishonesty case was clear enough and that the matters raised by Dr Mian could be addressed in submissions and in his response to the evidence. Accordingly, the application for further particularisation was refused.

Professional Details

17. Dr Mian, who was born in October 1979 and was admitted to the Roll on 2 July 2007. He held a practising certificate between July 2007 and October 2016. He remained on the Roll as a non-practising solicitor. He was called to the Bar on 24 November 2016. He was disbarred on 16 June 2022.

Witnesses

18. The following witnesses provided written statements and gave oral evidence:

- Steven Bint – Head of Investigations at the SRA
- Zeeshan Mian – Respondent
- Dr Mustafa – for the Respondent
- Mr Vekaria – for the Respondent

19. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

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 Dr Mian'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.

Dishonesty

21. The test for dishonesty was that set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 at [74] as follows:

> *"When dishonesty is in question the fact-finding Tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."*

When considering dishonesty, the Tribunal firstly established the actual state of Dr Mian's knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held. It then considered whether that conduct was honest or dishonest by the standards of ordinary decent people.

Integrity

22. The test for integrity was that set out in *Wingate and Evans v SRA and SRA v Malins* [2018] EWCA Civ 366, as per Jackson LJ:

> *"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 ... [Professionals] are required to live up to their own professional standards ... Integrity connotes adherence to the ethical standards of one's own profession."*

Recklessness

23. The test applied by the Tribunal was that set out in R v G [2003] UKHL 50 where Lord Bingham adopted the following definition.

> *"A person acts recklessly…with respect to (i) a circumstance when he is aware of a risk that it exists or will exist; (ii) a result when he is aware of a risk that it will occur and it is, in the circumstances known to him, unreasonable to take that risk."*

This was adopted in the context of regulatory proceedings in Brett v SRA [2014] EWHC 2974 (Admin).

Factual Background

24. **Allegations 1.1 - 1.1.1 - 1.1.2 and 1.1.3**

24.1 Between February 2015 and February 2016, the SRA investigated matters concerning Dr Mian's former firm, including the employment of a disqualified barrister, Mr Hassan; the firm's involvement in the Eclips investment scheme; accounting issues; cash shortages; and acting for a politically exposed person without enhanced due diligence. A forensic inspection took place in September 2015, when Dr Mian was one of two directors of the firm. The Forensic Inspection Report was completed on 5 October 2015.

24.2 On 15 December 2015, Regulatory Supervisor A disclosed the Forensic Inspection Report ("FIR). Dr Mian was also sent an Explanation Without Warning letter ("EWW") which stated (amongst other things):

> *"I am writing to inform you that I am starting a formal investigation of the matters which are set out below and are detailed in the enclosed Forensic Investigation Report…The SRA Disciplinary Procedure Rules permit us to investigate the conduct of "regulated persons"*
>
> …
>
> *In this case I am investigating the conduct of your firm, and I am writing to you in your capacity as a director of the practice.*
>
> …
>
> *Your reply may be used by us for regulatory purposes including*
>
> - *As evidence in any investigation and/or decision by us.*
> - *In proceedings brought by or against us including disciplinary proceedings before the SDT.*
>
> …

> *We may also consider imposing conditions on your practising certificate and/or authorisation if we identify a risk we consider should be addressed by restricting in some way your freedom to practice."*

24.3 Dr Mian was asked to respond by 5 January 2016 and was told that his response could be used as evidence in any investigation or proceedings brought by the SRA, including a referral to the SDT. He was also informed that the SRA might consider imposing conditions on his practising certificate. Dr Mian acknowledged the notification that day and requested an extension. He responded in January 2016.

24.4 On 17 February 2016, Dr Mian submitted an application for admission to the Bar to the BSB. One of the documents submitted was the BSB's Application for Admission to the Bar as a Solicitor ("The BSB Admission Application") which contained the following declaration:

> *"I declare that: ...*
>
> *9(v) I have disclosed to the Qualifications Committee in writing any circumstances affecting me which might reasonably be considered to be relevant to the question of whether I should be permitted to be called to the Bar;"*.

24.5 The BSB Admission Application was signed by Dr Mian on 16 February 2016.

24.6 Regulatory Supervisor A emailed Dr Mian on 7 April 2016 to advise *'...I am currently considering imposing conditions on your Practising Certificate, and I will seek to forward my report to you soon'*. Dr Mian requested the opportunity to make representations in an email dated 8 April 2016.

24.7 On 15 April 2016, Dr Mian was notified by an Authorisations Manager of the BSB that he had been granted an unconditional exemption from the Academic and Vocational stages of training for the Bar, as well as exemption from pupillage.

24.8 On 4 May 2016, Dr Mian completed and signed the Inn's Admission Declaration ("the Admission Declaration") which contained the following wording:

> *2.(b) I have never been convicted of a disciplinary offence by a professional or regulatory body nor are there any disciplinary proceedings pending against me anywhere in respect of any such offence.*
>
> *3. Except as disclosed below, I am not aware of any matter which might reasonably be thought to call into question my fitness to become a practising barrister (footnote: This includes any incident or behaviour which if known to the Inn might cause your application to be considered more carefully. If in doubt, disclose the incident/behaviour...)*
>
> *6. I undertake that I will inform the Inn immediately if any statement made in this Declaration ceases to be true before I have been admitted to the Inn and while I am an applicant for admission to the Inn...*

7.(b) I undertake that while I am a Student member of the Inn, if and in so far as they apply to me, I will comply with the BSB Handbook.

7.(c)(ii) I will promptly inform the…Inn in writing if there are disciplinary proceedings pending against me or I am convicted of a disciplinary offence by a professional or regulatory body;"

24.9 On the same date, Dr Mian completed and signed the Inn's Call Declaration ("the Call Declaration") which contained the following wording:

2.(b) I have not been convicted of a disciplinary offence by a professional or regulatory body (nor been the subject of pending proceedings for such an offence).

4. Except as disclosed below, I am not aware of any circumstance which has occurred while I have been a Student member of the Inn which reasonably could be thought to call into question my fitness to become a practising barrister (footnote: This includes any incident or behaviour which if known to the Inn might cause your application to be considered more carefully. If in doubt, disclose the incident/behaviour…)

6. So long as I remain a barrister, I will comply with the Code of Conduct of the Bar of England and Wales.

7. I understand that that if this declaration is found to have been false in any material respect, or if I breach any undertaking given in it in any material respect, then that will constitute professional misconduct."

24.10 The BSB Handbook included the Code of Conduct and Conduct Rules. Rule C.65 of the BSB Conduct Rules requires the '*prompt*' reporting of the following to the BSB:

"Rule C65.3 – '*you (or an entity of which you are a manager) to your knowledge are the subject of any disciplinary or other regulatory or enforcement by another Approved Regulatory or other regulator, including being the subject of disciplinary proceedings*."

24.11 On 6 May 2016, Dr Mian completed the Inn's Application for Call to the Bar, which confirmed that he was seeking to be called to the Bar in November 2016.

24.12 Regulatory Supervisor A wrote to Dr Mian on 20 May 2016 advising that he was recommending that conditions be imposed on Dr Mian's SRA PC. Dr Mian was invited to provide comments by 6 June 2016. A report was provided to Dr Mian which set out a detailed rationale for the imposition of conditions and the proposed conditions.

24.13 Dr Mian was admitted to the Inn as a student member on 23 May 2016.

24.14 On 25 May 2016, Dr Mian emailed Regulatory Supervisor A to confirm that he would be making representations against the imposition of conditions.

24.15 Dr Mian instructed Mr Geoffrey Williams KC to assist him in making representations against the imposition of conditions. On 23 June 2016, Mr Williams KC emailed Regulatory Supervisor A, stating: *"[I] just wanted to be sure that the proposed PC conditions represent the extent of the intended action against my client"*. Regulatory Supervisor A responded on 27 June 2016, stating: *"In light of the issues raised within the FI report, a decision as to proportionate disciplinary action is under consideration"*.

24.16 On 1 July 2016, Mr Williams KC telephoned Regulatory Supervisor A seeking clarification as to whether the SRA intended to take disciplinary action against Dr Mian, as this might be relevant to the representations.

24.17 On 22 July 2016, Mr Williams KC prepared submissions opposing the imposition of conditions. Those submissions stated: *"It is understood that SRA [sic] is giving consideration to conduct issues arising from the FI report.'* They set out Dr Mian's future plans, including consideration of a new partnership requiring SRA authorisation, but did not mention his application for admission to the Bar. The submissions further stated Dr Mian was not currently in practise and that: *"That situation should not incline SRA [sic] to impose conditions restricting future practice. The conduct issues should first be resolved, and it will be submitted that they fall well short of matters normally dealt with by way of disciplinary proceedings."*

24.18 On 15 August 2016, Dr Mian was informed that the issue of conditions had been submitted to an SRA Adjudicator.

24.19 On 2 September 2016, the SRA Adjudicator imposed conditions on Dr Mian's *'practising certificate for the time being in force'*. The decision was sent to Dr Mian on 5 September 2016, and he was notified of his options for appeal. Dr Mian lodged an appeal on 3 October 2016.

24.20 On 13 October 2016, the firm was intervened into following a further report received on 29 September 2016. Dr Mian remained an owner of the firm at that time.

24.21 On 2 November 2016, an SRA Adjudication Panel upheld the decision to impose conditions. The Panel recorded that further information had been provided about disciplinary proceedings against Dr Mian, namely: *"A Rebuke case note is in preparation concerning disciplinary matters against [Dr Mian] …."* The Panel also stated: *"Practising certificate conditions are intended to address immediate risks and are not part of the disciplinary process. Therefore, the imposition of conditions are dealt with separately and cannot be delayed."* It further stated: *"The FIR highlighted serious breaches of the accounts rules, involvement with an unauthorised investment scheme and employment of a disbarred barrister. Mr Mian left the firm in April 2016. Mr Mian is facing disciplinary action for his conduct whilst at the firm."*

24.22 Dr Mian was notified of the Adjudication Panel's decision on 10 November 2016. In response, he advised Regulatory Supervisor A that he had not sought to renew his practising certificate and had *"no intentions to do so until this decision is reversed by a High Court Judge."* Regulatory Supervisor A noted that the deadline for submitting an appeal to the High Court was 29 November 2016. Dr Mian did not submit an appeal.

24.23 The conditions imposed required Dr Mian to act as a solicitor only in employment approved by the SRA; not to be a manager or owner of any authorised body or authorised non-SRA firm; not to act as COLP, COFA, HOLP or HOFA; not to act as a signatory to any client or office account or authorise transfers; not to have responsibility for, or be involved in, the training or supervision of any employee, consultant or trainee; and not to be the money laundering reporting officer for any authorised body or authorised non-SRA firm.

24.24 Dr Mian's practising certificate was revoked on 22 November 2016 because he did not apply for renewal.

24.25 Dr Mian was called to the Bar on 24 November 2016.

The Applicant's Case

24.26 The Tribunal was referred to the witness statement of Ms Appleton, the Director of Education for the Inn, who gave a statement on 14 July 2020 in the context of regulatory proceedings pursued against Dr Mian by the BSB. Ms Appleton confirmed that the Inn had no record of Dr Mian informing the Inn that he was subject to an SRA investigation or conditions. She stated:

> *"I would have expected [Dr Mian] to inform us of the SRA investigation and/or the conditions, as both the Admission and Call Declarations required applicants to disclose matters which might reasonably be thought to call into question fitness to become a practising barrister, and to disclose if in doubt. The Admission Declaration also contained continuing obligations in relation to matters arising after admission.*
>
> *In failing to inform us… [Dr Mian] deprived the Inn of the opportunity to consider whether the SRA investigation and/or conditions affected his fitness to practise or required further consideration.*
>
> *If the Inn had been informed about the investigation, we would have put [Dr Mian's] application on hold pending the outcome of that investigation. If [Dr Mian] had informed the Inn that he was subject to SRA conditions we would have referred the matter to the Inns' Conduct Committee for determination on [Dr Mian's] fitness to practise, and his application would have been placed on hold pending the Committee's decision."*

24.27 Ms Maddison, Senior Authorisation and Supervision Officer at the BSB, gave a statement dated 3 April 2020 in the BSB proceedings. She explained that an applicant seeking admission to the Bar as a solicitor must produce a certificate of good standing issued by the Law Society of England and Wales which is not more than three months old. She noted that there was no record of Dr Mian notifying the BSB during, or after, the application process of an SRA investigation or conditions, and stated: *"Having SRA restrictions on your practice would not necessarily mean that an application for Admission to the Bar would be refused. However, it may have resulted in conditional approval as opposed to the granting of an unconditional exemption."*

24.28 Ms Maddison further noted that the wording of the declaration at 9(v) of the BSB Admission Application *"could suggest that a declaration could have been made about the SRA investigation. However, I don't know whether this would constitute an obligation to disclose such proceedings, as it seems to rely on the judgement of the applicant ... I don't believe that Mr Mian breached any rules by not informing Authorisations, at the time of his application, about the pending matter with the SRA but, as good practice, he should have brought it to our attention given the declaration. If he wasn't sure, he should have sought advice from the BSB."*

24.29 Mr Bint gave a statement to the BSB dated 2 October 2020. Mr Bint referred to the Certificate of Good Standing which Dr Mian would have had to submit to the BSB in February 2016. The certificate was dated 23 November 2015 and therefore pre-dated the notification of the decision to formally investigate Dr Mian.

