



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

Case reference: PC 2021/7516/D3

Stephen Sweeney

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Inner Temple

### Disciplinary Tribunal

#### Stephen Sweeney

In accordance with an appointment made by the President of the Council of the Inns of Court in a Convening Order dated the 28<sup>th</sup> March 2023 I sat as a Disciplinary Tribunal on the 24th April to hear and determine two charges of professional misconduct contrary to the BSB Handbook against Stephen Sweeney, barrister of the Honourable Society of the Inner Temple.

#### Panel Members

1. The other members of the Tribunal were:  
Isabelle Watson [Barrister Member]  
Ian Arundale [Lay Member]

#### Charges

2. The following charges were admitted / found proven.

##### Charge 1

##### Statement of Offence

Professional Misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition).

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## Particulars of Offence

Stephen Sweeney, a practising barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession in that, on 26 September, he drove a motor vehicle on a road after consuming so much alcohol that the proportion of it in his breath, namely 85 microgrammes of alcohol per 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath, for which he was convicted of an offence contrary to section 5(1) (a) Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Willesden Magistrates' Court on 11th October 2021. As a result of the conviction, Mr Sweeney was sentenced to a fine of £440 and ordered to be disqualified from driving for 21 months.

## Charge 2

### Statement of Offence

Professional Misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

### Particulars of Offence

Stephen Sweeney, a practising barrister, behaved in a way which could reasonably be seen by the public to undermine his integrity, in that, on 26 September he drove a motor vehicle on a road after consuming so much alcohol that the proportion of it in his breath, namely 85 microgrammes of alcohol per 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath, for which he was convicted of an offence contrary to section 5(1) (a) Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Willesden Magistrates' Court on 11th October 2021. As a result of the conviction, Mr Sweeney was sentenced to a fine of £440 and ordered to be disqualified from driving for 21 months.

## Parties Present and Representation

3. The Respondent was present and was represented by Stan Reiz KC. The Bar Standards Board ("BSB") was represented by Winston Jacob.

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## Pleas

4. The Respondent admitted the charges.

## Evidence

5. We received a bundle of documents from the BSB ('the BSB bundle') the contents of which we considered. Both charges relate to the Respondent's conviction at Willesden Magistrates Court on the 11<sup>th</sup> October 2021 for a drink driving offence committed on the 26<sup>th</sup> September 2021. We heard initial submissions from Counsel acting for the BSB and Leading Counsel acting for the Respondent.
6. The essential facts relating to the events surrounding this earlier conviction were agreed by the Respondent and the BSB to be as follows.
7. On 26<sup>th</sup> September 2021, the police were called to an alleged incident of a car that had crashed into at least one parked car. The police arrived at the scene and found the Respondent standing next to his vehicle. He admitted to the police that he had been drinking alcohol. The police conducted a roadside breath test. The Respondent failed the breath test and was arrested.
8. He was later charged with driving a motor vehicle on a road after consuming so much alcohol that the proportion of it in his breath, namely 85 microgrammes of alcohol per 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. On 11.10.2021, The Respondent pleaded guilty to the charge at Willesden Magistrates Court.
9. As a result, the Respondent was disqualified from driving for 21 months, fined £444, and ordered to pay a victim surcharge of £44 and prosecution costs of £81.
10. On 12.10.2021, the Respondent reported himself to the BSB and explained that he had pleaded guilty the previous day and been sentenced as above. Following the BSB writing to the Respondent setting out allegations of professional misconduct, the Respondent responded in writing, admitting the allegations.
11. The BSB subsequently charged the Respondent with the two charges of professional misconduct contrary to CD5 and rC8 which were before us.

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12. The burden of proving these charges lies upon the BSB throughout. The Respondent does not have to prove his innocence or any particular fact. We cannot convict the Respondent on any charge unless we are satisfied that the BSB has established that their case is more probable than not.

## Findings

13. The Respondent formally admitted the charges at this hearing. In light of the agreed facts, we were of the unanimous view that the conduct constituted a clear breach of CD5 and rC8 and was sufficiently serious to constitute professional misconduct in relation to both charges. Accordingly, pursuant to rE193 we announced the charges proved.

