SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11690-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

LUKE STEPHEN VENTON — Respondent

Before:

Mr A. N. Spooner (in the chair)
Ms A. Horne
Mr R. Slack

Date of Hearing:

13 February 2018 and 26 September 2018

Appearances

Andrew Bullock barrister of Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant

The Respondent represented himself on 13 February 2018 and did not attend on 26 September 2018.

JUDGMENT

Allegations

1. The allegations against the Respondent made by the Applicant were set out in a Rule 5 Statement dated 18 July 2017. The allegations were that:-

1.1 By virtue of his convictions for (1) driving a motor vehicle after consuming alcohol and (2) being in possession of a controlled class B drug he acted in breach of Principles 1, 2 and 6 of the SRA Principles 2011 ("the Principles").

1.2 He failed to notify the SRA of the criminal convictions described in paragraph 1.1 above and therefore acted in breach of Principle 7 of the Principles and failed to achieve Outcome 10.3 of the SRA Code of Conduct 2011 ("SCC").

1.3 His behaviour in using offensive, inappropriate, insulting and threatening language in emails to:

1.3.1 the SRA, who was his Regulator in the period 19 November 2014 – 23 February 2016;

1.3.2 other solicitors from 29 December 2015 - 17 February 2016; and

1.3.3 third parties on 20 January 2016

was a breach of Principles 2, 6 and 7 of Principles.

2. The further allegations against the Respondent made by the Applicant were set out in a Rule 7 Statement dated 11 January 2018. The further allegations were that: -

Rule 7 – Allegation 1.1 - By virtue of his conviction on 24 August 2017 for having in his possession a fixed blade knife in a public place without good reason or lawful authority contrary to section 139(1) and (6) of the Criminal Justice Act 1988, he:

1.1.1 failed to uphold the rule of law and the proper administration of justice and therefore breached Principle 1 of the Principles; and/or

1.1.2 failed to act with integrity and therefore breached Principle 2 of the Principles; and/or

1.1.3 failed to behave in a way which maintains the trust the public places in him and in the provision of legal services and therefore breached Principle 6 of the Principles.

Documents

Applicant

- Application dated 19 July 2017 and Rule 5 Statement with exhibit 'KS1' dated 18 July 2017
- Rule 7 Statement with exhibit 'KS' dated 11 January 2018

- Schedules of Costs dated 19 July 2017, 11 January 2018, 12 February 2018 and 25 September 2018.

Respondent

- Respondent's email to Ms Sidhu dated 3 August 2017
- Respondent's email to Ms Sidhu dated 14 August 2017 commenting on the Rule 5 Statement.
- Respondent's CV
- Respondent's email to the Tribunal dated 26 September 2018

Factual Background

3. The Respondent was born in September 1979 and admitted to the Roll of Solicitors on 3 January 2012. As at the date of the commencement of the hearing, the Respondent's name remained upon the Roll of Solicitors. He did not hold a current Practising Certificate.

4. The Respondent undertook his training Contract with Everys from 1 October 2007 until 31 March 2009. At the conclusion of his Training Contact he made an Application to be admitted to the Roll of Solicitors in February 2009. The SRA refused admission to the Roll of Solicitors on the basis that the Respondent lacked the necessary character and suitability. The Respondent appealed this decision and the appeal was reported as Luke Venton v Solicitors Regulation Authority [2010] EWHC 1377 (Admin).

5. The background to the appeal was that, in March 2003, the Respondent applied to enrol as a student member of the Law Society. He had to fill out a form which required him to state, amongst other matters, whether he had ever been convicted of any offence in any court in the UK or elsewhere, other than motoring offences which do not result in disqualification. He said that he had not. He was also asked whether there were any other factors relating to his character and suitability which should be disclosed, and he said "no" to that as well. He signed the declaration which, inter alia, confirmed that he understood that he would have to notify the Law Society of any matter which could bring into question his character or suitability to become a solicitor, and in particular it specified that he should tell them of any conviction imposed after the time of the application.

6. The Court observed that the answer to the question about conviction which he gave was strictly accurate because he had not been convicted of any offence. However, he had received two cautions: one in 1997 when he was seventeen for disorderly behaviour; and one in 1998 when he was nineteen and he received a caution for making off without paying for a taxi. He did not disclose these as being potentially relevant to his character and suitability. On 21 October 2003, that was some six months after signing the form, he was convicted of driving a motor vehicle with excess alcohol and was disqualified for two years and fined £200. On 21 August 2005, he received a Police Penalty Notice for being drunk on a highway. He did not report either of these matters to the Law Society at the time.

7. In February 2009 he reached the end of his training contract and applied to be admitted as a solicitor. He had to fill out a form known as AD1, headed "Application for admission as a solicitor and for a practising certificate". Section 3 of the form needed to be completed by his training principal, Mr S. Mr S ticked the box stating that he was not aware of any issues bringing into question the appellant's character and suitability. This was accurate since he had not been told by the appellant of these various incidents, not even the conviction. The appellant did, however, at this stage declare the conviction and cautions.

8. In light of this information the Applicant was not satisfied that the Respondent was necessarily of the right character to be admitted. The Respondent applied for a review of this decision. In representations and as stated at paragraph 8 of the judgment, the Respondent confirmed that "he had been specifically asked to disclose convictions, but there was no question of a similar nature relating to cautions". The Respondent's appeal was rejected and at paragraph 27 Elias LJ stated:

> "Of greater concern here, however, as the Panel found, is the failure to disclose. There were the various opportunities to disclose which were not taken and which ought to have been. There is a need to be frank and open with regulatory authorities about these matters. In my judgement, the appellant has been less than frank with them by failing on four distinct occasions to disclose matters which he ought to have done. Furthermore, he sought to make excuses for not having done so, at least in all save one of those occasions, namely the failure to notify of the conviction."

