



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

**Case Reference: 2022/2398/D5**

Mr Andrew Phillip Begg

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

**Mr Andrew Phillip Begg**

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 20 March 2024, I sat as Chairman of a Disciplinary Tribunal on 2-4 April 2024 to hear and determine 10 Charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Andrew Begg, barrister of the Honourable Society of Lincoln's Inn.

### Panel Members

2. The other members of the Tribunal were:

Vince Cullen (Lay Member)

Helen Norris (Lay Member)

Alex Horne (Barrister Member)

Monica Stevenson (Barrister Member)

### Charges

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3. The following charges were found proven.

#### **Charge 1**

##### **Statement of Offence**

Professional misconduct, contrary to paragraph 301(a) (i), (ii) and/or (iii) and 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

##### **Particulars of Offence**

Andrew Begg, an unregistered barrister, engaged in conduct which was discreditable to a barrister, prejudicial to the administration of justice and/or likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute, by:

- (a) on or about 28th May 2009, knowing that a curatorship was in force and without informing the curator, he removed a suitcase containing silver from [the interdict's] home and took it into his custody.
- (b) on 11th September 2009, knowing that a curatorship was in force and without informing the curator, he procured by misrepresentation the transfer of [the interdict's] periodic pension payments out of the control of the curator and into his client account,

for which conduct, charges of professional misconduct were found proved by the Royal Court of Jersey, as set out in its written judgment dated 13 November 2012.

*Criminal Standard*

#### **Charge 2**

##### **Statement of Offence**

Professional misconduct, contrary to paragraph 301(a) (i), (ii) and/or (iii) and 901.7 of the Code of Conduct of the Bar of England and Wales (8<sup>th</sup> Edition).

##### **Particulars of Offence**

Andrew Begg, an unregistered barrister, between July 2011 and February 2012, engaged in conduct which was discreditable to a barrister, prejudicial to the administration of justice and/or likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute, as set out in the attached

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Schedule, for which conduct, charges of professional misconduct were found proved by the Royal Court of Jersey, as set out in its written judgment dated 18 December 2014.

*Criminal Standard*

### **Charge 3**

#### **Statement of Offence**

Professional misconduct, contrary to Core Duty 5 and/or rC8 of the Bar Standards Board Handbook and 9<sup>th</sup> Edition of the Code of Conduct (Versions 3.2 – 4.2).

#### **Particulars of Offence**

Andrew Begg, an unregistered barrister, acted in a manner which was likely to diminish the trust and confidence which the public places in him or the profession, and/or acted in a manner which could reasonably be seen by the public to undermine his integrity, by:

Delaying dealing with correspondence and communications in respect of an estate matter between April 2018 and April 2019, and May 2019 and September 2019,

*Criminal Standard*

### **Charge 4**

#### **Statement of Offence**

Professional misconduct, contrary to Core Duty 5 and/or rC8 of the Bar Standards Board Handbook and 9<sup>th</sup> Edition of the Code of Conduct (Version 3.5).

#### **Particulars of Offence**

Andrew Begg, an unregistered barrister, acted in a manner which was likely to diminish the trust and confidence which the public places in him or the profession, and/or acted in a manner which could reasonably be seen by the public to undermine his honesty and/or integrity, by:

- (a) failing to forward to his client an open email sent on 27 March 2019 by the legal team acting for the other side in the matter (the “open e-mail”)
- (b) altering a without prejudice save as to costs e-mail sent on 27 March 2019 by the legal team acting for the other side in the matter (the “without prejudice e-mail”), by removing its date (which would have revealed it had been received several weeks before by Mr Begg) and the word “inordinate” from the phrase “inordinate delay”, before forwarding it to his client,

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for which conduct, charges of professional misconduct were found proved, and Mr Begg was removed from the roll of Advocates of the Court, by the Royal Court of Jersey, as set out in its written judgment dated 13 July 2022.

*Criminal Standard*

## **Charge 5**

### **Statement of Offence**

Professional misconduct, contrary to paragraph 905 (b) (iv) of the Code of Conduct of the Bar of England and Wales (8<sup>th</sup> Edition).

### **Particulars of Offence**

Andrew Begg, an unregistered barrister, from 8 February 2010 to 6 January 2014, failed to report promptly to the Bar Standards Board that he had been charged with a disciplinary offence by another professional body, as set out in the written judgment of the Royal Court of Jersey dated 13 November 2012.

*Criminal Standard*

## **Charge 6**

### **Statement of Offence**

Professional misconduct, contrary to paragraph 905 (b) (v) of the Code of Conduct of the Bar of England and Wales (8<sup>th</sup> Edition).

