SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12740-2025

BETWEEN:

FRANCIS MATHEW Applicant

and

SOLICITORS REGULATION AUTHORITY LTD Respondent

Before:

Ms A Kellett (in the Chair)
Ms B Patel
Ms K Wright

Date of Hearing: 11 July 2025

Appearances

Rory Dunlop KC, Counsel of 39 Essex Chambers, 81 Chancery Lane, London WC2A IDD for the Applicant.

Montu Miah, Counsel in the employ of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Respondent.

JUDGMENT ON AN APPLICATION TO REMOVE CONDITIONS

Background

1. On 9 October 2024, the Tribunal found the following allegations proved against Mr Mathew:

1.1 Between 1 September 2020 and 1 March 2022, when the compliance officer for finance and administration ("COFA") of the Firm, and the Firm were:

1.1.1 Dealing with client money in a manner that breached Rules 5.1 and 5.3 SRA Accounts Rules 2019;

1.1.2 Failing to undertake accurate reconciliations of the client account as required by Rules 8.1 and 8.3 SRA Accounts Rules 2019; and

1.1.3 Dealing with client money in a manner that breached Rule 2.5 SRA Accounts Rules 2019.

He failed to remedy those breaches or report them to the SRA. In doing so he breached any or all of: Principle 2 SRA Principles 2019; Paragraph 9.2 of the SRA Code of Conduct for Firms; and 2.1.6 Rule 6.1 SRA Accounts Rules 2019.

1.2 Between 26 June 2017 and 17 February 2022, when Money Laundering Compliance Officer ("MLCO") for the Firm, he failed to ensure that the Firm complied with its obligations under MLRs 2017, namely by failing to ensure the Firm had a firm-wide risk assessment as required by Regulation 18 of MLRs 2017. In doing so, and to the extent the conduct took place before 25 November 2019, he breached any or all of: Principle 6 SRA Principles 2011; Principle 7 SRA Principles 2011; and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.

To the extent the conduct took place on or after 25 November 2019, he breached either or both of: Principle 2 SRA Principles 2019; and/or Paragraph 7.1 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

1.3 On 24 February 2020, he provided the SRA with inaccurate information, namely by declaring to the SRA that the firm-wide risk assessment was compliant with the requirements of Regulation 18 of the MLRs 2017, the Firm had no firm-wide risk assessment in place. In doing so he breached either or both of: Principle 2 SRA Principles 2019; and/or Paragraph 7.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

2. The Tribunal found that the conduct found proved at allegation 1.3 was aggravated by Mr Mathew's recklessness.

3. The Tribunal sanctioned Mr Mathew to a Fine in the sum of £25,000. It also imposed the following indefinite restriction on his practice:

> *"The Respondent may not: Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration/Money Laundering Reporting Officer and*

Money Laundering Compliance Officer without permission of the Solicitors Regulation Authority".

4. On 26 February 2025, Mr Mathew applied to remove the condition.

Application

The Applicant's Case

5. Mr Dunlop KC submitted that the application to remove the restriction was based on two reasons, namely (i) the restriction did not serve the purpose it was intended to serve; and (ii) it was having unintended and adverse consequences.

6. Whilst there was no separate reasoning in the Judgment, Mr Dunlop KC submitted that it was to be inferred that the purpose of the restriction was to prevent Mr Mathew from holding compliance roles without the permission of the SRA.

7. However, the restriction order was unnecessary for that purpose. The order added nothing to the existing regulatory framework. Mr Mathew was not MLCO, MLRO, COLP or COFA of the Firm at present, and had made it clear that he did not intend to take on any of those compliance roles. Even if he changed his mind and wanted to take on those roles, he would (even if there were no restriction order) need to make an application to the SRA to do so. By reason of the SRA Authorisation of Firms Rules ("the Authorisation Rules") and Regulation 26 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the MLRs"), no one can act as manager, COLP, COFA, MLCO or MLRO of a Firm without the approval of the SRA.

8. Accordingly, the restriction was of no protective effect. Whilst the Tribunal had been addressed on the imposition of conditions, Mr Dunlop KC did not, and could not, know that the Tribunal would impose a restriction that was otiose. Had this been known, submissions would have been made regarding there being no need for such a restriction.