9. The Court suggested the Respondent reflect on his actions and take steps to satisfy the Applicant that admission to the Roll of Solicitors would be appropriate in the future. Following a further application the Respondent was admitted to the Roll of Solicitors on 3 January 2012.

10. On 8 October 2014 an SRA Adjudicator decided that the Respondent had acted in breach of Principles 2, 6 and 7 of the Principles in that the content of a significant number of emails sent by the Respondent to the Applicant on 12 May 2014, 3 June and 4 June 2014 contained profanities which were offensive and inappropriate. The Adjudicator decided to make a disciplinary decision in relation to the Respondent, namely that he should receive a written rebuke, and to order him to pay a financial penalty of £500.

11. The Applicant was subsequently notified that the Respondent had been convicted of further criminal offences.

Witnesses

12. None on 13 February 2018 or 26 September 2018. The Respondent was advised by the Tribunal to consider whether or not he wished to give evidence or whether he wanted to limit what he said to submissions. If he gave evidence the Respondent was told that it would be open to the Applicant to cross-examine him. The Respondent chose not to give evidence.

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

Adjournment of the hearing on 13 February 2018

14. The Tribunal heard the Applicant's case and the Respondent's submissions. Having heard from the Respondent the Tribunal considered that it would be of assistance to the Tribunal in reaching its findings of fact, and any subsequent decision about sanction, if there was an independent assessment of the Respondent's mental health. The Tribunal considered this necessary in light of the Respondent's explanation of the medication programme he was following, and the beneficial effect of this programme, including causing his condition to resolve by evaporating through his skin. The issues that he had explained were complex, and an independent psychiatrist might be able to provide an explanation for the behaviour which led to the allegations that the Respondent was facing in these proceedings.

15. Mr Bullock, on behalf of the Applicant, could see why the Tribunal might be assisted by such an assessment, and did not oppose an adjournment for this to take place. Mr Bullock said that the Applicant would fund such an assessment in the first instance, but ultimately there would be an application for costs. He suggested that, given the location of solicitors specialising in this area of work, it might be helpful if the Respondent had twenty eight days to enable him to seek legal advice on the proposal.

16. The Respondent wanted to know the Tribunal's real reasons for wanting such an assessment. The Tribunal explained that it wanted to understand whether there were any health issues which might provide an explanation for the Respondent's conduct and any mitigation, in light of the medical background that the Respondent had explained on 13 February 2018.

17. The Respondent wished to take legal advice as to his position. He was clear that such an assessment could not take place without his consent. The Tribunal confirmed that this was the case, but hoped that the Respondent would participate in the assessment. The Respondent considered that fourteen days was sufficient for him to take legal advice and that he did not require any longer. On 13 February 2018 the Tribunal made a number of directions in respect of an independent psychiatrist's report. These directions were set out in a Memorandum dated 14 February 2018 which was sent to the parties together with the Tribunal's leaflet as to the Solicitors Assistance Scheme. The substantive hearing in this matter was adjourned part-heard.

Application to proceed in the Respondent's absence on 26 September 2018

18. The hearing resumed on 26 September 2018. Mr Bullock told the Tribunal that at the time the hearing had adjourned he had closed his case. The Respondent had decided not to co-operate with the preparation of a medical report, unless the Applicant paid a significant sum of money to secure his co-operation, which the Applicant had declined to do. The Respondent was well aware of the hearing date, and had said that he was

not going to attend the resumed hearing. Accordingly the Applicant applied to proceed in the Respondent's absence.

19. The Tribunal considered the application to proceed in absence. The Respondent was clearly aware of the hearing on 26 September 2018 and had chosen not to attend. The Respondent faced serious allegations and there was nothing to suggest that if the hearing did not proceed that the Respondent would attend on another date. It was in the public interest for the matter to be concluded and the Respondent had voluntarily absented himself. In those circumstances the Tribunal decided to proceed in the absence of the Respondent.

Findings of Fact and Law

20. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

21. **Allegation 1.1 - By virtue of his convictions for (1) driving a motor vehicle after consuming alcohol and (2) being in possession of a controlled class B drug he acted in breach of Principles 1, 2 and 6 of the Principles.**

The Applicant's Case

21.1 In Exeter Magistrates Court on 11 October 2014 the Respondent stood charged with two offences. The first was that contrary to Section 5(1) (a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 he drove a motor vehicle on a public place (a pub car park), after consuming so much alcohol that the proportion of it in his breath, namely 78 micrograms of alcohol in 100 millilitres of breath, exceeded the prescribed limit. The prescribed limit was 35 micrograms of alcohol in 100 millilitres of breath. The Respondent pleaded guilty to the offence and was disqualified from holding or obtaining a driving licence for 20 months. The Respondent was also ordered to pay a Fine of £460, a victim's surcharge of £46 and the Crown Prosecution Service's Costs of £85.

21.2 The second alleged offence was that contrary to section 5(2) of and schedule 4 to the Misuse of Drugs Act 1971 the Respondent had in his possession 1.5 grams of cannabis, a controlled drug of class B. The Respondent pleaded guilty and it was ordered that the drugs be forfeited under section 27 of the Misuse of Drugs Act 1971 and destroyed. The Respondent was also fined £330. The Applicant relied on the Memorandum of an Entry entered into the Register of the North and East Devon Magistrates Court LJA dated 4 November 2014, as proof of the Respondent's conviction for the offences.

21.3 By virtue of the above convictions the Respondent failed to uphold the rule of law and the proper administration of justice and he has also failed to act with integrity. The obligation upon a solicitor to uphold the rule of law required a solicitor to refrain from criminal behaviour in both their private and their professional life. To uphold the rule of law required a solicitor to abide by the law. A solicitor who failed to do so, and committed criminal offences, failed to display moral soundness, rectitude and steady adherence to an ethical code. Mr Bullock referred the Tribunal to the line of cases

starting with Hoodless and Blackwell v Financial Services Authority [2003] FSMT 007 and concluding with Newell-Austin v Solicitors Regulation Authority [2017] EWHC 411 (Admin) in respect of the definition of integrity that the Tribunal should apply.

