



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2021/4139/d3

Ms Carly Sarah Walters
The Director-General of the Bar Standards Board
The Chair of the Bar Standards Board
The Treasurer of the Honourable Society of Lincoln's Inn

Disciplinary Tribunal

Ms Carly Sarah Walters

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 24 April 2023, I sat as Chairman of a Disciplinary Tribunal on the 4 July 2023 to hear and determine two charges of professional misconduct contrary to the Bar Standards Board Handbook [versions 2.1 and 4.4] against Ms Carly Sarah Walters, barrister of the Honourable Society of Lincoln's Inn.

Panel Members

2. The other members of the Tribunal were:

Rita Eaton [Lay Member]

Hylton Armstrong [Barrister Member]

Charges

3. The following charges were found proven.

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Charge 1

Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook (Version 2.1)).

Particulars of Offence

Ms Carly Walters, a barrister and BSB regulated individual, behaved in a way which was likely to diminish the trust and confidence which the public places in her or in the profession, in that, on 19 November 2016 she drove a motor vehicle in a public place after consuming so much alcohol that the proportion of it in her breath, namely 93 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. On 7 December 2016, she was convicted of an offence contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Wigan and Leigh Magistrates Court.

Charge 2

Statement of Offence

Professional misconduct, contrary to Core Duty 5 and rC8 (integrity) of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook (Version 4.4)).

Particulars of Offence

Ms Carly Walters, a barrister and BSB regulated individual, behaved in a way which was likely to diminish the trust and confidence which the public places in her or in the profession, in that, on 15 August 2020 she drove a motor vehicle in a public place after consuming so much alcohol that the proportion of it in her breath, namely 46 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. On 17 September 2020, she was convicted of an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Chester Magistrates Court

Parties Present and Representation

4. The Respondent was not present and was not represented. The Bar Standards Board ("BSB") was represented by Louisa Brown of Counsel.

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Preliminary Matters

The BSB made an application to proceed in the absence of the Respondent in accordance with rE183 of the Regulations. The respondent had sent an email on the 27 June 2023 stating that she had received the Convening Order and the Zoom link to the hearing; but had decided not to attend the hearing. She asserted that she did not intend to be disrespectful to the Tribunal, far from it. She stated that she is currently unwell and is working hard on her recovery and mental well-being and is terrified of jeopardising that and therefore took the decision not to attend. The BSB considered that it was just and fair to proceed in her absence in the circumstances.

Following retirement to consider the application, the Tribunal stated that they accepted Ms Walters assertion that no disrespect was intended. The Tribunal were satisfied that Ms Walters had been provided with the documents in accordance with the regulations in relation to service of documents. Any adjournment would not result in the situation changing, therefore, the application was granted as it was considered fair and reasonable to proceed in Ms Walters absence.

Pleas

In the absence of Ms Walters, although she had admitted the Convictions, she had not admitted the BSB's charges, therefore, the allegations were treated as being denied, although the facts behind them were admitted.

Evidence

The BSB relied upon the two Memorandum of Convictions set out in the bundle of documents. Although Ms Walters is currently an unregistered barrister, she was a registered barrister at the time of the convictions. Therefore, in accordance with rule rE169.1 which states that "*a copy of the certificate or memorandum of conviction relating to the offence shall be conclusive proof that the respondent committed the offence*". The BSB invited the Tribunal to find the charges proved.

There was discussion on the question of integrity between the charges and the failure to self report promptly [although there was no charge in relation to this].

Findings

Following retirement to consider the matter, the Tribunal found that Charge 1 was proved in relation to Core Duty 5 only not in relation to rC8. Charge 2 was found proven.

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In the absence of the Respondent the Tribunal asked the BSB whether they had any submissions on Sanction. The BSB do not usually make submissions on sanction but indicated that the indicative sanction would be in the range for Group E: Criminal Convictions.

The BSB drew the Tribunal's attention to a previous disciplinary finding under the Determination by Consent procedure, which was a Police Caution of 10 years old for criminal damage to a motor vehicle.

Sanction and Reasons

Following retirement to consider Sanction, the Tribunal, in relation to both charges ordered that the BSB not to provide Ms Walters with a practising certificate should she make an application for six months and not until she has provided a letter from her GP to the Bar Standards Board which confirms that she is medically fit to return to work.

Reasons

The Tribunal regarded both offences the subject of the Charges as being serious. The commission of the second offence and the disqualification from driving for a period of 40 months was of particular concern.

The Respondent had not fulfilled her duty to report the convictions promptly, her first effective self report being dated 6th February 2021.

The Tribunal concluded that the first offence did not bear upon the Respondent's integrity whereas the repeat offence undoubtedly did.

The Tribunal had recourse to its' Sanctions Guidance. It found significant culpability given the serious nature of the repeated offences. There was no actual harm caused to others but there had been an obvious risk of such harm being caused to others and indeed to the Respondent herself. Such conduct damages the reputation of the profession and causes risk to the public.

The Tribunal took into account the mitigating factors. The Respondent had provided detailed written submissions. The Tribunal noted that the Respondent had been suffering from mental health and alcohol addiction issues and had made efforts to alleviate them. The Respondent had expressed remorse and showed insight into her behaviour. Ultimately the Respondent had submitted a self report.

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The Tribunal made its' Orders both to mark the seriousness of the misconduct and also to ensure that the Respondent could not return to practice until she was medically fit to do so. Until such a time a return to practice would be contrary to the interests of the public, the profession and indeed the Respondent herself.

The Finding and Sanction were given in accordance with rE183, "*where the respondent has not attended at the time and place appointed for the hearing, the Disciplinary Tribunal may nevertheless, subject to compliance with rE234.1 in respect of that respondent, proceed to hear and determine the charge(s) or application(s) relating to that respondent, if it considers it just to do so and it is satisfied that the relevant procedure has been complied with (that is, the respondent has been duly served (in accordance with rE249 of these Regulations) with the documents required by rE102, rE103, and rE132.3.c (as appropriate))*".

Costs

Although the BSB had sent a schedule of Costs to the Tribunal; they submitted that they were aware of Ms Walters financial circumstances and that she was impecunious, therefore they did not press the issue. The Tribunal made no order for costs due to Ms Walters financial circumstances; there was no criticism of the BSB in bringing the proceedings.

Dated: 5 July 2023

Geoffrey Williams KC
Chairman of the Tribunal

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