9. Mr Dunlop KC submitted that the restriction order was having consequences which the Tribunal did not intend. No restrictions had been imposed on Mr Mathew's ability to practise as a solicitor, only on his ability to carry out certain managerial/compliance roles. That was, it was submitted, because there was no allegation that Mr Mathew did anything wrong in his work as a solicitor for individual clients. The unintended consequence of the order was that Mr Mathew was being prevented from acting as a solicitor. One lender had already insisted that Mr Mathew not do any work on any transactions relating to them.

10. Mr Dunlop KC submitted that unless the restriction order on Mr Mathew was removed, other lenders might take similar action. That would, in practice, limit very substantially Mr Mathew's ability to practise as a solicitor. For that reason, it would also damage the Firm and might even damage the clients whom the Firm served. That was disproportionate, as there had never been any allegation that Mr Mathew posed any risks in his work for direct clients. It was also contrary to the Tribunal's intentions - the Tribunal did not intend to impose a sanction that would prevent Mr Mathew practising as a solicitor.

The Respondent's Answer

11. Mr Miah submitted that in considering the application, the Tribunal should have regard to the factors listed at paragraph 5 of its "*Guidance Note on other powers of the Tribunal – 7th Edition*", published in February 2025. The Guidance note consisted of guidelines for Applications and was not intended in any way to fetter the discretion of the Tribunal when deciding Applications. Mr Miah submitted that the factors in the Guidance Note were equally relevant when the Tribunal was considering an Application to remove or vary conditions on an Applicant's practice. In particular, the following factors were relevant to this Application:

- details of the original order of the Tribunal leading to the indefinite order for conditions. The Tribunal should consider this information for guidance as to the seriousness and circumstances of the original breach or misconduct and the steps the Tribunal regards as being relevant in supporting an Application;
- evidence must be provided to establish any training undertaken by the applicant or that they have kept their legal knowledge up to date in their area of practice;
- evidence of any employment together with safeguards and supervision which have been put in place by the applicant's employer or alternatively a stringent oversight of the applicant's potential employment together with third party risk and personal management arrangements to be put in place by a prospective employer;
- evidence of genuine reformation of character of the applicant including evidence of insight into the nature and effects of the misconduct and steps taken by the applicant to ensure that the wrongdoing does not reoccur;
- The length of time since the order was imposed;
- whether there is any continuing risk to the public;
- the Tribunal considers that the public would not harbour concerns about the propriety of the applicant returning to unrestricted practice;
- evidence that the conditions have been complied with;
- if financial penalties were imposed, evidence that they have been discharged or attempts made by the applicant to discharge them;
- character references.
- the regulator's response to the Application.

12. Mr Miah confirmed that the SRA opposed the Application. It was submitted that the Application was premature, the Restriction Order only having been imposed in October 2024. If Mr Mathew was dissatisfied with the Tribunal's decision, the correct route was for him to have appealed the decision in the Administrative Court within

21 days from the written Judgment dated 13 January 2025. Had he considered that there was any merit in an appeal he would have done so, but instead, he had chosen to make an Application to the Tribunal to remove the conditions imposed, soon after they were imposed. The Tribunal properly applied its Guidance Note on Sanctions before imposing the restrictions..

13. Further, the SRA was not satisfied that Mr Mathew had provided sufficient evidence to illustrate that the restrictions were no longer necessary and appropriate. The Application was not supported by any change of circumstances or a significant passage of time which would justify the removal of the condition.

14. Mr Miah submitted that the main reason for the application was the negative effect on Mr Mathew's practice. However, the concern that the restriction might affect Mr Mathew's work as a solicitor with certain lenders and the commercial consequences that this might have did not outweigh the public interest and the need to safeguard members of the public and maintain the reputation of the profession, that the restriction provided. The Tribunal's Judgment in the matter was lengthy and it was quite apparent that the Tribunal considered all relevant facts applicable in the matter before it made the Order..

15. When considering sanction, the Tribunal had found that Mr Mathew had direct control and responsibility for the circumstances of the misconduct. He was an experienced solicitor at the time of the misconduct with over fifteen years of experience. At material times, he was a Director of the Firm and the person with significant control of the company. He also held the roles of COLP, COFA, MLRO and MLCO. The Tribunal assessed his culpability as high.