21.4 Further, the Respondent had failed to behave in a way which maintained the trust the public placed in him and in the provision of legal services by virtue of the convictions detailed above. The public would be concerned to know that a solicitor had prohibited drugs in his possession whilst driving with a significant amount of alcohol in his blood stream. The conduct for which he was convicted was disreputable conduct. The public would expect a solicitor to abide by the law and to behave in a reputable manner.

21.5 Rule 15 of the Solicitors (Disciplinary Proceedings) Rules 2007 states:-

> "15.—(1) In any proceedings before the Tribunal which relate to the decision of another court or tribunal, the following rules shall apply if it is proved that the decision relates to the relevant party to the application. (2) A conviction for a criminal offence may be proved by the production of a certified copy of the certificate of conviction relating to the offence and proof of a conviction shall constitute evidence that the person in question was guilty of the offence. The findings of fact upon which that conviction was based shall be admissible as conclusive proof of those facts save in exceptional circumstances."

21.6 Mr Bullock submitted that the Memorandum of an Entry was the Magistrates' Court equivalent to a Certificate of Conviction and the Applicant put its case in the basis that it was not required to prove the underlying matters.

21.7 Mr Bullock submitted that the regulatory framework applied and that conduct outside of the office could amount to misconduct. The Principles were made by the SRA's Board as secondary legislation under the relevant primary legislation. The Principles were mandatory and applied to all solicitors. Part 2 of the Principles set out the application provisions and state:

> "5. Application of the SRA Principles outside practice
> 5.1 In relation to activities which fall outside practice, whether undertaken as a lawyer or in some other business or private capacity, Principles 1, 2 and 6 apply to you if you are a solicitor, REL or RFL."

21.8 The Respondent was a solicitor at the relevant time and required to comply with Principles 1, 2 and 6 in his private life as well as his practice as a solicitor.

The Respondent's Case

21.9 The Respondent had previously stated that he believed that the conviction for drink driving was unsafe and that the conviction for cannabis was safe. He admitted the allegation. At the hearing on 13 February 2018 the Respondent confirmed that the admission included the alleged breaches of the Principles.

21.10 The Respondent told the Tribunal that what else he had to say depended on the Tribunal's knowledge of policing and legal practice in Exmouth. The Tribunal informed the Respondent that he should assume that it had no such knowledge. The

Respondent's initial response was to say that if that was the case he would not bother, and would not say anything. He believed that the Law Society and SRA had plenty of knowledge of the current and previous policing and legal practice in Exmouth, and he did not know why this had not been presented. It all stemmed from those practices. The Respondent did not propose to go into in any detail for a number of reasons. He thought that there was knowledge that was not being used in the Tribunal, but did not want to go into it, and said that was where he would leave it. It was stressed to the Respondent that it was his decision whether or not to tell the Tribunal about it.

21.11 The Respondent repeated that he believed that the SRA and Law Society had knowledge, and that the Tribunal should know the current position in respect of policing and legal practice in Exmouth. The Chairman explained that the Tribunal was independent of the Law Society and SRA and looked at both sides on a fair, independent and impartial basis. The Respondent could not assume that the Tribunal had any knowledge as it was not part of its job to know that.

21.12 The Respondent explained that he was not really prepared for it, it was quite complicated. He had been in the town for ten years and had picked up quite a bit of local knowledge. There were unauthorised practice areas that continued down there, it was not his problem, and the police were involved. The Respondent did not think that anything he said would change much, if anything, that was happening on the ground in Exmouth and he would just admit the allegations. There was no relevant background that he wanted to tell the Tribunal about in respect of allegation 1.1 – it was a mistake of judgement.

The Tribunal's Findings

21.13 The Respondent had been convicted of driving after consuming alcohol and possession of a controlled Class B drug. The certificate of conviction was before the Tribunal and under Rule 15(1) of the SDPR the Tribunal this was admissible as conclusive proof of those facts and there were no exceptional circumstances. The allegation was factually made out. In being convicted of these criminal offences the Respondent had failed to uphold the rule of law and the administration of justice. He had failed to maintain the trust that the public placed in him and in the provision of legal services. A member of the public does not expect their solicitor to be convicted of any offence let alone offences involving drugs and driving after consuming alcohol. The Respondent had committed criminal offences and the Tribunal found that objectively in doing so he had failed to display moral soundness, rectitude and steady adherence to an ethical code. Accordingly the Tribunal was sure beyond reasonable doubt that the Respondent had breached Principles 1, 2 and 6 of the Principles. Allegation 1.1 was proved.

22. **Allegation 1.2 - He failed to notify the SRA of the criminal convictions described in paragraph 1.1 above and therefore acted in breach of Principle 7 of the Principles and failed to achieve Outcome 10.3 of the SCC.**

The Applicant's Case

22.1 The Applicant was notified of the convictions described at Allegation 1.1 above by a third party. At the time of the convictions the Respondent held a practising certificate free from conditions and was employed as a solicitor at Humphreys & Co. In June 2015

the Respondent ceased to work for Humphreys and had not worked as a solicitor since November 2015.

22.2 The Respondent should have been aware of his obligation to notify the Applicant of criminal convictions because of the statement made by Elias L.J on that topic in Luke Stephen Venton v Solicitors Regulation Authority [2010] EWHC 1377 (Admin) at paragraph 27 of the Judgment. In any case, the Respondent had previously confirmed that he was aware of the importance of disclosing convictions to the Applicant.