24.30 Mr Tankel submitted that Dr Mian's failure to disclose the SRA investigation, the consideration and subsequent imposition of practising certificate conditions, and the continuing disciplinary issues to the BSB and the Inn was serious misconduct. The Applicant's case was that, by the time Dr Mian signed the BSB Admission Application on 16 February 2016, he knew that there had been a forensic investigation into his firm, that he had received the SRA's letter of 15 December 2015 notifying him of a formal investigation, that at least one matter under investigation directly concerned him, and that the investigation might lead to regulatory action including proceedings before the SDT. Mr Tankel submitted that the declaration requiring disclosure of *"any circumstances affecting me which might reasonably be considered to be relevant to the question of whether I should be permitted to be called to the Bar"* plainly required disclosure of those matters.

24.31 Mr Tankel submitted that a solicitor acting honestly and with integrity would have appreciated that an SRA investigation into his firm, of which he was one of only two directors, and which included allegations directly involving him, was relevant to the BSB's assessment of whether he should be admitted to the Bar. By signing the declaration without disclosing those matters, Dr Mian represented that there was nothing which needed to be disclosed. Such conduct was false and misleading, and, it was submitted, Dr Mian knew, or must have appreciated, the significance of the matters at the time.

24.32 Mr Tankel submitted that the position became clearer still by 4 May 2016, when Dr Mian signed the Inn's Admission and Call Declarations. By then, Dr Mian knew that the SRA was considering imposing conditions on his practising certificate and had been expressly told of that possibility. Mr Tankel submitted that the declarations required disclosure of any matter or circumstance which might reasonably be thought to call into question Dr Mian's fitness to become a practising barrister, and that the footnotes made clear that, if there was doubt, disclosure should be made. The Applicant's case was that Dr Mian failed to disclose the matters identified in the SRA's letter of 15 December 2015 and failed to disclose the proposed practising certificate conditions.

24.33 Mr Tankel submitted that, from the point of Dr Mian's admission to the Inn, he was also subject to the BSB Handbook and Rule C65.3, which required prompt reporting where a barrister, or an entity of which he was a manager, was the subject of disciplinary or other regulatory enforcement by another approved regulator, including disciplinary proceedings. The Applicant's case was that the proposed and imposed conditions, and other SRA regulatory action, fell within that broader reporting obligation.

24.34 Mr Tankel submitted that, between Dr Mian's admission to the Inn on 23 May 2016 and his call to the Bar on 24 November 2016, Dr Mian knew that conditions had been imposed on his practising certificate on 2 September 2016 and upheld on 2 November 2016; that the SRA had indicated that proportionate disciplinary action remained under consideration; and that his former firm had been intervened into on 13 October 2016. The Applicant's case was that those matters were plainly reportable and that Dr Mian's failure to notify the Inn or the BSB was a continuing breach of his reporting obligations under the declarations and Rule C65.3.

24.35 Mr Tankel further submitted that the contemporaneous documents showed that Dr Mian understood the significance of the SRA matters. He had responded to the SRA, resisted the imposition of conditions, instructed leading counsel, appealed the Adjudicator's decision, and argued that the conditions would affect his career progression. Such conduct undermined any later suggestion that the matters were minor, irrelevant, or not appreciated by Dr Mian at the time. Mr Tankel submitted that the Tribunal should be cautious about accepting ex post facto explanations given many years later.

24.36 The public would expect a solicitor to ensure that formal declarations to another professional regulator were accurate, and to correct or supplement those declarations if circumstances changed. The public would not expect a solicitor to minimise or withhold information about an SRA investigation or the imposition of practising certificate conditions. Accordingly, Dr Mian had failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

24.37 Mr Tankel submitted that De Mian's conduct was in breach of Principle 7. He had failed to comply with his legal and regulatory obligations under the 2011 Principles and Code of Conduct, the BSB Admission Application, the Admission and Call Declarations, and the BSB Conduct Rules. Dr Mian also failed to deal with the BSB, as one of his regulators, in an open, timely and co-operative manner by denying it the opportunity to consider the relevance of the SRA investigation and conditions to its regulatory functions.

24.38 Mr Tankel submitted that a solicitor acting with integrity would not have failed to disclose the SRA investigation, the proposed and imposed conditions, or the continuing disciplinary issues; would not have ignored the advice to disclose if in doubt; and would not have left the BSB and the Inn to proceed on the basis of incomplete information. In doing so, Dr Mian's conduct lacked integrity in breach of Principle 2

Dishonesty

24.39 With regard to allegation 1.1.1, Mr Tankel submitted that Dr Mian knew or believed:

- There had been a forensic investigation into the Firm at which he was a Director.
- He had been notified by the SRA on 15 December 2015 that there would be a formal investigation into the Firm in relation to several matters arising from the forensic

investigation. At least one of the matters under investigation (the employment of Mr Hassan) directly involved Dr Mian.

- That the SRA's investigation may lead to regulatory action including an application to the SDT.

- He had provided a detailed initial response to the SRA on 11 January 2016.

- That the BSB would rely on the signed declaration as being true and accurate.

24.40 In signing the BSB Admission Application on 16 February 2016 without disclosing the SRA investigation into both him personally and the Firm (as set out in the SRA's letter of 15 December 2015), Dr Mian represented that there was nothing which he needed to disclose to the BSB in contravention of the declaration set out in the BSB Admission Application. A solicitor acting honestly would have considered the fact that he and/or his Firm (of which he was one of only two directors) were subject to an SRA regulatory investigation to be information that the BSB would consider relevant to whether he ought to be permitted to be called to the Bar.

24.41 With regard to allegations 1.1.2, when signing the Admissions and Call Declarations on 4 May 2016, Dr Mian knew or believed:

- For the purposes of declaration 3 on the Admission Declaration and declaration 4 on the Call Declaration, (which required the disclosure any matter or circumstance *'which might reasonably be thought to call into question my fitness to become a practising barrister'*), Dr Mian failed to disclose those matters detailed in the SRA's letter of 15 December 2015, despite the footnotes to these declarations making it clear to him that, if there were doubt, then disclosure should be made.

- For the purposes of declaration 7(b) on the Admission Declaration and declaration 6 on the Call Declaration, (which required compliance with the BSB Handbook), Dr Mian failed to comply with Rule C65.3 of the BSB Conduct Rules by failing to declare that both he and his Firm (of which he was a director at the material time) were the subject of regulatory action.

24.42 Declaration 6 of the Admission Declaration required Dr Mian to notify the Inn *'if any statement in this Declaration ceased to be true before he was admitted to the Inn'*. In addition to the state of knowledge detailed above, Dr Mian was notified on 7 April and 20 May 2016 that the SRA was considering the imposition of conditions on his PC. He failed to notify the Inn of this development prior to his admission to the Inn on 23 May 2016, thereby contravening declaration 6.

24.43 With regard to allegation 1.1.3, between his admission to the Inn on 23 May 2016 and his call to the Bar on 24 November 2016, Dr Mian knew or believed the following:

- That conditions had been imposed on his PC on 2 September 2016 and reconfirmed on 2 November 2016.

- That the email from Regulatory Supervisor A to Mr Williams KC dated 27 June 2016 indicated that the SRA was still considering *'proportionate'* disciplinary action against him. The fact that the SRA was considering conduct issues was acknowledged by Mr Williams KC in his submissions of 22 July 2016.

- That the Firm, of which he remained an owner, had been the subject of an SRA intervention on 13 October 2016.

- That the reference to a rebuke in the Adjudication Panel decision of 2 November 2016 confirmed that the SRA was continuing to consider disciplinary action.

24.44 Dr Mian failed to notify the Inn and BSB of these matters. He also continued to fail to comply with Rule C65.3 of the BSB Conduct Rules, resulting in a continuing contravention of declaration 7(b) on the Admission Declaration and declaration 6 on the Call Declaration.

24.45 Mr Tankel submitted that a solicitor of Dr Mian's experience would know that giving false declarations and/or failing to notify the relevant organisations if there was a material change to the facts underpinning previous declarations was serious misconduct. Indeed, Dr Mian had signed the Call Declaration, which confirmed this to be the case at declaration 7.

24.46 In response to Dr Mian's case that the conditions related only to his role as COLP, COFA or manager of a firm, Mr Tankel submitted that this was too narrow an interpretation. The conditions followed a forensic investigation into a range of serious matters, were imposed to address immediate risk, were connected to the possibility of disciplinary action, and included concerns relevant to public confidence. Mr Tankel submitted that Dr Mian's own conduct as a fee earner, his ability to apply rules, and his professional judgment were all potentially relevant to his fitness to practise as a barrister. Accordingly, Dr Mian's explanation that he did not consider that the matters were relevant to his intended practice as a barrister, was untenable. Mr Tankel submitted that the relevant declarations were not confined to matters directly restricting work as counsel. They were concerned with fitness, integrity, public confidence, and regulatory compliance. The underlying matters concerned Dr Mian's honesty, judgment, compliance with professional obligations and suitability to join another regulated legal profession. They therefore realistically touched upon both his practice as a solicitor and the standing of the profession and were matters that clearly required disclosure.

24.47 Mr Tankel submitted that Dr Mian knew that he was required to make the disclosures detailed, and that he failed to do so as he wished to avoid any risk that the Inn or the BSB would reject his applications for admission or place conditions upon the same. Ordinary and decent people would consider it dishonest to provide false and misleading information in the circumstances. Accordingly, Dr Mian's conduct was dishonest.

Recklessness

24.48 In the alternative to dishonesty, the Applicant alleged that Dr Mian had been reckless as follows:

- He declared to the BSB on 16 February 2016 that he was not aware of any circumstances affecting him which might reasonably be considered to be relevant to the question of whether he should be permitted to be called to the Bar, namely the fact that he and his Firm were under investigation by the SRA.

- Despite being aware that he was under investigation by the SRA and that consideration was being given to PC conditions, he declared to the Inn on 4 May 2016 that:

  - He was not aware of any circumstances or matters which might call into question his fitness to become a practising barrister.

  - That he would comply with the BSB Handbook which, by virtue of Rule C.65 of the BSB's Conduct Rules, required him to notify the BSB if he was the subject of disciplinary or other regulatory or enforcement action by another approved regulator; and

  - He understood that if the Call Declaration was found to have been false or he breached any undertaking in it, then that would be misconduct.

- When he was notified on 5 September 2016 that conditions had been imposed on his PC, he failed to comply with Rule C.65 of the BSB Conduct Rules or to inform the Inn and BSB of that regulatory action.

- When he was notified on 10 November 2016 that the imposition of conditions had been upheld, he failed to comply with Rule C.65 of the BSB Conduct Rules or to inform the Inn and BSB of that regulatory action.

24.49 Despite being aware from the BSB Admission Application and the Admission and Call Declarations that the BSB and Inn wished to be advised of any matters which called into question his fitness to become a barrister, he recklessly failed to inform the BSB or Inn of the imposition of conditions and the terms of those conditions, which did interfere with his practice as a solicitor advocate.

24.50 By repeatedly making a decision not to disclose information to the Inn and BSB, and/or failing to appreciate that he should make disclosures, Dr Mian took the risk that he would be considered to have failed to provide necessary information to the Inn and BSB. His conduct was thus reckless.

<u>The Respondent's Case</u>

24.51 Dr Mian denied allegation 1.1 in its entirety. It was Dr Mian's case that the Applicant had failed to prove the essential factual and mental elements of the allegation. He accepted that he had signed the BSB Admission Application, the Inn's Admission Declaration, and the Call Declaration, and that he had not made the disclosures alleged by the Applicant. However, he denied that any declaration was false or misleading when made, denied that he appreciated that the matters relied upon by the Applicant were disclosable, and denied that his conduct was dishonest, reckless, or in breach of Principles 2, 6 or 7.