### **Particulars of Offence**

Andrew Begg, an unregistered barrister, between 13 November 2012 and 6 January 2014, failed to report promptly to the Bar Standards Board, that he had been convicted of a disciplinary offence by another professional body, as set out in the written judgment of the Royal Court of Jersey dated 13 November 2012.

*Criminal Standard*

## **Charge 7**

### **Statement of Offence**

Professional misconduct, contrary to Core Duty 9 and/or rC65.3 of the Bar Standards Board Handbook and 9<sup>th</sup> Edition of the Code of Conduct (Version 1.0).

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### **Particulars of Offence**

Andrew Begg, an unregistered barrister, failed to be open and co-operative with his regulator, and/or failed to comply with the obligations under rC65.3 in that between 6 January 2014 and 2 October 2014, he failed to report promptly to the Bar Standards Board or at all, that he was the subject of disciplinary proceedings or other regulatory or enforcement action by another regulator (The Law Society of Jersey), as set out in the written judgment of the Royal Court of Jersey dated 18 December 2014.

*Criminal Standard*

### **Charge 8**

#### **Statement of Offence**

Professional misconduct, contrary to Core Duty 9 and/or rC65.3 of the Bar Standards Board Handbook and 9<sup>th</sup> Edition of the Code of Conduct (Version 4.6).

#### **Particulars of Offence**

Andrew Begg, an unregistered barrister, failed to be open and co-operative with his regulator, and/or failed to comply with the obligations under rC65.3 in that from 11 January 2021 to 4 July 2022, he failed to report promptly to the Bar Standards Board or at all, that he was the subject of disciplinary proceedings or other regulatory or enforcement action by another regulator (The Law Society of Jersey), as set out in the written judgment of the Royal Court of Jersey dated 13 July 2022.

*Civil Standard*

### **Charge 9**

#### **Statement of Offence**

Professional misconduct, contrary to Core Duty 9 and/or rC65.7 of the Bar Standards Board Handbook and 9<sup>th</sup> Edition of the Code of Conduct (Versions 1.0 – 4.6).

#### **Particulars of Offence**

Andrew Begg, an unregistered barrister, failed to be open and co-operative with his regulator, and/or failed to comply with the obligations under rC65.7 in that, from 6 January 2014 and thereafter, he failed to report promptly to the Bar Standards Board that he had committed professional misconduct, namely that:

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- (a) on or about 28th May 2009, knowing that a curatorship was in force and without informing the curator, he removed a suitcase containing silver from [the interdict's] home and took it into his custody.
- (b) on 11th September 2009, knowing that a curatorship was in force and without informing the curator, he procured by misrepresentation the transfer of [the interdict's] periodic pension payments out of the control of the curator and into his client account,

for which conduct, charges of professional misconduct were found proved by the Royal Court of Jersey, as set out in its written judgment dated 13 November 2012.

*Criminal Standard*

## **Charge 10**

### **Statement of Offence**

Professional misconduct, contrary to Core Duty 9 and/or rC65.7 of the Bar Standards Board Handbook and 9<sup>th</sup> Edition of the Code of Conduct (Versions 1.0 – 4.6).

### **Particulars of Offence**

Andrew Begg, an unregistered barrister, failed to be open and co-operative with his regulator, and/or failed to comply with the obligations under rC65.7 in that from 2 October 2014 and thereafter, he failed to report promptly to the Bar Standards Board that he had committed professional misconduct, as set out in the attached Schedule, for which conduct, charges of professional misconduct were found proved by the Royal Court of Jersey, as set out in its written judgment dated 18 December 2014.

*Criminal Standard*

## **Parties Present and Representation**

- 4. The Respondent appeared by video link and was not represented. The Bar Standards Board ("BSB") was represented by Mr David Welch.

## **Preliminary Matters**

- 5. Mr Begg objected to the use of the documents provided to show the judgments against him by the Jersey Court. He submitted that the Tribunal had not been provided with official copies of the findings of the court in Jersey. Rule 169 states that such findings may be proved by production of an official copy. It does not state that such findings can *only* be

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proved or *must* be proved by an official copy. The term *official copy* is not defined. Mr Begg did not challenge the authenticity or accuracy of the copies that have been provided and which were supplied to the Bar Standards Board by the Law Society of Jersey, albeit without formal certification of them. Mr Begg did submit that official copies should have been obtained. Rule 167 gives a discretionary power to admit evidence, and the Panel decided to proceed with the hearing using the copies provided. The Panel were satisfied as to the accuracy of the copies and in the circumstances there is no injustice to Mr Begg in relying on those copies, which were effectively validated by being sent from the Law Society in Jersey. The Panel concluded to adjourn proceedings in order to obtain sealed copies of the orders from the Jersey proceedings would not assist.