22.3 By failing to notify the Applicant of his convictions the Respondent had failed to comply with his legal and regulatory obligations to deal with his Regulator in an open, timely and co-operative manner in breach of Principle 7. The Respondent was under an obligation to report those convictions to the Applicant by virtue of Outcome 10.3 which requires of a solicitor that "you notify the SRA promptly of any material changes to relevant information about you including serious financial difficulty, action taken against you by another regulator and serious failure to comply with or achieve the Principles, rules, outcomes and other requirements of the Handbook." The Applicant was placed in a position whereby it was unable to manage the risk which the Respondent's convictions might pose to the public and the reputation of the profession. The duty of solicitors to be open and co-operative with their Regulator, the SRA, was integral to the regulatory function of the Applicant. This was emphasised to the Respondent by Lord Justice Elias. Despite that the Respondent did not notify the Applicant of his convictions.

22.4 On 25 April 2016, the Respondent was asked to consider the allegation around his convictions. In his response dated 29 and 30 April 2016 the Respondent stated "Thanks for your letter. Many apologises, I should have reported matters to you - my mistake." Followed by, "many apologies! I just got back from the pub when I sent that! Bye - have a nice life".

22.5 The Tribunal sought clarification from Mr Bullock as to the reference to the previous proceedings relating to the Respondent's admission as a solicitor. Mr Bullock clarified that this was being referred to emphasise that the Respondent was well aware of his obligation to inform the Regulator about his convictions and that this was something to which he should have been particularly alert given Lord Justice Elias' comments. Lord Justice Elias was very clear that important matters should have been brought to the attention of the SRA as Regulator as set out in paragraph 27 [at paragraph 8 above]. At paragraphs 28 and 29 he stated:-

> "**[28]** His explanations, it has to be said, have not been particularly attractive. At one stage he blamed the lack of professional training. He suggested that the cautions were immaterial, that they ought not to have been disclosed and they did not bear on his character or suitability. He seems to have sought to diminish and minimise the significance of the criminal offending. He has taken a very legalistic view about the failure properly to answer the question in the AD1 form equating the receipt by the SRA from the CRB as a previous disclosure by him. He has sought to stand on his legal rights when explaining why he had not told his principal of his record.

[29] Bearing in mind these matters, and bearing in mind also that the onus is on him to discharge the burden of showing to a high standard that he is suitable to be a solicitor and has the appropriate character, I think the Panel were justified to find that, at this stage, he has not established that."

The Respondent's Case

22.6 The Respondent admitted the allegation. At the hearing on 13 February 2018 the Respondent confirmed that the admission included the alleged breaches of the Principles. The Respondent was asked by the Tribunal whether there was anything else he wanted to say and he said "no".

The Tribunal's Findings

22.7 The Respondent had admitted the allegation. In light of the Judgment of Lord Justice Elias the Respondent could have been in no doubt that he needed to inform the Applicant of his criminal convictions. By failing to notify the Applicant of his convictions the Respondent had failed to comply with his legal and regulatory obligations to deal with his Regulator in an open, timely and co-operative manner in breach of Principle 7. The Respondent was under an obligation to report those convictions to the Applicant by virtue of Outcome 10.3 but had not done so and had therefore not achieved Outcome 10.3. The Tribunal found that allegation 1.2 was proved beyond reasonable doubt.

23. **Allegation 1.3 - His behaviour in using offensive, inappropriate, insulting and threatening language in emails to:**

1.3.1 the SRA, who was his Regulator in the period 19 November 2014-23 February 2016;

1.3.2 other solicitors from 29 December 2015 - 17 February 2016; and

1.3.3 third parties on 20 January 2016

was a breach of Principles 2, 6 and 7 of the Principles.

The Applicant's Case

Emails to SRA

23.1 On 19 November 2014 the Applicant's supervision department sent the Respondent an email notifying him of the disciplinary decision made by the Adjudicator on 8 October 2014. This informed the Respondent that he had been subject to a rebuke and order to pay a financial penalty of £500 and a charge of £600. In response the Respondent wrote: "One for you David - and you can stick your adjudication invoice up you're a**e you f*****g w****r - Regards Luke".

23.2 On 20 November 2014, the SRA wrote "Dear Mr Venton, I refer to your recent email. The contents of your e-mail repeats the type of language and views expressed by you in the emails which formed the subject of the Adjudicator's decision dated

8 October 2014. You may wish to bear in mind that the continued expression by you of such language and views may result in a further consideration of your professional conduct."

23.3 On 10 December 2014, the Respondent again emailed the SRA Supervisor and stated "Here's another one for you, you f*****g bent c**t(s). The SRA will never regulate me and that is it. If you send me the Adjudication Invoice it will be binned like the rest of the paperwork and not even read. F*****g w****r – f**k off! Regards Luke".

23.4 The Applicant wrote to the Respondent on 12 January 2015 to inform him that Applicant considered his conduct between 19 November and 10 December 2015 amounted to breaches of Principles 2, 6 and 7 and requested his comments on this. In an email dated 12 January 2015 the Respondent stated "I do not care. I am not regulated by the SRA. If you want contact you do it through Court Orders. It will go in the bin together with other correspondence. Regards Luke".

23.5 The Applicant considered this information and notified the Respondent on 13 February 2015 that "After careful consideration it has been decided that on this occasion the SRA will take no further action in respect of the issues raised in my letter. However, if you demonstrate the same or similar behaviour in future then this position may be revisited."

23.6 Between 29 December 2015 and 18 February 2016 the Respondent sent further abusive and offensive emails to the Applicant which were either addressed to the SRA itself or which were addressed to other solicitors and third parties with the SRA being copied into the correspondence. The Applicant relied upon the contents of each of those emails in support of the allegation and these emails were read to the Tribunal.

23.7 On 24 January 2016 the Respondent emailed the Applicant (copied to a solicitor who had previously acted for him in an unrelated matter) and referred to having received a Police Information Notice as Everys were feeling harassed by him. Mr Bullock submitted that the significance of this email was not so much what it actually said but what it might tell the Tribunal about the Respondent's motive for sending the previous emails set out above. In Mr Bullock's submission this email demonstrated coercive intention. It also showed that Everys were taking the matter seriously and had involved the police. The email suggested that the firm owed the Respondent money and he was trying to make them pay.