24.52 In relation to the BSB Admission Application, Dr Mian submitted that the declaration required disclosure of circumstances which might reasonably be considered relevant to whether he should be permitted to be called to the Bar. He did not accept that the SRA matters met that test. His evidence was that, by February 2016, he understood the investigation to have concluded, understood that he had provided a full response to the matters raised, and believed that the outstanding regulatory issues were being managed through supervision and remedial action. He relied on the fact that he had been issued with an unconditional practising certificate and a Certificate of Good Standing, and on his ongoing communications with Regulatory Supervisor A, which he said led him to believe that the SRA's concerns were being addressed.

24.53 Dr Mian accepted in oral evidence that he appreciated the matters raised by the SRA were serious. He accepted that the forensic investigation had addressed matters including accounting issues, the use of client account, the employment of Mr Hassan and the Firm's handling of a politically exposed person. He also accepted that some matters arose from his responsibility as head of the Firm. However, it was submitted, there was a distinction between failings in the management and supervision of a solicitor's practice and matters bearing on his fitness to practise as a barrister. His position was that the issues raised by the SRA related to his role as owner, manager, supervisor, COLP or COFA, and not to his ability to appear as an advocate or to provide reserved legal services as counsel.

24.54 In his oral evidence, Dr Mian explained that when he submitted the BSB application, he believed the SRA process had moved away from investigation and towards resolution. He said that the forensic investigation officer had indicated that his investigation was complete, that correspondence thereafter was concerned with corrective action, and that Regulatory Supervisor A had been in regular contact with him about remedial steps. He described conversations in which he was encouraged to focus on practising law and to take a less prominent role in the management of the Firm. He said that this informed his decision to step down from directorship and to seek to move away from firm management.

24.55 Dr Mian submitted that the Applicant's case placed too much weight on the wording of the EWW letter and failed to view the matter through his actual understanding at the time. He did not accept that the EWW letter meant that there were disciplinary proceedings pending or that there was any matter which he understood required disclosure to the BSB. He accepted that the EWW letter warned that his response might be used for regulatory purposes, including proceedings before the SDT, but submitted that this was standard wording and did not mean that a decision had been made to bring disciplinary proceedings. Dr Mian asserted that in February 2016, he understood that the SRA was considering whether further action was required, not that there was a matter which called into question his fitness to become a practising barrister.

24.56 As to the May 2016 Admission and Call Declarations, Dr Mian's case was that those declarations were also true according to his understanding at the time. He accepted that, by 7 April 2016, he had been told that conditions on his practising certificate were being considered. However, he said that the conditions then under consideration were directed at his ability to manage, own or supervise a solicitors' practice, act as COLP or COFA, handle client money or act as a signatory. He maintained that none of those matters restricted his ability to practise as an advocate or affected the qualities relevant to becoming a barrister.

24.57 Dr Mian submitted that the wording of the relevant declaration required consideration of whether the matter might reasonably be thought to call into question fitness to become a practising barrister. His case was that the phrase was not a general obligation to disclose every regulatory concern about his former firm. It required an assessment of relevance to the proposed role. On his case, the matters identified by the SRA were concerned with the governance and administration of a solicitors practice, including accounts compliance and management oversight. They were not matters which restricted him from advocacy, did not involve any finding of dishonesty, and did not, in his understanding, call into question his suitability to be called to the Bar.

24.58 Dr Mian also relied on the fact that the BSB had granted him unconditional exemption from the academic and vocational stages of training and from pupillage. He said that his application was based on his experience as a solicitor advocate, rather than his role as a manager of a firm. He contended that the Applicant's approach wrongly treated managerial and compliance restrictions as if they necessarily bore upon his fitness to practise as a barrister. He submitted that such an approach failed to recognise the distinction between his role as a solicitor advocate and his former role as owner or manager of a solicitor's' practice.

24.59 In response to the Applicant's submission that the declarations were plainly engaged because the footnotes advised disclosure if there was doubt, Dr Mian's case was that he was not in doubt in the relevant sense. He said that he read the declarations, considered them carefully and concluded that the matters did not fall within them. In oral evidence, he accepted that he may now have been wrong about whether disclosure was prudent or required but maintained that this was not his understanding at the time. He submitted that an error of judgment, even a serious one, did not establish dishonesty, recklessness, or lack of integrity unless the Applicant proved that he knew, believed, or consciously appreciated the risk that disclosure was required and nevertheless chose not to disclose.

24.60 Dr Mian relied on the advice and discussions he said he had with Dr Chatterjee and others. His evidence was that Dr Chatterjee, who was asked to provide the certificate of good character, knew of the SRA background and discussed with him whether the matters affected his position. Dr Mian said the discussions were not formal legal advice, but they reinforced his understanding that the restrictions related to management of a solicitors firm and not to his fitness to practise as a barrister. He also relied on the evidence of Dr Mustafa and Mr Vekaria as supporting his account that these matters were discussed contemporaneously and that the conditions were understood as limited to particular solicitor-management functions.

24.61 Dr Mian accepted that the report recommending conditions was not sent to Dr Chatterjee after it was received. He said he did not recall doing so and did not know why it was not sent. His evidence was that he had signed the declarations earlier, had then travelled abroad and was dealing with significant personal and professional pressure. He maintained that he did not revisit the declarations or their continuing obligations in the way the Applicant suggested he should have done. He said this was a failure of recollection and judgment, not a deliberate decision to conceal material information.

24.62 As to the period after conditions were imposed in September 2016 and upheld in November 2016, Dr Mian's case remained that the conditions did not bear upon his fitness as a barrister. He accepted that he regarded the conditions as serious for his career as a solicitor, particularly because they affected his ability to join or build a solicitors practice and because their publication affected his reputation. However, he said the seriousness of their impact on him as a solicitor did not mean that he believed they were relevant to his call to the Bar. He maintained that, in his mind, the distinction was between practice management restrictions on the one hand and advocacy or barrister practice on the other.

24.63 Dr Mian further submitted that the conditions had in practical terms fallen away by the time of call because he had not renewed his practising certificate. The conditions were imposed on the practising certificate then in force; he did not apply for renewal; and his practising certificate was revoked in November 2016. He therefore said that, when he was called to the Bar on 24 November 2016, there was no current practising certificate upon which the conditions operated. He accepted in oral evidence that this was not the whole answer to the question of disclosure but submitted that it formed part of the context in which he did not consider disclosure to be required.

24.64 In answer to the Applicant's reliance on the Adjudication Panel's references to public confidence, disciplinary action and the preparation of a rebuke case note, Dr Mian submitted that these matters did not alter his understanding that the issue concerned management and supervision of a solicitors firm. He said that the Adjudication Panel's reasoning addressed risk of recurrence in the context of his holding management or compliance roles. He did not accept that it followed that his ability to practise as an advocate or become a barrister was in question. He said that, rightly or wrongly, that was the distinction he drew at the time.

24.65 Dr Mian also addressed the Applicant's case that the contemporaneous documents showed that he understood the importance of the conditions because he instructed leading counsel, appealed the decision, resisted publication, and referred to the effect on his career progression. His answer was that he did understand the significance of the conditions for his position as a solicitor and for his reputation generally, but that this was different from appreciating that he was obliged to disclose them to the BSB or the Inn as matters affecting fitness to become a barrister. He said that the Applicant's reasoning depended on hindsight and on assuming that because a matter was important in one regulatory context, he must have appreciated its relevance in another.

24.66 Dr Mian's submissions about whether there was an investigation, and whether the SRA matters had been closed or merged, formed part of the background to his defence. In concise terms, he submitted that the Applicant had overstated the effect of the 15 December 2015 letter and had relied on later reconstructions of the SRA file. He said that, at the time, he understood the forensic investigation to have concluded and understood that subsequent SRA activity concerned supervision, conditions, and possible disciplinary outcome rather than an ongoing investigation of the kind the Applicant alleged. He relied on later SRA correspondence and file-closure material in support of that argument. However, his central submission was that, even if the Tribunal accepted the Applicant's characterisation of the regulatory process, the Applicant still had to prove that he appreciated that the matters were relevant and reportable under the BSB and Inn declarations.

24.67 Dr Mian referred to his health at the material time, explaining that the discovery concerning Mr Hassan, the forensic inspection, the SRA's concerns and the deterioration of his firm had a serious impact on him. He described anxiety, depression, travel abroad to avoid the pressures he was experiencing, and a period in which he felt that his professional standing and firm were collapsing. He submitted that this context was relevant to assessing his actual knowledge, recollection, and belief, and was inconsistent with a case that he deliberately calculated to mislead the BSB or the Inn.

24.68 In relation to dishonesty, Dr Mian submitted that the Applicant had not proved that he knew any declaration was false or misleading when made. He denied that his motive was to obtain a clean barrister record or to escape the consequences of the SRA process. He said that his decision to apply to the Bar was connected to a wish to move away from firm management and the burdens attached to it, but not to conceal matters from another regulator. He maintained that he believed the declarations were accurate. He submitted that ordinary decent people, applying the test after first identifying his actual state of knowledge and belief, would not characterise his conduct as dishonest.

24.69 As to recklessness, Dr Mian submitted that the Applicant had failed to establish that he was aware of a risk that disclosure was required and unreasonably took that risk. Dr Mian submitted that he had not appreciated the matters to be reportable because he understood them to be managerial, supervisory and solicitor-practice related. He accepted that, with hindsight, the Tribunal might conclude that he ought to have disclosed more but submitted that recklessness required proof of actual awareness of the relevant risk. The Applicant, it was submitted, had proved no more than that he had made an erroneous judgment about the scope of the declarations.

24.70 Dr Mian further denied that the alleged conduct amounted to lack of integrity. He submitted that he had engaged with the SRA, responded to the EWW letter, provided information, and sought to comply with the SRA's requirements. He had taken steps to remedy failings identified by the SRA and had not attempted to hide from his regulator. In his submission, the Applicant's case confused an alleged failure to disclose with lack of integrity, without proving the state of mind or ethical departure necessary to establish that breach.

24.71 In relation to Principle 6, Dr Mian submitted that the Applicant had not shown that his conduct undermined public trust in him or in the provision of legal services. He had made a genuine distinction between restrictions on management of a solicitors' firm and fitness to practise as a barrister. The public interest, it was submitted, was not served by treating every regulatory management issue as necessarily relevant to another professional role, particularly where there had been no finding of dishonesty and where the conditions did not restrict advocacy.

24.72 As to Principle 7, Dr Mian denied that he had failed to comply with legal and regulatory obligations. He submitted that the Applicant had not identified a clear SRA obligation which required disclosure to the BSB or the Inn in the circumstances alleged. He also maintained that Rule C65.3 did not apply to pre-call conduct and that, after call, any reporting obligation depended on his appreciating that there was a reportable matter. His case was that he did not have that appreciation at the relevant time.

24.73 In summary, Dr Mian's case was that Allegation 1.1 depended upon the Tribunal accepting, with hindsight, that the SRA investigation, the proposed and imposed conditions, and the later regulatory references were plainly matters which he knew or ought to have known required disclosure. He denied that this reflected his knowledge or belief in 2016. He maintained that he honestly believed the relevant matters concerned the management of a solicitors' practice, not his fitness to become or practise as a barrister; that he had engaged with the SRA and believed that matters were being resolved; and that the Applicant had failed to prove falsity, materiality, dishonesty, recklessness or breach of the Principles alleged.

The Tribunal's Findings - Allegation 1.1.1

24.74 The Tribunal considered the wording of the declaration in the BSB Admission Application signed by Dr Mian on 16 February 2016. The declaration required Dr Mian to confirm that he had disclosed to the Qualifications Committee in writing *"any circumstances affecting me which might reasonably be considered to be relevant to the question of whether I should be permitted to be called to the Bar."* The Tribunal accepted that, by the time he signed that declaration, Dr Mian had received the SRA's letter of 15 December 2015, had been provided with the Forensic Investigation Report, had responded to the SRA, and knew that the SRA process might result in regulatory action. Those were the matters relied on by the Applicant as demonstrating that disclosure to the BSB was plainly required.

24.75 The Tribunal also accepted Mr Tankel's submission that the SRA process was serious and that at least some of the matters identified in the Forensic Investigation Report directly concerned Dr Mian's conduct and responsibilities as a director of the Firm. The Tribunal further accepted that the BSB was entitled to take a broad interest in regulatory matters affecting an applicant seeking admission to the Bar, and that disclosure of such matters may well have enabled the BSB to consider whether any further enquiries were required before granting unconditional exemption or permitting progress towards call.