## Sanction and Reasons

14. Following the Respondent's formal admission of the charges we received a further bundle of documents from the BSB and a bundle from the Respondent which we carefully considered as well as hearing submissions from Counsel for the BSB and Leading Counsel for the Respondent. We are grateful for the concise and relevant submissions we received.
15. In particular such documentation and submissions revealed that the Respondent had previously been found guilty of three charges relating to professional misconduct relating to Core Duty 5 and r C8. The circumstances underlying such charges related to the Respondent assaulting X in 2017 and a subsequent failure to surrender to custody. He was convicted in 2018 of assault by the Thames Magistrates Court. Before the Disciplinary Tribunal in March/April 2020 he was suspended for four months on two charges with the sanction running concurrently and given a formal reprimand in relation to the third charge.
16. The documentation we received also set out the detail of the Respondent's financial situation and provided further detail concerning the events surrounding his conviction in October 2021 as well as other information surrounding his current personal and professional situation. We took all such matters into careful consideration.
17. We considered sanction in light of the BTAS Sanction Guidance version 6 (January 2022) ('the Guidance'). We had fully in mind the purpose of sanctions and the principles of sanctioning as set out in the Guidance. We identified the applicable

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misconduct Group as being 'E'. In light of the facts and documentary evidence we had considered and the submissions we heard we considered issues relating to the seriousness of the proved misconduct. We did so in particular by considering general culpability and harm factors.

18. We were of the view that although the conduct evident from the underlying facts in the charges before us was not intentional it was clearly reckless and constituted dangerous conduct. We did not consider the explanation as to why the Respondent had felt it necessary to fill his car up with petrol at a time when he had been drinking shortly before to represent a reasonable excuse although we accepted, he was under a degree of professional and personal pressure at the time.
19. We accepted that he did not attempt to conceal his actions – admitting them to the Police and subsequently self-reporting his actions to the BSB. The incident did not involve any physical injury to others but clearly could have done. In the event the damage was to another car or cars. We found that the Respondent did have control of and personal responsibility for the events. He should not have sought to drive when he did.
20. It was clear to us that the harm caused could easily have been much worse. The conduct found proved involved matters which plainly can diminish the trust and confidence the public places in the profession and the Respondent as well as being the kind of conduct which could reasonably be seen by the public to undermine the integrity of the Respondent.
21. In light of such considerations, we considered the misconduct in each charge to be serious and to fall in the middle range of the indicative sanction range for Group E.
22. We then considered the aggravating and mitigating factors in line with the Guidance. We found that the previous disciplinary findings and sanction were relevant and plainly very serious. However, the facts in relation to them took place some 6 years ago. Equally we had in mind that both the current events and previous findings were based on criminal convictions. We noted that there did not appear to be any alcohol involved in the 2017 facts which led to the earlier charges. The drink related incident before us appears to be in that sense a one-off event. By way of mitigation, we noted the early admission to the Police and the self-reporting to the BSB. The Respondent has in our

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view shown clear remorse and explained how he had ceased to drive after the conviction entirely.

23. On that basis we do not consider the conduct is likely to be repeated. We also noted his current personal financial and other circumstances and busy practice with clients dependent upon him. We considered the issue of sanction to be finely balanced but that the mitigating factors meant we should adjust the indicative sanction down. We were just persuaded considering the factors before us and bearing in mind the totality principle that the appropriate sanction was as follows:

For Charge 1

24. That the Respondent pay a fine of £2,750 to the BSB within 6 months of the expiry of any appeal period.

For Charge 2

25. That the Respondent pay a fine of £2,750 to the BSB within 6 months of the expiry of any appeal period.
26. We also considered that the Respondent should pay the applied for costs of the BSB in the sum of £1560 to be paid by the Respondent to the BSB within 6 months of the expiry of any appeal period.
27. Our decisions on sanction and costs were unanimous.

**Dated: 2 May 2023**

**Tom Cosgrove KC**  
**Chairman of the Tribunal**

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