23.8 On 18 February 2016 the Respondent emailed the Applicant in an email with the subject line "I have a little confession..." and said "I called [JA] a f*****g robbing c**t! professionally that is where I ended up with him..." Mr JA was a partner at Trowers and Hamlin.

23.9 The Applicant re-opened its investigation and the Supervisor again wrote to the Respondent on 23 February 2016 and notified him that it was alleged that his behaviour in the use of offensive, inappropriate, insulting and threatening language in emails amounted to a breach of Principles 2, 6 and 7 of the Principles. In response to this in an email dated 23 February 2016, the Respondent stated "Dear Mr Clare I read your letter, and f**k off you c**t! Regards Luke". He also emailed the supervisor and said "If you wanted to change tack on things and buy me out of the profession for life

through negotiation, I would consider that offer and sign the forms. I understand quantum to an extent, plus I am not greedy..."

Emails to other solicitors

23.10 Further examples of emails to other solicitors in which the Respondent had addressed the recipient in similar abusive language, and which the Applicant relied upon in support of the allegation were contained in the bundle of documents before the Tribunal.

23.11 On 29 December 2015 the Respondent emailed Mr JH at Everys and copied the email to the Applicant. That email stated "You dirty stinking c**ts (just thought I would send you my annual email as usual). Regards…". He also emailed Mr RH at Humphreys & Co on the same date and in the same terms. This email was copied to the Applicant. On 13 January 2016 the Respondent emailed Mr JH and a Mr RD (also at Everys), copied to the Applicant, in an email with the subject line "by the way" and stated "You and your lot are out right f*****g criminals – absolute disgrace to the human race, and you [obscured by hole punch] of s**t. Don't ever cross my path. You lot are too old. Regards Luke"

23.12 On 21 January 2016 the Respondent emailed Mr JH and a Mr RD, copied to the Applicant, in an email with the subject line "Fleur So sorry to hear that your houses were burnt down..." and said "Hopefully there will be some evidence hey..regards Luke". A few minutes later he emailed the same recipients in an email with the same subject line, forwarding the earlier email and said "ps how's that dirty stinking c**t called [K] in your firm doing. I heard she had an accident out Woodbury way." On the same day he sent a further email which stated "...s****y [I] and t**t [D] out in Exton can do what they breach (sic)…bit late for that though...6 f*****g dirty stinking losers...who prey on the vulnerable in society. F*****g disgrace...".

23.13 On 22 January 2016 he emailed Mr JH and Mr RD (copied to the Applicant) in an email with the subject line "major claim" and said " I have a major claim against you 6 sick c**ts, namely [1. RD, 2 JH, 3 CD, 4 MI, 5 KS and 6 SI] If I do not receive an email by close of business tomorrow regarding the settlement, I will start spending my time visiting each of your properties based in Exmouth, Exton and Woodbury costing you the money you have cost me. Regards…" At the time it was sent five of the six individuals were partners or consultants at the firm and the sixth was an associate.

23.14 On 17 February 2016 he emailed Mr JA and in that email referred to Mr JA being "a greedy robbing f*****g c**t." That email was also copied to the Applicant. On the same date he emailed Mr JH (copied to the Applicant) and said "You still backing up and raping a bunch of smack heads and their families? You dirty stinking c**t! lol".

Emails to third parties

23.15 On 20 January 2016 the Respondent sent an email to "[S]@cathedralappointments.co.uk" (which he copied to the Applicant) which read as follows: "F**k off you fat b***h! Get your pennies from someone else. I have left legal practise. Regards Luke"

23.16 The sending of abusive and unpleasant and threatening emails of the extent and kind sent by the Respondent to a number of recipients over this period fell so far outside of the standards of reasonable behaviour as to amount to a failure to abide by a steady, ethical code. By sending emails of this nature the Respondent had failed to act with integrity in breach of Principle 2 of the Principles in that he continued to act in a manner which was offensive, inappropriate, insulting and threatening despite extensive warning that this behaviour was not appropriate and amounted to a breach of the rules of conduct governing the solicitors' profession. A solicitor of integrity did not knowingly breach those rules.

23.17 The Respondent's continued inappropriate behaviour damaged the trust the public placed in him as a solicitor and in the provision of legal services in breach of Principle 6 of the Principles. The public would be shocked to know that a solicitor had the propensity to send emails to his Regulator, fellow members of the profession and third parties which contained profanities and abusive language.

23.18 The Respondent's conduct went beyond his private life. The emails copied to the Applicant were being sent by the Respondent to his Regulator. The Respondent was a professional regulated by the Applicant and the emails had to be seen in this context. As the Respondent was a solicitor to that extent the emails were sent in the course of his professional life; even if not as part of his working life. The Tribunal asked whether the Respondent might say that he copied the Applicant in to self-report and that in those circumstances the emails were sent in a private not a professional capacity. Mr Bullock did not accept this proposition. The fact that the emails were all seen by the Applicant as Regulator meant that they were sent in a professional if not work capacity. It was not an answer to the alleged breaches of Principles 2 and 6 and the requirement to co-operate with the Regulator to say it was self-reporting. A solicitor should not be sending foul, abusive and threatening emails to anybody. The context was not that the Respondent had done something wrong in a moment of madness. Here the Respondent had drawn the Regulator into the abuse at the moment it was committed. The fact that the emails may have been sent in a "hybrid" capacity may or may not be material when it came to penalty. However, this did not matter for the purposes of the Applicant's case as Principles 1, 2 and 6 applied to the solicitor's personal and professional life.

23.19 The Respondent's refusal to accept that he was subject to regulation by the Applicant demonstrated a breach of Principle 7 which required him to deal with his Regulator in an open and co-operative manner. A failure to comply with this requirement seriously undermined the Applicant's ability to regulate in the public interest.