24.76 However, the Tribunal did not consider that the Applicant had proved, on the balance of probabilities, that Dr Mian's failure to disclose those matters in the BSB Admission Application amounted to a false or misleading declaration or a failure to disclose information which he was obliged to disclose. The Tribunal placed particular weight on the wording of the declaration itself. Unlike the later Inn Admission and Call Declarations, the BSB declaration did not contain an express caveat, warning, or footnote stating that an applicant should disclose if in doubt. Nor did it identify categories of regulatory or disciplinary matters which had to be disclosed. The question was framed more generally and required an assessment of whether the circumstances might reasonably be considered relevant to whether Dr Mian should be permitted to be called to the Bar.

24.77 The Tribunal considered that distinction important. The Applicant's case was that a solicitor of Dr Mian's experience must have appreciated that the SRA investigation into his Firm, and matters concerning his conduct as a director, were relevant to the BSB's assessment. The Tribunal understood the force of that argument. Nevertheless, the Tribunal was not satisfied that the obligation arising from the BSB declaration was sufficiently clear to establish the allegation as pleaded. The absence of a caveat or express instruction to disclose if in doubt meant that the Tribunal had to consider whether the declaration itself created a clear obligation to disclose the SRA process in February 2016. The Tribunal found that it did not.

24.78 The Tribunal's conclusion was reinforced by the evidence of Ms Maddison. Ms Maddison, who was a Senior Authorisation and Supervision Officer at the BSB, stated that the wording of paragraph 9(v) *"could suggest that a declaration could have been made about the SRA investigation"*, but she did not know whether it imposed an obligation to disclose such proceedings because it appeared to rely on the judgment of the applicant. She further stated that she did not believe Dr Mian had breached any rules by not informing Authorisations, at the time of his application, about the pending matter with the SRA, although as a matter of good practice he should have brought it to the BSB's attention and, if unsure, should have sought advice from the BSB.

24.79 The Tribunal considered that evidence to be significant. Ms Maddison's evidence did not determine the legal question for the Tribunal, but it was relevant to whether the Applicant had proved that the declaration imposed the obligation alleged. The Tribunal noted that the relevant BSB officer did not consider that Dr Mian had breached BSB rules by failing to disclose the matter in the Admission Application. In those circumstances, the Tribunal was not satisfied that it could properly find that Dr Mian had made a false or misleading declaration, or failed to comply with a disclosure obligation, in relation to Allegation 1.1.1.

24.80 The Tribunal also considered the Applicant's submission that Dr Mian's professional experience, his knowledge of the SRA letter of 15 December 2015, and the seriousness of the matters under consideration made his omission misleading. The Tribunal did not accept that submission in relation to Allegation 1.1.1. The issue was not whether it would have been prudent, open, or good practice for Dr Mian to disclose the SRA matter. The Tribunal accepted that it would have been. The issue was whether the Applicant had proved that, in the context of the wording of this particular declaration, Dr Mian was required to disclose it and that his failure to do so rendered the declaration false or misleading. For the reasons set out above, the Tribunal found that the Applicant had not discharged that burden.

24.81 It followed that the Tribunal did not find any breach of Principles as alleged or at all. Accordingly, the Tribunal found allegation 1.1.1 not proved.

<u>The Tribunal's Findings - Allegation 1.1.2</u>

24.82 The Tribunal found Allegation 1.1.2 proved. By 4 May 2016, when Dr Mian signed the Inn's Admission Declaration and Call Declaration, he knew that the SRA had moved beyond the position relied upon in relation to Allegation 1.1.1. He had been expressly informed on 7 April 2016 that Regulatory Supervisor A was considering imposing conditions on his practising certificate. The Tribunal accepted Mr Tankel's submission that this was a material development. The issue was no longer confined to the general wording of the BSB Admission Application. Dr Mian was signing declarations which contained clearer and more detailed requirements, including an express statement that he was not aware of any matter which might reasonably be thought to call into question his fitness to become a practising barrister, together with a footnote stating that if there was doubt the matter should be disclosed.

24.83 The Tribunal considered the terms of the Admission Declaration carefully. Paragraph 3 required Dr Mian to declare that, except as disclosed, he was not aware of any matter which might reasonably be thought to call into question his fitness to become a practising barrister. The accompanying footnote made plain that this included any incident or behaviour which, if known to the Inn, might cause the application to be considered more carefully, and that if there was doubt the incident or behaviour should be disclosed. The Tribunal found that the proposed practising certificate conditions were plainly capable of causing the Inn to consider Dr Mian's application more carefully. They arose from serious regulatory concerns identified in the FIR; they related to restrictions on his ability to manage or own a firm, act as a compliance officer, handle client money, and exercise supervisory responsibilities; and they were being considered by his professional regulator in relation to his ongoing status as a solicitor.

24.84 The Tribunal rejected Dr Mian's submission that those matters were irrelevant because they concerned only his role as a manager, owner, COLP or COFA of a solicitors' practice and did not restrict his advocacy. The Tribunal accepted that the proposed conditions were directed principally to practice management and compliance functions. However, the declaration was not limited to matters which directly prohibited advocacy or the provision of reserved legal activities. It was concerned with fitness to become a practising barrister. Fitness in that context necessarily included professional judgment, regulatory compliance, honesty, integrity, the management of risk and the maintenance of public confidence. The SRA's consideration of whether to impose restrictive conditions on Dr Mian's practising certificate was therefore relevant, or at the very least potentially relevant, to the Inn's assessment.

24.85 The Tribunal accepted that Dr Mian genuinely believed there was a distinction between his role as a solicitor advocate and his role as a manager or owner of a solicitors' practice. The Tribunal also accepted that he was under considerable personal and professional pressure at the time and that he was dealing with anxiety, the decline of his firm, and the consequences of the SRA process. Those matters were relevant to the Tribunal's assessment of his subjective state of mind. However, they did not answer the objective question whether the matters were disclosable, nor did they make it reasonable for Dr Mian to decide for himself that the Inn need not be told. The declaration required disclosure where there was doubt. Dr Mian's own evidence demonstrated that he had considered the issue and weighed whether the proposed conditions affected his future position at the Bar. Having reached that point, he ought to have disclosed the matter and left it to the Inn to determine its relevance.

24.86 The Tribunal placed particular weight on Dr Mian's evidence that he had discussed the matter with Dr Chatterjee on 3 May 2016, the day before he signed the declarations. On Dr Mian's own case, Dr Chatterjee was aware of the SRA background, and they discussed whether the matters affected Dr Mian's position. Dr Mian relied on that discussion as supporting his view that the proposed restrictions were concerned with solicitors' practice management rather than fitness to practise as a barrister. The Tribunal considered that evidence important for a different reason. It demonstrated that Dr Mian was alive to the issue of whether the SRA matters were relevant to the declarations. He was not a person who had simply overlooked the matter. He had considered it, discussed it, and then decided not to disclose it.

24.87 The Tribunal found that Dr Mian's conduct breached Principle 6. Public trust in solicitors and in the provision of legal services required solicitors to be candid when making formal declarations to another professional body, particularly where the declaration related to fitness to join another regulated legal profession. The public would expect the Inn, rather than Dr Mian, to decide whether proposed practising certificate conditions were relevant to admission or call. Dr Mian's failure to disclose deprived the Inn of that opportunity and thereby undermined public trust.

24.88 Dr Mian's conduct also breached Principle 7. He had failed to comply with his regulatory obligation to provide accurate and complete information in the Admission and Call Declarations and failed to deal with the Inn and BSB in an open and timely way in relation to information relevant to their regulatory functions.

24.89 The Tribunal found that Dr Mian's declarations to the Inn on 4 May 2016 were false and misleading and that he had failed to disclose relevant regulatory information, namely that the SRA was considering imposing conditions on his practising certificate and the regulatory matters underlying that consideration. Such conduct fell below the standards of integrity expected of a solicitor. A solicitor acting with integrity would not have withheld from the Inn a matter which he had considered, discussed, and knew might bear on the Inn's assessment, particularly where the declaration directed disclosure if in doubt. Accordingly, the Tribunal found that Dr Mian had acted without integrity in breach of Principle 2.

24.90 The Tribunal considered the Applicant's case on dishonesty. Mr Tankel submitted that Dr Mian knew that the proposed conditions and the underlying SRA matters were disclosable, and that he chose not to disclose them because he wished to avoid the risk that his admission or call would be delayed, refused, or made subject to conditions. The Tribunal accepted that those were legitimate inferences for the Applicant to invite the Tribunal to draw. Dr Mian was an experienced solicitor; he had received the SRA's correspondence; he knew conditions were being considered; and he knew that disclosure might cause the Inn to scrutinise his application more closely.

24.91 The Tribunal was required first to determine his actual knowledge or belief as to the facts. The Tribunal found that Dr Mian knew the SRA was considering imposing conditions and knew that the matter was serious. The Tribunal was not satisfied, however, that he knew he was required to disclose the proposed conditions to the Inn or that he believed his declaration was false when he signed it. His evidence, although not accepted as a complete answer to the allegation, was that he distinguished between restrictions on solicitors' practice management and fitness to practise as a barrister. The Tribunal was unable to exclude the possibility that this was his genuine belief at the time. In those circumstances, the Tribunal did not find that ordinary decent people, having regard to Dr Mian's actual state of knowledge and belief, would necessarily regard his conduct as dishonest.

24.92 The Tribunal did, however, find that Dr Mian's conduct was reckless. On his own evidence, he appreciated that the proposed conditions raised an issue which required consideration. He discussed the issue with Dr Chatterjee the day before signing the declarations. The footnote to the declaration expressly told him that, if in doubt, he should disclose. The Tribunal found that Dr Mian was aware of a risk that the proposed conditions were matters which might reasonably be thought to call into question his fitness to become a practising barrister or at least matters which the Inn might wish to consider more carefully. It was unreasonable for him to take the risk of not disclosing them and to decide for himself that the Inn did not need to know. The Tribunal therefore found recklessness proved.

24.93 Accordingly, the Tribunal found allegation 1.1.2 proved, save that it did not find Dr Mian to have been dishonest, but did find his conduct to have been reckless.

The Tribunal's Findings - Allegation 1.1.3

24.94 The Tribunal found Allegation 1.1.3 proved in its entirety. By 2 September 2016, conditions had been imposed on Dr Mian's practising certificate. By 2 November 2016, the SRA Adjudication Panel had upheld the decision to impose those conditions. The Tribunal found that these were material developments which Dr Mian was required to notify to the Inn and the BSB. They were no longer merely proposed conditions, nor matters being considered by the SRA. They were formal restrictions imposed by Dr Mian's professional regulator and upheld on appeal, arising from serious regulatory concerns identified in the FIR and addressed in the Adjudication Panel's decision.

24.95 The Tribunal considered Dr Mian's submission that the conditions were directed only to his ability to manage, own or supervise a solicitors' practice, to act as COLP or COFA, or to handle client money, and that they did not affect his ability to practise as an advocate. The Tribunal did not accept that this provided a defence to Allegation 1.1.3. The issue was not whether the conditions prevented him from conducting advocacy. The issue was whether the imposition and upholding of those conditions were matters which should have been reported to the Inn and the BSB, given the terms of the declarations and Rule C65.3. The Tribunal found that they plainly were.

24.96 The Tribunal also considered Dr Mian's submission that the conditions had no practical effect by the date of call because he had not renewed his practising certificate and his practising certificate was revoked on 22 November 2016. The Tribunal rejected that submission. The fact that the practising certificate was not renewed did not alter the fact that conditions had been imposed on 2 September 2016, upheld on 2 November 2016, and remained material to the Inn's and BSB's assessment of Dr Mian's regulatory position. The Tribunal found that Dr Mian could not properly decide for himself that the conditions were immaterial because they had, or might soon have, limited practical effect. It was for the Inn and the BSB to determine what significance, if any, should be attached to them.

24.97 Dr Mian had undertaken to comply with the BSB Handbook, and Rule C65.3 required prompt reporting where he, or an entity of which he was a manager, was the subject of disciplinary or other regulatory or enforcement action by another approved regulator, including disciplinary proceedings. The imposition and upholding of practising certificate conditions constituted regulatory action by the SRA and fell within that reporting obligation.