16. The Tribunal found that harm was caused to the reputation of the profession when there were persistent and long-running breaches of the SRA Account Rules, which were in place to ultimately protect the public. The Tribunal properly reasoned that the restrictions imposed were appropriate as well as necessary. Restrictions imposed by the Tribunal in this matter related to the concerns around the risks presented, harm to the reputation of the profession, for public protection and in the public interest. The sanction the Tribunal imposed in this matter was no more than necessary to achieve the purpose of imposing the sanction.

17. The Tribunal was also mindful of importance of the MCLO, and the seriousness attached to the functions of that role being discharged effectively and competently. The public would expect a solicitor to ensure their understating of the queries raised by the regulator and to carefully respond with accuracy when communicating with the regulation. Mr Mathew had failed to make proper checks and was reckless in allowing the risk of his regulator being misled by his responses.

18. The Tribunal imposed a Level 4 fine, having assessed Mr Mathew's misconduct as *"very serious"*. When considering sanction, the Tribunal commented that a Fine and Restriction Order adequately addressed the seriousness of the misconduct and the need to protect the public from any future harm and the reputation of the profession. The Tribunal, it was submitted, had properly assessed the seriousness of the misconduct, including aggravating features it identified in the course of the proceedings. Further, the Tribunal's judgment clearly indicated that it took into account mitigation proffered.

The Tribunal properly considered submissions on the restrictions it sought to impose prior to its imposition.

19. Mr Miah submitted that taking into the account the above factors, if the restriction was removed, the public would harbour serious concerns about the propriety of Mr Mathew returning to unrestricted practice.

20. The Tribunal was referred to paragraph 53.10 of the Judgment, where reasons were provided for imposing the Restriction Order. The Tribunal noted that the lender panel work was an important source of instructions for the Firm. However, its primary concern was that the Firm's clients receive a proper service with required regulatory protections in place. The underlying errors and breaches proved reflected firm wide issues. Mr Mathew had indicated that he did not appreciate the severity of the underlying circumstances until the SRA investigation commenced. These were all factors that demonstrated the need for a Restriction Order to ensure public protection and confidence in the profession. The Tribunal was under a duty to make Orders under section 47(2) of the Act which are seen to preserve the trust that the public is entitled to place in solicitors. It is a task that is not delegable to others save in exceptional circumstances. The restrictions imposed by the Tribunal independently exist in their own right by virtue of section 47(2) of the Act. They are distinct and separate to any conditions imposed on practising certificates, or requirements to be met set by statute or the SRA. Further, the SRA could only impose conditions on a yearly basis; the Tribunal's restrictions were indefinite and thus different to those that could be imposed by the SRA.

21. Mr Miah observed that Mr Mathew had not complied with the factors detailed in the Tribunal's Guidance Note on Other Powers in that:

- He had not provided any evidence of genuine reformation of character including evidence of insight into the nature and effects of the misconduct and steps taken to ensure that the wrongdoing did not reoccur;
- he had not provided any references to support his Application to remove the conditions
- he had not provided evidence of training undertaken since the imposition of the Order

22. With regard to the financial penalty imposed, this was being paid in accordance with the agreement reached between the parties. It was also acknowledged that Mr Mathew had complied with the conditions to date.

23. It was also accepted that permission must be obtained by the SRA to hold the roles of COLP, COFA, MLRO and MLCO, regardless of whether or not there were conditions in place. Nonetheless, the conditions acted as an additional safeguard to the public.

24. Mr Miah submitted, in all the circumstances, any variation or removal of the restriction would cause harm to the public and the reputation of the profession given the seriousness of the misconduct and the lack of remedial steps taken since the restriction was imposed.