23.20 On 9 June 2016 and 5 January 2017 the Applicant wrote to the Respondent and asked if there were any health concerns which the SRA should be aware of which may cause the Respondent to behave in this manner or which caused him difficulty in engaging with the Applicant. Mr RH had suggested that the Respondent may display signs of autistic behaviour and there was a suggestion that the Respondent may have a problem with alcohol. In a response dated 9 January 2017 the Respondent stated "Mental health is mild to moderate depression treated with medication since 17 years of age". When asked for further details of his medical condition the Respondent stated "My Medical Record is Private and Confidential Information I believe." The Respondent had not produced any medical evidence to demonstrate that that was indeed the case.

The Respondent's Case

23.21 The Respondent admitted the allegation. At the hearing on 13 February 2018 the Respondent confirmed that the admission included the alleged breaches of the Principles.

23.22 In respect of his personal circumstances the Respondent was asked whether there was anything he wanted to tell the Tribunal about. He said that he was quite happy with the way he had presented his case, if the Tribunal had no knowledge of the matters that caused these allegations he could not really see it going forward. He did not know if the SRA had made any enquiries with the solicitors he had emailed.

23.23 Mr Bullock did not know the answer. He told the Tribunal that SRA investigations were undertaken on a confidential basis so he would not necessarily be able to answer the question even if he had the information. There was nothing in the papers before the Tribunal, as far as he could see, as to the issues raised by the Respondent. The issues in respect of the SRA and police involvement with other solicitors in the Exmouth area had not been flagged before now.

23.24 The Respondent told the Tribunal that if it did not have knowledge he was not going to spend time explaining the situation. There were a number of solicitors down there who gave advice, he would not say it was good advice. In the Respondent's view the current solicitors were looking to the next generation to take over - if the Tribunal was not concerned the Respondent was not concerned. As far as he was concerned it was a police matter. The Respondent would not be adding any contribution to Exmouth legal practice going forward.

23.25 The Respondent was trying to move from the area. He had got a training contract with Everys solicitors and this had got him in with the wrong crowd, as in there was a wrong crowd in the profession. He had made friends with the wrong crowd in the town. Solicitors and other professionals were involved for money, a benefits scam perhaps and for medication. It all stemmed from a number of solicitors being in with the wrong crowd and giving not good advice, in the medication programme. There was a medication programme in town as there was in most towns and cities these days. This was medication issued by doctors. There were lots of people on medication, it was part of "town life"- this included solicitors. There were solicitors running unauthorised practice areas. It was done for money as it was very difficult to earn a living in legal practice. It was done in the name of law but was not lawful. That was what had come to a head in Exmouth, people did not realise it was not lawful. It was presented to them as if it was a lawful practice area. There was another side in that they had a say in people's benefits and what they were entitled to and things like that. It was a benefits fiddle between a number of solicitors and the wrong crowd. It was like a yo-yo. People got away with it, then it got cleaned up a bit; then it got a bit more corrupt. The law's name was being used in certain circumstances.

23.26 The Respondent had gone into a "likeability" programme – he did not really like it. When asked to explain what this was he told the Tribunal it depended how much it knew about town life, there had been a benefits fiddle going on for a number of years in the law's name. Due to the issues he had raised the town had been cleaned up quite a lot. The Respondent did not know how the Regulator could take lawful decisions on

his conduct without this knowledge. The police were involved- there was a lawful and unlawful side to the police and this was what caused the problems. The Respondent could not believe that the SRA and Law Society did not have any knowledge as to current policing or legal practice issues in Exmouth.

23.27 The Respondent had taken medication for mild and moderate depression which had been rectified. The medication was issued by his doctor. The Respondent had taken the same medication for a number of years. It had made him feel worse. More recently it had worked. He felt better and laid off the medication. He still took medication, it was a "pepping" up process. He knew it had worked through talking to his mental health nurse who was someone he knew socially. It was lucky he had managed to reverse the illness. He got his medication through the medication programme. He had not seen his GP since he was seventeen. His medication was on repeat prescription.

23.28 The Respondent had not consulted his GP about the hearing. He admitted that he had sent the emails. He had been clear of depression since 2015. He was in the medication programme. In Exmouth it was not done well, it was not done the same in a town as it was in a city. The medication programme led to likeability; that was the way the Respondent looked at it. The medication came from doctors, or in some cases the internet, or in some surgeries the powers were delegated to staff. The medication programme was just in town, it was people living in town who were on medication. It was a bit like a mental health club. It was not talked about. People were not ill as they were on medication.

23.29 The Respondent was asked who ran the medication programme and responded that it did not really work that way, it was watched by doctors and lawyers who were on medication as well and were in the same camp. He did not use the medication as much as he used to. In some ways he had dropped out of the medication programme.

23.30 The Respondent said that he had copied the emails to the Applicant as he felt the issues needed to be reported. It was never investigated. The Respondent was asked whether he was sending them to the Applicant to draw its attention to other problems in Exmouth. He believed that the SRA/Law Society were well aware of what was going on in Exmouth and had been for years.

23.31 The Respondent was asked whether he was sending those emails to the Applicant so that they saw his profanities or was he sending them to them in the context of the Respondent telling the SRA about what was going on in Exmouth. He responded that he did not really think about it in that much detail. He thought that if he sent that type of email to solicitors it would be reported to the SRA anyway so he might just as well have done it anyway. A solicitor of his generation would see it that way. The Respondent was asked if he was getting ahead of the recipients, he was asked whether he thought that they would send it to the SRA so he would do it before they did. He responded "yeah". The SRA had never once investigated any of his emails in his way, it was always within their way which was like the way the case had been presented. He could hardly believe that they had no knowledge on the matter particularly with the police presence, police's involvement down there.