24.98 The Tribunal accepted that Dr Mian continued to draw a distinction between his role as a solicito
r advocate and his role in the management of a solicitors' practice. It also accepted that he regarded the conditions as unfair and disproportionate, and that he had appealed against

them. However, those matters did not relieve him of the obligation to notify the Inn or the BSB. The fact that Dr Mian challenged the conditions, resisted their publication, and sought to avoid reputational harm demonstrated that he understood their seriousness. It also demonstrated that he appreciated that the conditions would be capable of having consequences for his professional standing. In those circumstances, the Tribunal found that his failure to notify was not an innocent omission or a mere misunderstanding of technical regulatory terminology.

24.99 The Tribunal considered the issue of timing. Dr Mian was admitted to the Inn on 23 May 2016 and was called to the Bar on 24 November 2016. Between those dates, he knew that conditions had been imposed, knew that they had been upheld, and knew that his former firm had been intervened into on 13 October 2016. The Tribunal found that these matters were required to be reported before call. Dr Mian failed to do so.

24.100 The Tribunal found that Dr Mian’s conduct breached Principle 6. Public trust in solicitors and in the provision of legal services required Dr Mian to be candid with the Inn and the BSB once formal regulatory restrictions had been imposed and upheld by his professional regulator. The public would expect a solicitor seeking call to another regulated branch of the profession to disclose such matters and to allow that regulator to decide whether they affected admission, call, or fitness to practise. By failing to notify the Inn or the BSB, Dr Mian deprived them of the opportunity to consider the effect of the conditions and thereby undermined public trust.

24.101 The Tribunal also found a breach of Principle 7. Dr Mian had undertaken to comply with the BSB Handbook and was required to report relevant regulatory action promptly. The Tribunal found that the imposition and upholding of practising certificate conditions were matters that fell within his reporting obligations. His failure to notify the Inn or the BSB was a failure to comply with his legal and regulatory obligations and a failure to deal with those bodies in an open and timely manner.

24.102 The Tribunal further found that Dr Mian’s conduct breached Principle 2. A solicitor acting with integrity would have appreciated that the imposition and upholding of formal conditions by the SRA could not simply be withheld from the Inn and the BSB. This was not a case in which Dr Mian was being asked to make a difficult judgment about tentative or uncertain information. The conditions had been imposed and upheld. A solicitor acting with integrity would have disclosed them promptly and allowed the Inn and the BSB to determine their relevance. Dr Mian’s failure to do so fell below the ethical standards expected of a solicitor.

Dishonesty

24.103 The Tribunal found that, by September and November 2016, Dr Mian knew the relevant facts. He knew that conditions had been imposed on his practising certificate; he knew that his appeal had failed; he knew that he was due to be called to the Bar later that month; and he knew that he had not notified the Inn or the BSB. The Tribunal also found that he knew the conditions and their publication were significant. His own correspondence demonstrated that he was concerned about the reputational consequences of publication and the effect upon his future career.

24.104 The Tribunal rejected Dr Mian's explanation that he honestly believed the conditions were irrelevant to the Inn and the BSB because they related only to solicitors' practice management. That explanation might have accounted for his earlier position when the SRA was only considering possible conditions, and the Tribunal had taken it into account in relation to Allegation 1.1.2. By the time of Allegation 1.1.3, however, the position had materially changed. Formal conditions had been imposed, upheld on appeal, and expressly linked by the Adjudication Panel to serious regulatory concerns. The Tribunal was satisfied that Dr Mian knew those matters were information which the Inn and BSB would have wanted to know before call.

24.105 The Tribunal found that Dr Mian's failure to notify was deliberate. He had already signed declarations containing reporting obligations, had discussed the relevance of the SRA matters earlier in the year, had challenged the conditions through representations and an appeal, and had corresponded with the SRA about publication. The Tribunal was satisfied that he chose not to inform the Inn or the BSB because disclosure risked delaying or jeopardising his call to the Bar. Applying the objective standards of ordinary decent people to Dr Mian's actual knowledge and belief, the Tribunal found that his conduct was dishonest.

24.106 Accordingly, the Tribunal found allegation 1.1.3 proved in its entirety, including that Dr Mian's conduct was dishonest. Having found dishonesty proved, the Tribunal did not consider recklessness, which had been pleaded in the alternative to dishonesty.

25. **Allegation 1.2**

Factual Background

25.1 On 24 March 2017, Regulatory Supervisor B sent Dr Mian a Production Notice issued under section 44B of the Solicitors Act 1974, requiring him to produce documentation relating to the Firm's instruction by Client X.

25.2 On 12 May 2017, the BSB received an email advising that Dr Mian was subject to conditions imposed by the SRA.

25.3 On 28 July 2017, Regulatory Supervisor B contacted Dr Mian again and advised that the SRA was continuing to make enquiries in relation to Client X. He confirmed that the matter had not been investigated by the FIO in 2015, noted that Dr Mian had previously confirmed that he had conduct of the matter, and reminded him that he remained regulated by the SRA because he remained on the Roll. Dr Mian responded in detail on 18 August 2017.

25.4 On 18 September 2017, Dr Mian applied to the SRA for removal from the Roll. The application noted that he had not held a practising certificate since October 2016 and that he had not sought to renew it because he *"did not agree with the SRA's decision to give him a conditional PC"*.

25.5 When completing the application for removal from the Roll, Dr Mian confirmed that he agreed with the statement: *"I am not aware of any disciplinary proceedings which have been brought or will be brought against me in my capacity as a solicitor. I do not* *know of any cause for such proceedings to be brought and I am not in any breach of any of the SRA's regulatory arrangements."*

25.6 The SRA issued a Certificate of Good Standing to Dr Mian on 24 July 2017, which advised that he did not hold a current practising certificate and was not entitled to practise as a solicitor.

25.7 On 15 December 2017, Regulatory Supervisor C wrote to Dr Mian advising that issues relating to Client X were to be investigated further. Dr Mian was asked to provide an explanation of his conduct by 5 January 2018 and was warned that his reply could be used as evidence for any regulatory purpose. The letter stated: *"…you are also regulated by the BSB. Please tell us whether you have told them about your conduct at the firm…if you have not told your other regulator, please tell us why not."* Dr Mian acknowledged receipt of the letter on the same date.

25.8 On 11 January 2018, the SRA's admissions team emailed Dr Mian advising that it was minded to refuse his application for removal from the Roll because there was an open complaint against him, namely the investigation relating to Client X which had been notified to him on 17 March and 15 December 2017. On 16 January 2018, Dr Mian confirmed that he wished to withdraw his application for removal from the Roll.

25.9 Dr Mian provided his comments on the allegations relating to Client X on 19 February 2018. The response did not indicate whether he had informed the BSB that he was under investigation.

25.10 On 3 April 2018, the SRA notified Dr Mian that his conduct was to be referred to the SDT. The matters to be referred included some of the allegations notified to him by Regulatory Supervisor A on 15 December 2015 and those relating to Client X, which were notified to him by Regulatory Supervisor C on 15 December 2017.

25.11 In June 2018, the BSB contacted the SRA seeking confirmation of whether Dr Mian was being investigated by the SRA in May 2016. On 25 June 2018, the BSB clarified that it had *"received a report about [Dr Mian] relating to information provided with his application for call…conditions were placed on his practice by the SRA on 2 November 2016"*. The SRA responded on 2 July 2018.

25.12 On 2 July 2018, Dr Mian emailed the solicitors instructed by the SRA to bring proceedings against him in the SDT. He expressed surprise at the proceedings, stating that the *"investigations for these matters was concluded in around December 2015 [sic] and conditions were proposed to be imposed on my practising certificate on the conclusion of the investigation…the matter was concluded in December 2016…"*.

25.13 The SRA responded on 24 July 2018. Dr Mian was informed that conditions had been imposed in 2016 because risks to the public had been identified. The SRA clarified that there had been two investigations. The first had begun in 2015, during which conditions were imposed. Dr Mian was told: *"conditions are intended to address immediate risks and are not part of the disciplinary process…the conditions were not imposed at the conclusion of the investigation but rather during the investigation…."* It was confirmed that matters relating to Mr Hassan, Eclips and the PEP remained under investigation. The second investigation related to Client X and had been taken forward in 2017. The

SRA stated: *"Both sets of investigations have been referred to the SDT and remain live."*

25.14 On 20 December 2018, the BSB notified Dr Mian of a complaint that he had failed to declare that he was under investigation by the SRA when he made his application for call on 6 May 2016 and had failed to inform the BSB that restrictions had been imposed on his practice by the SRA when he was called to the Bar on 24 November 2016.

25.15 The SRA provided further information to the BSB. On 4 February 2019, the SRA advised that Dr Mian had first been notified of an investigation on 23 February 2015, that conditions had been imposed on 2 September 2016 and upheld on 2 November 2016, and that a Certificate of Good Standing did not include investigations, only proceedings issued before the SDT and SDT findings. On 11 February 2019, the SRA advised that the decision to refer Dr Mian to the SDT had been made on 27 March 2018 and stated: *"The conditions imposed on [Dr Mian's] PC do not conclude matters…Conditions are quite separate from any disciplinary action taken by the SDT…In this case, the PC conditions can be seen as a protective measure but not a final determination."*

25.16 On 2 April 2019, the BSB wrote to Dr Mian noting: *"You accept you did not inform the Bar Standards Board (BSB) or Lincolns Inn of the restriction the SRA has imposed on your practising certificate…"*. The BSB also noted that Dr Mian's responses to its letter of 20 December 2018 had not mentioned that he had been referred to the SDT in March 2018. This omission led the BSB to open a further complaint.

25.17 The allegations considered by the SDT on 29–30 October and 2 December 2019 related to Mr Hassan and the use of the Firm's client account as a banking facility.

25.18 On 2 December 2019, the SDT ordered Dr Mian to pay a fine of £20,000 and imposed a restriction order for two years. The SRA informed the BSB of the SDT's decision on 3 December 2019, and the SDT handed down its judgment on 16 January 2020.

25.19 On 16 June 2022, Dr Mian was disbarred following findings by the Bar Tribunals and Adjudication Service. It found that the Call Declaration was materially false, and/or that Dr Mian had failed to inform the Inn that it had become materially false, because he had not informed the BSB that conditions had been imposed before call and remained in place. It also found that, after call, Dr Mian had failed to inform the BSB that the SRA had imposed conditions on his practice, that he was the subject of ongoing investigation, or that he had been referred to the SDT.

25.20 Dr Mian notified the SRA on 22 November 2022 that he had been disbarred and that he intended to appeal the BTAS decision. On 5 June 2023, he informed the SRA that his appeal had been dismissed by the High Court on 24 May 2023 and that he was considering an application to the Court of Appeal. On 15 May 2024, BTAS advised the SRA that Dr Mian had been refused permission to appeal to the Court of Appeal on 7 October 2023.

<u>The Applicant's Case</u>

25.21 Mr Tankel relied on, and repeated, the submissions made in relation to Allegation 1.1 concerning the seriousness of the SRA investigation, the imposition of practising certificate conditions, Dr Mian's knowledge of those matters, the relevance of the information to the BSB and the Inn, and Dr Mian's contention that the matters related only to solicitors' practice management rather than his fitness as a barrister. Those submissions are summarised above. In relation to Allegation 1.2, Mr Tankel submitted that the position was stronger because the allegation concerned Dr Mian's post-call obligations after he had become subject to the BSB Handbook and Rule C65.3.

25.22 In summary, Mr Tankel submitted that Rule C65.3 required prompt reporting where Dr Mian, or an entity of which he was a manager, was to his knowledge the subject of disciplinary or other regulatory enforcement by another approved regulator, including disciplinary proceedings. The rule was not limited to disciplinary proceedings. It extended to regulatory enforcement action, including the SRA's continuing investigation, the practising certificate conditions and, from April 2018, a referral to the SDT.

25.23 Mr Tankel submitted that the key post-call events were those set out in the factual background. These included the SRA's further enquiries in March and July 2017, the EWW letter of 15 December 2017, the refusal of Dr Mian's application to come off the Roll because of an open complaint, the SRA's decision on 3 April 2018 to refer his conduct to the SDT, and the SRA's letter of 24 July 2018 confirming that both investigations had been referred to the SDT and remained live.

25.24 Mr Tankel relied on the 15 December 2017 letter which stated: *"I understand that you are also regulated by the Bar Standards Board (BSB). Please tell us whether you have told them about your conduct at the firm. Please provide a copy of your notification to them. If you have not told your other regulator, please tell us why not. We may decide to tell them, but we will take your views into account before doing so."* Mr Tankel submitted that this expressly put Dr Mian on notice of the need to consider notification to the BSB. Dr Mian did not provide a notification and did not answer that specific question.