25. Accordingly, the Application ought to be refused.

The Applicant's Reply

26. Mr Dunlop referred the Tribunal to Rule 18 of the Solicitors (Disciplinary Proceedings) Rules 2019 which stated:

> *"(1) This Rule applies to applications made to the Tribunal to vary or remove conditions on practice imposed by the Tribunal.*
>
> *(2) An application to which this Rule applies must be sent to the Tribunal and must be made using the prescribed form.*
>
> *(3) The application must be supported by a Statement setting out the facts and matters supporting the application and exhibiting any documents relied upon by the applicant.*
>
> *(4) The Society must be a respondent to any application to which this Rule applies".*

27. Rule 18 governed the process for an application to remove/vary restrictions. There was nothing in Rule 18 that suggested there was any condition or limitation on when an application to vary/remove could be made. The SRA's criticisms in that regard were incorrect. Further, whilst it was open to Mr Mathew to appeal the Tribunal's decision, it was also open to him to make this Application. An appeal was a route, but was not necessarily the correct or only route. Further, it was reasonable for Mr Matthew to see how the restriction order operated in practice.

28. The SRA's submission that the factors contained within the Tribunal's Guidance Note on Other Powers was applicable was incorrect. The Guidance Note dealt specifically and expressly with three applications namely (i) an application for the termination of a period of suspension; (ii) an application for restoration to the Roll; and (iii) an application for review/revocation of a Section 43 Order. The factors which the SRA submitted that Mr Mathew needed to demonstrate were applicable to applications for the termination of an indefinite suspension. Accordingly, the SRA's complaints that Mr Mathew had failed to demonstrate genuine reformation of character, had failed to provide references and had failed to evidence training, were incorrect in circumstances where Mr Mathew was under no such obligation to do so.

The Tribunal's Decision

29. The Tribunal noted that restricted practice will only be ordered if it is necessary to ensure the protection of the public and the reputation of the legal profession from future harm by a solicitor. Accordingly, when considering any application to remove or vary a restriction, the Tribunal will assess whether the restriction remains necessary for the protection of the public or the reputation of the profession. Whilst the factors contained in its Guidance Note on Other Powers might assist the Tribunal in that determination; it was not necessary for an Applicant to comply with those factors to demonstrate that the restriction was no longer necessary.

30. The Tribunal noted that there were no express reasons contained in the Judgment for the imposition of the restriction, although it could be inferred that it was to prevent Mr Mathew from undertaking any compliance roles in the future given the seriousness of his failings.

31. The Tribunal agreed that there was no time or other restriction in making an application pursuant to Rule 18. It also agreed that whilst Mr Mathew was entitled to appeal the decision of the Tribunal, he was also entitled to make the instant application. The Tribunal did not accept that an appeal of its decision was the *"correct"* route to take; it was an option that Mr Mathew was entitled to exercise if he so chose to do. In the event, he had not chosen to appeal the decision, but had instead exercised his right to apply to remove the restriction, a course that he was entitled to take.

32. The Tribunal agreed that the wording of the restriction, in requiring SRA permission for Mr Mathew to undertake any compliance roles, meant that it was otiose. It was agreed that Mr Mathew would, (whether there was a restriction in place or not) require the permission of the SRA to undertake any of the compliance roles in line with the already existing regulatory framework. Accordingly, the Tribunal agreed with the submission of Mr Dunlop KC that the wording of the restriction rendered it otiose.

33. Mr Dunlop KC had made reference to the *"unintended consequences"* of the Tribunal's Order. For the avoidance of doubt, those consequences were not a determining factor in the Tribunal's consideration. The determining factor was whether it remained necessary for the protection of the public and the reputation of the profession to retain the restriction. Having determined that the wording of the restriction rendered it otiose, the Tribunal found that the restriction was not necessary for the protection of the public or the reputation of the profession.

34. Accordingly, the Tribunal granted the application for the restriction to be removed.

Costs

35. The parties agreed costs in the sum of £2,399.00. The Tribunal determined those costs to be reasonable and proportionate and ordered Mr Mathew to pay costs in the agreed sum.

Statement of Full Order

36. The Tribunal Ordered that the application of FRANCIS MATHEW for the removal of the conditions imposed by the Tribunal on 9 October 2024 be GRANTED. The Tribunal further Ordered that the Applicant do pay the costs of the response of the Solicitors Regulation Authority Ltd to this application fixed in the agreed sum of £2,399.00.

Dated this 12th day of August 2025
On behalf of the Tribunal

A. Kellett

A Kellett
Chair