23.32 Mr Bullock had reviewed the Applicant's correspondence file and said that reference had been made to the SRA investigating matters in the Exmouth area. There was, between the 18 and 23 January 2018, a chain of correspondence. Ms Sidhu, who had day to day conduct of the matter, had sent the Certificate of Readiness to the Respondent on 18 January 2018. The Respondent responded on 22 January 2018 noting that his reasons for sending the emails, which he had not specified, had not made the paperwork for the hearing. On the same day Ms Sidhu replied asking the Respondent to let her know which documents were missing. The response the following day was "clean-up your own mess and the level below you are trying to make out you have no knowledge of the local solicitors in Exmouth". Mr Bullock made the point that the SRA had given the Respondent the opportunity to put in any documentation he wanted on this particular issue.

The Tribunal's Findings

23.33 The Tribunal noted that the Rule 5 Statement relied on emails outside of the specified date ranges in respect of the emails sent to the other solicitors. The Tribunal placed no reliance on these emails when reaching its findings.

23.34 The Tribunal found that the contents of the emails was offensive, insulting and threatening. Such emails had been sent to the Applicant (as the Respondent's regulator), other solicitors and third parties. The content of these emails was such that when viewed objectively the Respondent had clearly breached Principle 6. No member of the public would expect a solicitor to send such emails whether in a personal or professional capacity. In doing so the Respondent had not behaved in a way that maintained the trust the public placed in him and in the provision of legal services. Nor had he complied with his legal and regulatory obligations. He had not dealt with his regulator in an open, timely and co-operative manner. The Respondent's conduct was in breach of Principles 6 and 7. By behaving in this way the Respondent had failed to display moral soundness, rectitude and steady adherence to an ethical code in breach of Principle 2. When reaching this finding the Tribunal was mindful that this was an objective test on the evidence before it. Allegation 1.3 was proved beyond reasonable doubt.

24. **Rule 7 – Allegation 1.1 - By virtue of his conviction on 24 August 2017 for having in his possession a fixed blade knife in a public place without good reason or lawful authority contrary to section 139(1) and (6) of the Criminal Justice Act 1988, he:**

1.1.1 failed to uphold the rule of law and the proper administration of justice and therefore breached Principle 1 of the Principles; and/or

1.1.2 failed to act with integrity and therefore breached Principle 2 of the Principles; and/or

1.1.3 failed to behave in a way which maintains the trust the public places in him and in the provision of legal services and therefore breached Principle 6 of the Principles.

The Applicant's Case

24.1 In Exeter Magistrates Court on 24 August 2017 the Respondent was convicted following a Guilty Plea to a charge that on 31 May 2017 at Exmouth in the county of Devon he had with him, without good reason or lawful authority, in a public place an article which had a blade or was sharply pointed, namely a fixed bladed knife, contrary to section 139(1) and (6) of the Criminal Justice Act 1988.

24.2 The matter was committed to Exeter Crown Court for sentence (Section 3 Powers of Criminal Courts (Sentencing) Act 2000). On 21 September 2017 His Honour Judge Mercer QC, sentenced the Respondent to a Community Order for a period of 12 months with a requirement to carry out 120 hours' unpaid work.

24.3 By virtue of the above conviction the Respondent failed to uphold the rule of law and the proper administration of justice in breach of Principle 1. He had also failed to act with integrity in breach of Principle 2. The obligation upon a solicitor to uphold the rule of law required them to refrain from criminal behaviour in both their private and professional life. The conviction detailed above was evidence of the Respondent's failure to adhere to an ethical code as required of solicitors.

24.4 Further, by possessing a knife in a public place the Respondent failed to behave in a way which maintained the trust the public placed in him and in the provision of legal services, in breach of Principle 6. Members of the public would not expect a solicitor to be convicted of possession of a knife in a public place, and by virtue of this conviction trust in the Respondent and in the provision of legal services was undermined.

24.5 The Applicant relied on the Memorandum of an Entry entered in the Register of the North and East Devon Magistrates' Court LJA dated 24 August 2017 as proof of the Respondent's conviction for the offences. The Applicant relied on the Judge's Sentencing Remarks as conclusive proof of sentence.

The Respondent's Case

24.6 The Respondent admitted the allegation. At the hearing on 13 February 2018 the Respondent confirmed that the admission included the alleged breaches of the Principles.

24.7 The Respondent had been moving between two properties, he was moving the knife (together with a number of items) to his new property. He had not gone from "A" to "B" but had gone via town and the pub. As part of the move he had had to move the knife. He had tried to explain this to the Judge but the Judge was not interested. The Respondent had been in the pub. The knife had been in his pocket but was digging in, so he got it out of his pocket and was playing with it. Somebody told the bar staff who called the police. The knife was a six inch fishing knife that his father had given him. The Respondent accepted that he was at fault as he pulled it out. He had done so without really thinking about it. He could not see how he could have moved the knife from one place to another without crossing public land or being in a public place. The Respondent had thought about getting legal representation in the criminal proceedings but had decided to plead guilty and take his punishment. The Judge had asked him whether he was guilty or not guilty and he had said guilty. The Judge did not really go into any

detail on the law. The Respondent was arguing that he had good reason or lawful authority

The Tribunal's Findings

24.8 The Respondent had been convicted for having in his possession a fixed bladed knife in a public place without good reason or lawful authority contrary to section 139 (1) and (6) of the Criminal Justice Act 1988. He had pleaded guilty to this offence. The certificate of conviction was before the Tribunal and under Rule 15(1) of the SDPR the Tribunal this was admissible as conclusive proof of those facts and there were no exceptional circumstances. The allegation was factually made out.

24.9 In being convicted of this offence the Respondent had failed to uphold the rule of law and the administration of justice. He had failed to maintain the trust that the public placed in him and in the provision of legal services. A member of the public does not expect their solicitor to be convicted of any offence, let alone an offence of having a fixed bladed knife in a public place without good reason or lawful authority. The Respondent had committed this criminal offence and the Tribunal found that in doing so he had failed to objectively display moral soundness, rectitude and steady adherence to an ethical code. Accordingly the Tribunal was sure beyond reasonable doubt that the Respondent had breached Principles 1, 2 and 6 of the Principles. Allegation 1.1 of the Rule 7 Statement was proved.