25.25 Mr Tankel submitted that, after 3 April 2018, there could be no arguable answer to the allegation. From that date Dr Mian knew that the SRA had decided to prosecute his conduct before the SDT. That was plainly disciplinary action or proceedings and plainly reportable to the BSB. The SRA's letter of 24 July 2018 removed any remaining ambiguity by confirming that *"Both sets of investigations have been referred to the SDT and remain live"*.

25.26 To the extent Dr Mian repeated the argument that the matters were not relevant because they did not affect his practice as counsel, Mr Tankel relied on his submissions in relation to Allegation 1.1. He submitted that the argument was even weaker post-call because Dr Mian was then subject to a specific reporting rule. The matters concerned professional judgment, regulatory compliance, governance, risk management, client account issues and, later, alleged involvement in a transaction said to bear the hallmarks of fraud. They were capable of bearing upon his fitness and standing as a barrister even if they did not directly restrict advocacy.

25.27 Mr Tankel also relied on his earlier submissions in response to Dr Mian's arguments about investigation status and internal SRA file closure. In short, he submitted that Allegation 1.2 did not depend on resolving every dispute about historic file management. The post-call obligation was engaged by the facts known to Dr Mian, including the SRA conditions, further enquiries, the express December 2017 prompt about notification to the BSB, the open complaint, the April 2018 referral to the SDT and the July 2018 confirmation that the matters remained live.

25.28 Mr Tankel submitted that Dr Mian's own evidence and contemporaneous conduct demonstrated that he appreciated the seriousness of the matters. He had resisted the conditions, instructed leading counsel, appealed the Adjudicator's decision, resisted publication, and described the impact on his reputation and career. Mr Tankel submitted that Dr Mian's later explanation should be treated with caution because it was difficult to distinguish his actual state of mind at the time from ex post facto justification after prolonged litigation.

25.29 Mr Tankel further submitted that it was no answer for Dr Mian to suggest that the BSB may already have known about the matter from another source. Dr Mian had a personal reporting obligation. He made no report, provided no supporting documents, and did not say in response to the SRA's December 2017 letter that he had already notified the BSB. His reliance on what the BSB may have learned from others underlined the failure to act openly and promptly himself.

25.30 In relation to Principle 6, Mr Tankel relied on his submissions under Allegation 1.1 and submitted that the post-call position was more serious. The public would expect a solicitor who had become a barrister to keep both professional regulators informed of serious regulatory developments. Dr Mian's failure to notify the BSB of the SRA conditions, the further investigation, the open complaint, the referral to the SDT and the July 2018 confirmation deprived the BSB of the opportunity to consider their regulatory significance and undermined public trust.

25.31 In relation to Principle 7, Mr Tankel submitted that Dr Mian failed to comply with his legal and regulatory obligations under Rule C65.3. He failed to report the SRA conditions, the further investigation into Client X, the express notification issue raised in the SRA's 15 December 2017 letter, the open complaint identified in January 2018, the referral to the SDT in April 2018 and the July 2018 confirmation that both investigations had been referred and remained live. He also failed to deal with the BSB in an open, timely and co-operative manner.

25.32 In relation to Principle 2, Mr Tankel submitted that Dr Mian's conduct lacked integrity. A solicitor acting with integrity would have appreciated that the BSB should be informed of serious SRA regulatory action and of a referral to the SDT. Ignoring the December 2017 prompt, failing to disclose the April 2018 referral, and continuing not to notify the BSB after the July 2018 clarification amounted to a sustained failure to act candidly towards another regulator.

Dishonesty

25.33 As to dishonesty, Mr Tankel repeated the submissions made under Allegation 1.1 and submitted that they applied with greater force after call. Dr Mian knew the underlying facts, knew they were serious, knew that the BSB had an interest in such matters, and was specifically prompted by the SRA on 15 December 2017 to address whether he had notified the BSB. After 3 April 2018, he knew that he had been referred to the SDT. Mr Tankel submitted that ordinary decent people would regard it as dishonest for a solicitor and barrister to conceal such information from the BSB.

25.34 In the alternative, Mr Tankel submitted that Dr Mian's conduct was reckless. If dishonesty was not proved, Dr Mian was at least aware of the risk that the SRA conditions, the further investigation, the December 2017 prompt, the open complaint, the SDT referral, and the July 2018 clarification were reportable matters. It was unreasonable for him to take the risk of not disclosing them, particularly after he had been expressly put on notice of the issue.

The Respondent's Case

25.35 Dr Mian denied Allegation 1.2. He accepted that, after his call to the Bar on 24 November 2016, he remained subject to duties owed to the BSB but disputed the Applicant's assertion that the matters relied upon were plainly reportable throughout the period ending on 20 December 2018. His defence was that the Applicant's case depended on treating several distinct matters as if they were self-evidently disciplinary or regulatory information requiring disclosure, when, on his understanding at the time, they either related to historic and closed SRA matters, to restrictions on solicitor-practice management rather than barrister practice, or to matters which had not yet crystallised into disciplinary proceedings.

25.36 Dr Mian submitted that the starting point was his understanding of the SRA position as at the date of call. He maintained that the 2014 and 2015 matters had, in substance, been concluded by the imposition and upholding of practising certificate conditions and by the SRA's subsequent closure of the relevant file. In his evidence he said that, by November 2016, he understood that he could not work as a manager, shareholder, compliance officer, or signatory on a client account, but that the SRA matters relating to his former firm had otherwise reached their end. He relied on subsequent SRA correspondence and Part 18 responses as supporting the proposition that the CDT/1126506-2014 file was formally closed on 30 November 2016 and that the SRA itself accepted that practising certificate conditions were not part of the disciplinary process.

25.37 Accordingly, Dr Mian submitted that, when he was called to the Bar, there was no disciplinary proceeding in the ordinary meaning of that phrase. He contended that the Applicant wrongly elevated a closed or supervisory process into a continuing disciplinary process. He emphasised that the EWW letter of 15 December 2015 did not commence disciplinary proceedings; that, on the SRA's own later explanation, an EWW was part of an investigation and did not necessarily mark either the commencement or continuation of proceedings; and that only a formal referral to the SDT could properly amount to disciplinary proceedings. On that basis, he said there was no disciplinary proceeding to report at the date of call.

25.38 Dr Mian also relied on the nature of the practising certificate conditions. He submitted that they were imposed under Regulation 7 as risk-management or supervisory restrictions relating to his role in a solicitors' firm, not as sanctions affecting his capacity to practise as an advocate. The restrictions concerned approval of employment, ownership, or management of an authorised body, acting as COLP, COFA, HOLP or HOFA, signing on client or office accounts, supervising staff, and acting as money laundering reporting officer. His case was that those matters went to firm governance and accounts administration. They did not restrict him from exercising rights of audience, did not prevent him from practising as a solicitor advocate, and did not bear directly on the advocacy experience on which his transfer to the Bar was based.

25.39 He therefore disputed the Applicant's assertion that the conditions were necessarily relevant to the BSB merely because they were serious for his career as a solicitor. Dr Mian accepted that the conditions had a serious reputational and practical impact on him as a solicitor, particularly because they affected his ability to join or manage a solicitors' practice and because publication of the conditions caused him reputational harm. However, he submitted that seriousness in one regulatory context did not automatically make the matter reportable in another. His position was that he drew, and continued to draw, a genuine distinction between restrictions on the management of a solicitors' firm and fitness to practise as a barrister.

25.40 In relation to Rule C65.3, Dr Mian accepted in oral evidence that the rule applied after call but said he had not been familiar with it at the time and had not appreciated that it required any notification in the circumstances. He submitted that the rule had to be construed by reference to the subject matter being reported. In his understanding, there was no ongoing disciplinary proceeding after call and the conditions were not disciplinary proceedings. To the extent that the rule referred more broadly to disciplinary or other regulatory or enforcement action, his case was that he did not believe the historic practice-management conditions, which had ceased to have practical effect once he did not renew his practising certificate, were matters requiring notification to the BSB.

25.41 Dr Mian further submitted that the Applicant's reliance on the 2017 correspondence did not establish the allegation. The March and July 2017 communications concerned production of documents and enquiries relating to Client X, a matter which, on his case, was initially directed at Denning Solicitors and others and did not clearly identify him as the subject of disciplinary action. He said he cooperated with those enquiries, explained that he no longer held client files, and later provided a detailed response as best he could from memory. He submitted that those enquiries did not state that he was being referred to the SDT and did not make clear that a report to the BSB was required.

25.42 The SRA relied on the EWW letter of 15 December 2017, which asked Dr Mian whether he had informed the BSB about his conduct at the firm and, if not, why not. Dr Mian's response was that, by that stage, he understood the BSB was already aware of the conditions issue or was making enquiries in relation to it, and he was simultaneously dealing with both regulators. He accepted that he did not specifically answer the question in the terms the Applicant contended he should have done. However, he submitted that the letter did not itself establish that he had knowingly failed to report a disclosable matter. His position was that he was focused on responding to the allegations and seeking documents, and that he did not appreciate the paragraph as creating or triggering a separate reporting obligation.

25.43 As to the refusal of his application for removal from the Roll in January 2018, Dr Mian submitted that the SRA identified one open complaint, namely CDT/1162174-2016. He relied on that as supporting, rather than undermining, his position that the earlier 2014 and 2015 matters were not live investigations at that time. He submitted that the Applicant could not rely on the refusal as proof that he knew the earlier matters were pending or that he knew there was a broader duty to report them to the BSB.

25.44 Dr Mian accepted that 3 April 2018 was a significant date because the SRA then notified him that his conduct was to be referred to the SDT. He did not accept, however, that this automatically proved dishonesty. His evidence was that he considered the proposed referral to be unlawful because the earlier matters had already been closed and because he believed the SRA had no power to refer those matters to the SDT in the way it proposed. Dr Mian asserted that, at that time, he was contesting the SRA's jurisdiction, seeking disclosure, and attempting to understand the basis on which closed matters were being resurrected. His case was that, although with hindsight he accepted he should have notified the BSB after call, his failure to do so arose from his understanding that the SRA could not lawfully refer him and not from any intention to conceal a plainly reportable matter.

25.45 He disputed the Applicant's assertion that, after 3 April 2018 and certainly after the SRA's letter of 24 July 2018, there could be no arguable answer to the allegation. Dr Mian contended that the July 2018 letter was part of the very dispute about the SRA's power and about whether the matters had been closed. He said he did not accept the SRA's characterisation that both investigations remained live; he regarded that assertion as wrong, unsupported by the documents and inconsistent with the closure material later disclosed. He maintained that he was not required simply to accept the SRA's position and report it as though it were a valid disciplinary proceeding when he was actively challenging its legal and factual basis.

25.46 Dr Mian nevertheless accepted, during his oral evidence, that he should have disclosed after call if the matter was reportable and that, if in doubt, the safer course would have been to inform the BSB. He characterised that failure as a mistake and an error of judgment. He submitted that it was important to distinguish an error, even a serious one, from dishonesty. Dr Mian explained that he had not closed his eyes, had not put his head in the sand, and was at the same time engaging with the SRA and the BSB. In his submission, the documentary record showed that he was asking questions, seeking disclosure, challenging the SRA's jurisdiction, and attempting to answer allegations, not deliberately concealing information from another regulator.

25.47 The Applicant, it was submitted, had not proved that he knew the relevant information was reportable and deliberately withheld it. Dr Mian denied that his motive was to preserve a clean barrister record or to avoid scrutiny by the BSB. Dr Mian explained that he had already been called to the Bar, that he believed the conditions related to solicitor-management roles, that he regarded the 2014 and 2015 matters as closed, and that he was contesting the legality and factual basis of the later proposed SDT referral. Applying the required approach to dishonesty, he submitted that the Tribunal had first to identify his actual knowledge and belief at the material times. On his case, those beliefs, even if mistaken, were genuinely held and were inconsistent with a finding that ordinary decent people would regard his conduct as dishonest.

25.48 As to recklessness, Dr Mian submitted that the Applicant had not established actual awareness of a risk which he unreasonably took. He accepted that he now appreciated that notification should have been made after call, particularly once the SRA decision to refer was communicated. However, the Tribunal had to consider his state of mind at the time and at the relevant time, it was submitted, he did not appreciate the matters as reportable for the reasons already detailed above. Dr Mian submitted that the Applicant's case impermissibly used hindsight and the later BTAS findings to infer a state of mind which he did not in fact possess.