Previous Disciplinary Matters

25. None.

Mitigation

26. The Respondent said he was in receipt of universal credit, he had not worked for two years in law. He had to "sign on" every two weeks and had rent for housing and allowance for food etc. He needed to seek work to claim the benefit. He had been trying to get work. He lived in a shared house with a landlady and two other lodgers.

Sanction

27. The Tribunal referred to its Guidance Note on Sanctions (Fifth Edition) when considering sanction.

28. The Tribunal assessed the seriousness of the matter. Given the lack of medical evidence and the fact that the Respondent had not attended the hearing on 26 September 2018 the Tribunal approached this exercise with reference to the information before it and in light of its own assessment of the Respondent on 13 February 2018. The Tribunal on that day had had sufficient concern for the hearing to be adjourned in order for medical evidence to be obtained. However the Respondent had not co-operated with the proposed assessment and so there was no specialist medical evidence to assist the Tribunal.

29. The Respondent had substantial culpability for the misconduct. He had been convicted of three criminal offences between 2014 and 2017 and he had sent unacceptable correspondence over a period of some months. The Respondent's motivation for the misconduct was not clear to the Tribunal and the conduct resulting in the convictions did not appear to be planned. However the unacceptable correspondence appeared to be more planned than spontaneous. Absent any medical evidence suggesting the contrary, the Tribunal concluded that the Respondent had direct control of and responsibility for the circumstances giving rise to the misconduct. He had acted in breach of a position of trust. Given the proceedings in relation to the Respondent's admission to the Roll of Solicitors he should have known that he needed to tell the Applicant about his conviction. A solicitor of any experience would know that he should not send such correspondence or be convicted of criminal offences. The Respondent had not deliberately misled the regulator.

30. The Respondent had caused harm to the recipients of the unacceptable correspondence. He had caused sufficient alarm in respect of the knife for the police to be called and for the Respondent to be convicted of a criminal offence in relation to his actions in the pub. There had been a direct impact of the Respondent's misconduct on those directly affected by these actions. There had also been harm to the reputation of the legal profession. No solicitor should act as the Respondent had and, given the breadth of his misconduct, the harm to the reputation of the profession was significant. The Tribunal did not have the evidence to determine whether or not the Respondent intended the harm caused, but it was harm that might reasonably have been foreseen to be caused by his misconduct.

31. The misconduct had involved criminal offences and, in respect of the unacceptable correspondence, it was repeated and continued over a period of time. The Respondent ought to have known that the conduct complained of was in material breach of his obligations to protect the public and the reputation of the legal profession. The extent of the impact on those affected by the misconduct was quite serious in terms of the people who had received the threatening emails, and who had witnessed the incident in the pub. These were all aggravating factors.

32. The Respondent had made some admissions at an early stage. He could not have been said to have co-operated with the Applicant. His engagement with the Applicant was equivocal. This was the only potential mitigating feature that the Tribunal could identify.

33. Having determined the seriousness of the misconduct as significant the Tribunal assessed which sanction to impose starting with No Order. The Tribunal did not consider that No Order, a Reprimand or Fine reflected the seriousness of the misconduct. A Restriction Order was not appropriate, it would not deter the Respondent from behaving in the same way in future.

34. The need to protect the reputation of the profession from future harm by the Respondent was such that a fixed term suspension was insufficient. The Tribunal considered whether an indefinite suspension was the appropriate sanction. However given the seriousness of the misconduct, and lack of any evidence as to whether a medical condition might have been a contributory cause, either in part or whole, the Tribunal did not consider this an appropriate sanction.

35. The Tribunal determined that the seriousness of the misconduct was at the highest level such that a lesser sanction than Strike-Off was inappropriate, and that the protection of the public and the reputation of the legal profession required the Respondent's name to be removed from the Roll of Solicitors. There was no evidence before the Tribunal that allowed it to conclude that this sanction should be reduced either due to exceptional circumstances or because the misconduct arose at a time when the Respondent was affected by physical or mental ill-health that affected his ability to conduct himself to the standards of a reasonable solicitor.

36. If at any time the Respondent applied for his name to be restored to the Roll of Solicitors this Division of the Tribunal, whilst mindful it could not bind a future Division, considered that any such application should be supported by medical evidence.

Costs

37. The Applicant applied for its costs in the sum of £9,176.13 as set out in a costs schedule dated 25 September 2018. Mr Bullock acknowledged that this figure needed to be reduced by £910 in respect of the February hearing as it had only lasted one day and not two as estimated in the previous costs schedule. His time for preparation for and attendance at the hearing on 26 September 2018 also needed to be reduced as preparation was limited and the hearing had not lasted all day.

38. The Respondent had emailed the Applicant and Tribunal on 26 September 2018 in response to receiving the schedule of costs. He stated: "I wouldn't pay the SRA a penny, in any circumstance. Plus I have debts and you are not top of the list." The Respondent had not produced any financial information.

39. The Tribunal had heard the matter over two days. It had found all of the allegations proved. The Tribunal decided that the Respondent should pay the Applicant's costs. The Tribunal proceeded to summarily assess the costs. Having made the deductions identified by Mr Bullock the Tribunal reached the sum of £7,176 and rounded this down to £7,000.

40. The Tribunal then considered whether or not these costs should not be enforced without the leave of the Tribunal. There was no application by either party for such an order. The Tribunal decided that the enforcement of the costs order was a matter for the Applicant's discretion. The Tribunal ordered that the Respondent pay the costs of and incidental to this application and enquiry fixed in the sum of £7,000.

Statement of Full Order

41. The Tribunal Ordered that the Respondent, LUKE STEPHEN VENTON, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,000.00.

Dated this 9th day of November 2018
On behalf of the Tribunal

A. N. Spooner
Chairman