25.49 Dr Mian also denied breaches of Principles 2, 6 and 7. He submitted that he had not acted without integrity because he engaged with the SRA, responded to correspondence, sought disclosure, challenged what he considered to be unlawful or inaccurate assertions, and maintained a consistent distinction between solicitor-management restrictions and barrister practice. He denied undermining public trust because, on his case, he did not knowingly withhold information which he understood another regulator needed. He denied breach of Principle 7 because the Applicant had not identified a clear SRA duty requiring disclosure to the BSB in the circumstances, and because any BSB reporting obligation depended upon a construction and understanding of Rule C65.3 which he did not have at the material time.

25.50 In summary, it was Dr Mian's contention that the Applicant's assertion of obvious reportability overstated the clarity of the position as he understood it at the time. He accepted that he did not notify the BSB of the matters relied upon and accepted that he should have done so if they were reportable. However, he maintained that his failure arose from a genuine but mistaken understanding that the conditions concerned solicitor-practice management, that the earlier SRA matters were closed, that later enquiries did not clearly identify a reportable matter, and that the 2018 proposed referral was disputed and, in his view, unlawful. He therefore denied dishonesty, recklessness and breach of the Principles alleged.

<u>The Tribunal's Findings – Allegation 1.2</u>

25.51 The Tribunal found Allegation 1.2 proved in its entirety. In reaching that conclusion, the Tribunal relied on the findings it had already made in relation to Allegation 1.1.3 concerning the imposition and upholding of the practising certificate conditions, Dr Mian's knowledge of their seriousness, the relevance of those conditions to the Inn and the BSB, and the rejection of Dr Mian's submission that they were immaterial because they related only to solicitors' practice management and did not restrict advocacy. Those findings applied with equal, and in some respects greater, force to the period after Dr Mian was called to the Bar.

25.52 From 24 November 2016, Dr Mian was a barrister and was subject to the BSB Handbook. Rule C65.3 required prompt reporting where he, or an entity of which he was a manager, was the subject of disciplinary or other regulatory or enforcement action by another approved regulator, including disciplinary proceedings. The Tribunal rejected Dr Mian's submission that the rule was confined to disciplinary proceedings in the narrow sense contended for by him. The wording of the rule was broader. It expressly included *"disciplinary or other regulatory or enforcement"* action. The Tribunal determined that the imposition and upholding of practising certificate conditions by the SRA, the continuing SRA enquiries, the open complaint, and the later referral to the SDT were all matters falling within the scope of that reporting obligation.

25.53 The Tribunal considered Dr Mian's defence that, as at the date of call, he believed the 2014 and 2015 matters had been concluded by the practising certificate conditions and subsequent file closure. The Tribunal did not accept that this provided an answer to Allegation 1.2. First, for the reasons already given in relation to Allegation 1.1.3, the practising certificate conditions were themselves regulatory action which required notification. Secondly, the reporting obligation under Rule C65.3 was not dependent upon Dr Mian accepting the SRA's view of the status of its files or the lawfulness of its later referral. Thirdly, even if Dr Mian considered that the SRA's position was wrong, he was not entitled to decide unilaterally that the BSB need not be told. It was for the BSB to determine the significance of the SRA regulatory action, the continuing enquiries, and any disputed referral.

25.54 The Tribunal also rejected Dr Mian's argument that the conditions had ceased to matter because he did not renew his practising certificate. That contention had been rejected in relation to Allegation 1.1.3 and was no stronger in relation to Allegation 1.2. The fact that the conditions were attached to a practising certificate which was not renewed did not erase the fact that they had been imposed and upheld by the SRA, nor did it remove their relevance to another regulator's assessment of Dr Mian's fitness, standing, and regulatory compliance.

25.55 The Tribunal considered the subsequent chronology. In March and July 2017, the SRA contacted Dr Mian in relation to Client X and reminded him that he remained regulated by the SRA because he remained on the Roll. The Tribunal accepted that the earlier 2017 communications were initially framed as enquiries and production requirements. However, by 15 December 2017 the position had progressed. Regulatory Supervisor C wrote to Dr Mian seeking an explanation of his conduct in relation to Client X, warning that his response could be used for regulatory purposes and expressly asking whether he had informed the BSB about his conduct at the Firm and, if not, why not. That letter, the Tribunal found, was a clear prompt to address notification to the BSB. Dr Mian did not provide a notification and did not answer that question.

25.56 The Tribunal did not accept Dr Mian's explanation that he understood the BSB already knew about the conditions or was making enquiries. He had a personal reporting obligation. It was not sufficient to rely on the possibility that information had reached the BSB from another source. Nor was it sufficient to say that he was dealing with both regulators at the same time. A solicitor and barrister acting openly and candidly would have responded directly to the SRA's question, notified the BSB, and provided the relevant information himself.

25.57 The Tribunal further found that, by January 2018, Dr Mian knew that the SRA regarded there as being an open complaint against him, because his application for removal from the Roll was refused on that basis. The Tribunal accepted that Dr Mian relied on that refusal as supporting his argument that only one complaint was open. However, that did not assist him. It showed that he knew the SRA considered there to be a live regulatory matter concerning him. That was a matter which, applying Rule C65.3 and the reasoning already set out above, should have been reported to the BSB.

25.58 In any event, the position became unanswerable on 3 April 2018. On that date, the SRA notified Dr Mian that his conduct would be referred to the SDT. Dr Mian accepted in his oral evidence that this was a significant date. The Tribunal found that, from that point, he knew that his conduct was to be the subject of disciplinary proceedings before the SDT. That information was plainly reportable to the BSB. The fact that Dr Mian disputed the lawfulness of the referral or believed that some of the matters had previously been closed, did not entitle him to withhold the information. The proper course was to notify the BSB of the referral and, if he wished, explain his challenge to it.

25.59 The Tribunal also considered the SRA's letter of 24 July 2018. That letter clarified the SRA's position that the conditions had not concluded the investigation, that conditions were not part of the disciplinary process, and that both sets of investigations had been referred to the SDT and remained live. Dr Mian's disagreement with that analysis did not remove the obligation to report the referral and related regulatory information. It reinforced the need for disclosure. The BSB was entitled to know not only that the SRA had referred the matters, but also that Dr Mian disputed the basis on which it had done so.

25.60 The Tribunal considered carefully Dr Mian's evidence that he was engaging with the SRA, seeking disclosure, challenging jurisdiction, and did not intend to conceal matters from the BSB. The Tribunal did not accept that this displaced the allegation. The issue was not whether Dr Mian was engaged in correspondence with the SRA, nor whether he disputed the SRA's position. The issue was whether he failed to disclose relevant regulatory and disciplinary information to the BSB between 24 November 2016 and 20 December 2018. The Tribunal found that he did. He knew of the conditions, knew of the further SRA enquiries, knew of the December 2017 notification issue, knew of the open complaint, and knew of the April 2018 referral to the SDT. These matters were plainly information which the BSB was entitled to know.

25.61 For the same reasons as set out in relation to Allegation 1.1.3, the Tribunal found that Dr Mian's conduct breached Principle 6. Public trust in solicitors and in the provision of legal services required candour towards another professional regulator. A member of the public would expect a solicitor who had become a barrister to notify the BSB of serious SRA regulatory action and, a fortiori, of a referral to the SDT. Dr Mian's failure to do so deprived the BSB of the opportunity to consider those matters for itself and undermined public trust.

25.62 Dr Mian's conduct also breach of Principle 7. After call, Dr Mian was subject to the BSB Handbook and Rule C65.3. He failed to comply with that obligation by not reporting the SRA conditions, the continuing regulatory enquiries, the open complaint, and the referral to the SDT. He also failed to deal with the BSB in an open, timely and co-operative manner.

25.63 A solicitor acting with integrity would have appreciated that the BSB should be informed of the SRA conditions and of later developments, including the December 2017 request for an explanation and the April 2018 referral to the SDT. Dr Mian's decision not to notify the BSB, despite being under a reporting obligation and despite being expressly prompted to consider notification, fell below the ethical standards expected of a solicitor. Accordingly, the Tribunal found that Dr Mian's conduct lacked integrity in breach of Principle 2.

Dishonesty

25.64 The Tribunal repeated its findings in relation to Allegation 1.1.3 as to Dr Mian's actual knowledge and belief. By the time he was called to the Bar, Dr Mian knew that conditions had been imposed and upheld by the SRA, knew that they were serious, knew that he had not notified the Inn or the BSB, and knew that his professional regulator regarded the underlying matters as serious regulatory concerns. After call, his knowledge increased. He knew of further SRA enquiries, knew that the SRA had expressly asked whether he had notified the BSB, knew that his application for removal from the Roll had been refused because of an open complaint, and knew from 3 April 2018 that his conduct was to be referred to the SDT.

25.65 The Tribunal rejected Dr Mian's submission that he genuinely believed throughout the period that the information was not reportable. The Tribunal accepted that Dr Mian disputed the SRA's position and considered some of the matters to be closed or unlawfully resurrected. However, that was not the same as an honest belief that the BSB need not be told. The Tribunal found that Dr Mian understood that the information was material to the BSB's regulatory assessment. His failure to notify was not an oversight and was not simply a misunderstanding of technical terminology. It was a deliberate decision to withhold information which he knew the BSB would have wanted to know.

25.66 The Tribunal noted that on his own case, Dr Mian accepted that, with hindsight, he should have disclosed after call. He accepted that, if the matter was reportable, the safer course would have been to inform the BSB. He also accepted that the April 2018 referral was significant. The Tribunal found that these concessions reflected the obviousness of the reporting obligation at the time, particularly once the SDT referral had been communicated. Dr Mian's decision not to notify the BSB was taken in circumstances where he was seeking to protect his position and contest the SRA's case, but that did not justify withholding the information from another regulator.

25.67 Applying the test in *Ivey*, the Tribunal first identified Dr Mian's actual knowledge and belief as set out above. It then applied the standards of ordinary decent people. The Tribunal found that ordinary decent people would regard it as dishonest for a solicitor and barrister, knowing that his professional regulator had imposed conditions, was pursuing further regulatory enquiries, had expressly raised the question of notification to the BSB, and had referred him to the SDT, to deliberately fail to notify the BSB of those matters. The Tribunal therefore found dishonesty proved. Having found dishonesty proved, the Tribunal did not consider recklessness, which had been pleaded in the alternative.

25.68 Accordingly, the Tribunal found Allegation 1.2 proved in its entirety, including that Dr Mian's conduct was dishonest.

Previous Disciplinary Matters

26. Case No. 11968-2019. Dr Mian faced the following allegations:

Whilst practising at Denning Solicitors ("the Firm"):

- In 2014, he caused and/or permitted SAH to exercise a right of audience before the Court, when SAH was not entitled to do so, and, in doing so, breached: Principle 6 of the SRA Principles 2011 (“the Principles”); Outcome 7.9 of the SRA Code of Conduct 2011 (“the Code”). Manifest incompetence was also alleged.

- Between and around October 2014 and March 2015, he caused and/or permitted the Firm’s client account to be used as a banking facility when acting for Client E, and, in doing so, breached: Principles 2 and 6 of the Principles; Rule 14.5 of the Solicitors Accounts Rules 2011 (“the Accounts Rules”).

27. The Tribunal found the allegations proved save that it did not find that Dr Mian’s conduct amounted to a lack of integrity in breach of Principle 2. Dr Mian was ordered to pay a fine in the sum of £20,000, and conditions were imposed on his Practising Certificate for a period of 2 years. He was also ordered to pay costs in the sum of £25,000.

Mitigation

28. In mitigation, Dr Mian submitted that the Tribunal should consider the context in which his decisions had been made. He stated that, in November 2016, his understanding of the allegation and of the relevant regulatory position was focused on whether there were pending proceedings and whether the matters were disclosable to the BSB or the Inn. He accepted that, if he had been in doubt, he should have informed the relevant body. However, he submitted that the decision not to disclose had been an exercise of judgment at the time. He said that he had informally discussed the matter with other professionals and had concluded that the matters were historical, related to the management of a solicitors’ practice, and were not relevant to his intended role as a practising barrister. He accepted that this might have been an error of judgment but maintained that it was his genuine judgment at the time.

29. Dr Mian submitted that, when the Adjudication Panel’s decision was served in November 2016, he asked himself whether he was going to perform the roles restricted by the practising certificate conditions when practising as a barrister. His answer, he said, was no. The relevant question, as he understood it, was whether the matter affected his fitness to become or practise as a barrister. He submitted that his conclusion that it did not was mistaken if the Tribunal so found, but it was not dishonest.

30. Dr Mian further submitted that, when the SRA later indicated that it proposed to refer matters to the SDT, he was not ignoring the issue or hoping that it would disappear. Rather, he said that he was actively engaging with the SRA and its solicitors, asking for the basis on which the referral was being made, and maintaining that the matters had already been concluded. He stated that he spent a considerable period seeking evidence from the SRA to support its position. He submitted that, if the evidence relied upon by the SRA had been provided to him earlier, he would simply have reported the matter to the BSB. In his submission, his conduct showed that he was taking an active and proactive approach to finding an answer while also dealing with the BSB, rather than closing his eyes to an obvious reporting obligation.

31. Dr Mian also relied on matters arising from the earlier disciplinary proceedings. He submitted that information which had emerged later supported his position that the underlying regulatory history was more complex than had been presented at the time. In particular, he referred to material concerning Mr Hassan, stating that he had not

known in 2019 that Mr Hassan had previously misled members of the public, taken money, threatened people and used solicitors' practices in the manner later alleged. Dr Mian said that he regarded himself as having been one of Mr Hassan's victims and that, when he became aware of the position, he reported Mr Hassan to the police and incurred substantial expense obtaining injunctive relief to prevent further harm to others.

32. In relation to the earlier banking facility allegation, Dr Mian submitted that the issues had crystallised before the Tribunal in 2019. He said that he had relied on the evidence then available, had accepted matters where he considered the evidence justified it, and had successfully resisted the allegation that his conduct lacked integrity. He invited the Tribunal to take into account his evidence, his conduct over the preceding years, and the distinction he sought to draw between an error of judgment and deliberate wrongdoing when assessing sanction.

Sanction

33. The Tribunal had regard to the Guidance Note on Sanctions (11th Edition – February 2025). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances. The Tribunal also reminded itself that where dishonesty is proved, striking off will normally follow unless exceptional circumstances justify a lesser sanction.

34. The Tribunal found Dr Mian's culpability to be high. His misconduct was motivated by a desire to avoid the risk that disclosure of the SRA conditions, regulatory enquiries and later SDT referral would jeopardise or affect his admission, call, or standing at the Bar. The Tribunal had found that he deliberately withheld information which he knew the Inn and the BSB would have wished to know. His conduct was not spontaneous. It involved repeated failures to disclose over an extended period, first before call and then after he had become subject to the BSB Handbook. Dr Mian was an experienced solicitor and solicitor advocate. He had direct control over whether he notified the Inn and the BSB. He alone was responsible for the declarations he signed and for his subsequent failure to report. The misconduct involved deliberate misleading of another regulator by omission and a failure to deal openly and candidly with the Inn and the BSB.

35. The Tribunal considered harm. There was no evidence of direct financial loss caused by the misconduct in these proceedings. However, the harm to the regulatory process and to public confidence was substantial. The Inn and the BSB were deprived of the opportunity to consider, at the relevant time, whether the SRA conditions, regulatory enquiries and later SDT referral affected Dr Mian's admission, call, regulatory standing, or fitness. The public was entitled to expect solicitors, particularly experienced solicitors seeking admission to another regulated branch of the legal profession, to be candid with regulators. Dishonesty in that context caused serious harm to the reputation of the solicitors' profession and to public confidence in the proper regulation of legal services. The Tribunal considered that such harm was plainly foreseeable.

36. The Tribunal identified a number of aggravating features. Dishonesty had been proved in relation to Allegation 1.1.3 and Allegation 1.2. The misconduct was deliberate and calculated. It was repeated and continued over a significant period. Dr Mian failed to disclose important regulatory information before call and then maintained that failure after call, despite a specific reporting obligation under Rule C65.3 and despite being expressly asked by the SRA in December 2017 whether he had notified the BSB. The Tribunal found that Dr Mian knew, or ought reasonably to have known, that his conduct was in material breach of his obligation to act candidly and to protect the public and the reputation of the profession. The Tribunal also noted that Dr Mian had a previous disciplinary history, although it did not treat the previous matter as directly bearing on the particular misconduct found proved in this case.

37. The Tribunal considered the mitigation advanced by Dr Mian. It took into account his submission that the underlying regulatory history was complex, that he regarded some matters as closed or unlawfully resurrected, and that he had been under significant personal and professional pressure. However, those matters did not explain or excuse the dishonest failure to disclose regulatory information to the Inn and the BSB. The misconduct found proved in these proceedings did not arise from deception by a third party. It arose from Dr Mian's own decisions about what to disclose to another regulator.

38. The Tribunal did not identify significant mitigating factors. There had been no voluntary notification to the BSB. The misconduct was not a single brief episode; it extended over a period of time and involved repeated opportunities to correct the position. Dr Mian did not show meaningful insight into the seriousness of the misconduct. He continued to characterise his conduct as an error of judgment and maintained that he had drawn a genuine distinction between solicitor-practice management and barrister practice. The Tribunal had rejected that explanation in relation to the findings of dishonesty. Dr Mian expressed regret for the position in which he found himself, but the Tribunal did not find evidence of genuine remorse for the dishonest failure to disclose. There was no evidence of remediation relevant to the misconduct found proved.

39. The Tribunal considered whether any lesser sanction would meet the seriousness of the misconduct. It considered taking no action, a reprimand, a fine, restrictions, suspension, and an indefinite suspension. None of those sanctions would be sufficient to protect the public, maintain confidence in the profession, or mark the seriousness of dishonest conduct towards another regulator. The misconduct went to the heart of professional trustworthiness. It involved a solicitor withholding material regulatory information from the Inn and the BSB in circumstances where he knew that the information was relevant to their regulatory assessment.

40. The Tribunal considered whether there were exceptional circumstances which justified a sanction short of strike off. It found that there were none. The dishonesty was not momentary, technical, or confined to an isolated lapse. It was repeated, deliberate and concerned information which another regulator was entitled to receive in order to perform its own regulatory function. The Tribunal accepted that Dr Mian had faced personal and professional pressures and that he had advanced complex arguments about the underlying regulatory history. However, those matters did not amount to

exceptional circumstances. They did not reduce the seriousness of the dishonest conduct to a level at which striking off would be disproportionate.

41. In all the circumstances, the Tribunal determined that the protection of the public, the maintenance of public confidence in the profession and the need to uphold proper professional standards required Dr Mian to be removed from the Roll. The only appropriate and proportionate sanction was that Dr Mian be struck off the Roll of Solicitors.

Costs

42. The Applicant applied for its costs of the proceedings. Mr Tankel submitted that the Tribunal was required to determine both the principle of costs and the quantum. As to principle, he submitted that costs should follow the event. The allegations advanced by the Applicant had, in substantial part, been proved and had been resisted by Dr Mian. Mr Tankel acknowledged that some matters had not been found proved and that some matters had been withdrawn but submitted that those points had not materially increased the costs incurred by the Applicant. He submitted that this was particularly so because Blake Morgan had acted on a fixed fee basis and counsel had acted on the basis of a brief fee and refreshers, such that the overall costs would have been the same even if the withdrawn or unsuccessful points had not formed part of the case.

43. As to quantum, the principal issues were proportionality and reasonableness. Mr Tankel submitted that Blake Morgan's fixed fee was £37,900. The schedule identified 98.3 hours of work, producing a notional hourly rate of £385. He accepted that the notional hourly rate might be regarded as somewhat high but submitted that the time spent was reasonable for a case listed for five days in which Dr Mian had raised numerous arguments requiring the Applicant to address approximately ten years of regulatory history. Mr Tankel submitted that, if the Tribunal considered any reduction appropriate, the notional hourly rate would be the more appropriate area for adjustment rather than the time spent.

44. In relation to disbursements, Mr Tankel explained that they consisted of counsel's fees. He referred to three categories: fees for the hearing on 30 March 2026, which had required substantial preparation and attendance because several applications had been made by Dr Mian; fees for the non-compliance hearing, which had become more substantial because Dr Mian raised further submissions at short notice and the issues had to be explained to a fresh panel; and counsel's brief fee and refreshers for the substantive hearing. Mr Tankel accepted that the substantive hearing had lasted four days rather than the five days for which it had been listed, and that at least one £2,000 refresher should therefore be removed. He invited the Tribunal to take any reduction for the shorter hearing into account in a broad-brush assessment.

45. Dr Mian opposed the costs application or alternatively submitted that the costs should be significantly reduced. He submitted that, in relation to the hearing on 30 March 2026, the Applicant had later withdrawn or accepted points which he had been advancing. He referred to correspondence, including a letter dated 3 June, and submitted that he had in substance succeeded on important points because matters he had been raising over a long period had ultimately been accepted or withdrawn. He therefore challenged the

suggestion that costs should simply follow the event without regard to those developments.

46. With regard to the non-compliance hearing, Dr Mian submitted that the delay was not his fault. He had been seeking information and answers from the Applicant. The relevant correspondence was before the Tribunal showing he had been making repeated attempts to obtain material which he considered necessary for his case. He submitted that when the documents or answers were eventually provided, they supported his position. On that basis, he argued that the Applicant's costs should not be increased, or should be reduced, by reference to matters which arose because information had not been provided to him earlier.

47. The Tribunal considered the parties' submissions and the updated costs schedule. It was satisfied that it was appropriate in principle to make a costs order in favour of the Applicant. The Applicant had proved substantial and serious allegations against Dr Mian, including findings of dishonesty. Although Dr Mian was entitled to defend the proceedings, the proceedings had required the Applicant to meet a wide-ranging defence and to address a lengthy regulatory history. In those circumstances, the Tribunal considered that an order for costs should be made.

48. The Tribunal then considered the amount of costs which it was reasonable and proportionate to order. It took into account the fixed fee charged by Blake Morgan, the notional hourly rate arising from that fee, counsel's fees and the overall conduct and outcome of the proceedings. The Tribunal accepted Mr Tankel's submission that the time spent was broadly reasonable given the complexity of the case and the number of issues raised by Dr Mian. However, it considered that the notional hourly rate produced by the fixed fee was high and that some reduction was appropriate on that basis.

49. The Tribunal also took into account that the substantive hearing had concluded within four days, rather than the five days for which it had been listed. Mr Tankel accepted that this justified at least the removal of one refresher, and the Tribunal considered that the shorter hearing was a relevant factor in assessing the proportionate overall figure. The Tribunal further took into account that the Applicant had not been successful on every aspect of the case. Allegation 1.1.1 was not proved; dishonesty was not proved in relation to Allegation 1.1.2; and the Applicant had withdrawn or no longer pursued certain matters, including the alleged breach of Outcome 11.2 and reliance on investigations or proposed practising certificate conditions as pending disciplinary proceedings. Those matters did not defeat the Applicant's entitlement to costs, but they justified a reduction from the full amount claimed.

50. The Tribunal did not make any further reduction by reference to Dr Mian's means. Dr Mian had not provided a statement of means and had not made submissions that he was unable to afford any particular costs order. The Tribunal therefore had no evidential basis upon which to reduce the order on grounds of affordability.

51. In the circumstances, the Tribunal determined that costs in the sum of £40,000 were reasonable and proportionate and thus ordered Dr Mian to pay costs in that amount.

52. Following the Tribunal's reading of the Order, Dr Mian applied for the costs order to be stayed pending the conclusion of any appeal. He explained that he had been advised

that any application for a stay should first be made to the Tribunal and sought, at least, a short stay of approximately two months.

53. Mr Tankel submitted that, at Tribunal level, the Applicant's position was that enforcement of costs was ordinarily a matter between the SRA's costs enforcement team and a Respondent. He had not previously been asked to address such an application and had not had the opportunity to take instructions. He accepted that issues about stays of costs orders sometimes arose on appeal and that there could be uncertainty about the proper route, but submitted that, unless and until an appeal was made and a stay granted, the costs order was enforceable. He also noted that Dr Mian had not provided a statement of means, so the Tribunal had no evidence as to whether a stay was necessary.

54. The Tribunal refused the application for a stay of the costs order at that stage, finding that it did not have sufficient information before it to justify granting a stay. The Tribunal indicated that Dr Mian could liaise with the SRA enforcement team in the usual way and stated that it would expect the SRA enforcement team to take into account that Dr Mian had indicated an intention to appeal when considering when enforcement should commence. Further, Dr Mian had the ability to request a stay of the Order from an appellate court.

Statement of Full Order

55. The Tribunal ORDERS that the Respondent, ZEESHAN SAQIB MIAN, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £40,000.00.

Dated this 2nd day of September 2026
On behalf of the Tribunal

L. Boyce

L. Boyce
Chair