6. Mr Begg also presented written and oral arguments challenging the jurisdiction to proceed against him in England in respect of allegations of misconduct which arose solely in Jersey and which have already been determined in Jersey and which led to him being struck from the roll of Jersey Advocates. He pointed out that since his call to the Bar in 1980, until the start of these proceedings, he has had no contact or dealings with, or communications from the Bar Standards Board or their predecessors, and had received no notification of any changes and developments in the regulations and duties that might apply to him. Mr Begg submitted that his obligations have only been to the Law Society of Jersey and that, like many others, his call to the Bar in England had been no more than a stepping stone towards gaining a qualification to practise in another jurisdiction.
  
7. The Panel rejected Mr Begg's submission that this Tribunal lacked jurisdiction or should not exercise it. He had remained an unregistered barrister having been called to the Bar in England, and as such he remained at all times subject to regulation by the Bar Standards Board and the jurisdiction of this Tribunal. whose main concern is the protection of the public. The Bar Standards Board Handbook and Code of Conduct applies to all barristers, including unregistered barristers. Neither the BSB Handbook nor the Legal Services Act 2007 outline any geographical restrictions on what defines a barrister. Neither the BSB Handbook nor the Legal Services Act 2007 operate to restrict or exclude jurisdiction over people called to the English Bar who may live and choose to work elsewhere, or to limit the jurisdiction of the Tribunal to a consideration of alleged misconduct within England

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and Wales. The Handbook does not contain any provisions as to jurisdiction by reference to nationality, residence, domicile or any other geographical considerations.

8. Mr Begg raised the further issue of double-jeopardy (particularly in relation to Charges 1 and 9). He submitted that having been disciplined in proceedings in Jersey, to proceed against him also in England would expose him to double jeopardy in respect to the same matters. The Panel considered that the issue of double-jeopardy would only become relevant at the point of consideration of any sanction (as mitigation). It was questionable whether double jeopardy applies in the context of professional disciplinary proceedings. In this case, the Jersey proceedings related to his fitness to practise there; these proceedings concerned his right to practise in England and his ability to maintain the status of barrister. The Panel's concern was protection of the public, not punishment, and the Panel would only consider the matter of double jeopardy if and when it came to consideration of sanctions; not before then. In the event of the charges being established it may well be inappropriate to duplicate or disregard the financial sanctions and consequences that arose from the disciplinary proceedings in Jersey, it would otherwise not be unfair to proceed in this Tribunal.
  
9. The Panel raised the question with the BSB of when the status of a *non-practising barrister* became that of an *unregistered barrister*. The BSB clarified that this came along with wider regulatory changes which occurred in 2006/2007. The Tribunal asked that the BSB provide the Panel with the Code of Conduct from 1980 when Mr Begg was called to the Bar, in order to understand what obligations Mr Begg had then agreed to.
  
10. The Tribunal directed the BSB to inform the Panel as to whether Mr Begg would appear on the BSB's website with his status as an unregistered barrister. The BSB confirmed that Mr Begg would not appear on a search, as the BSB website does not list unregistered barristers, but that a member of the public could find out his status by contacting the BSB directly.

## Pleas

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11. Mr Begg admitted Charge 5 and Charge 6 and made partial and qualified admissions in respect of the others (Charges 1, 2,3 4, 7, 8,9 and 10).

## Evidence

12. The Tribunal received a bundle of documentary material provided by the BSB, which was supplemented during the hearing, and Mr Begg provided his own bundle of correspondence and several statements by him and a statement by a witness on his behalf. The Bar Standard Board called no witnesses.

13. The Tribunal heard oral evidence from Mr Begg, under oath; he was cross-examined by Mr David Welch on behalf of the BSB.

14. This hearing took place over 3 days.

## Findings

15. After consideration of the evidence and submissions the Panel gave the following decision.

16. The Tribunal Panel had heard and considered 10 counts of alleged professional misconduct against Mr Andrew Philip Begg, who was called to the English Bar in 1980. He has never practised in England. He lives in Jersey, where he has worked for all his professional life, having been called to the Bar in Jersey in 1985 and practised as an advocate in that jurisdiction until July 2022, when the Royal Court in Jersey ordered his removal from the roll of Advocates and directed notification of its decision to the Bar Standards Board.

17. Mr Begg had at all times remained an unregistered barrister in England. The Charges brought against him by the Bar Standards Board in England, all derived from various disciplinary proceedings against Mr Begg, determined in Jersey and relating to his conduct there, culminating in the proceedings there in 2022.

18. Mr Begg raised a number of preliminary points which the panel considered at the start of the hearing and decided the hearing should continue.

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19. Charges 1-4 concerned matters for which findings of misconduct were made in judgments in the Royal Court of Jersey.
20. Charges 5 to 10 alleged failures by Mr Begg to report those matters to the Bar Standards Board. Subject to Mr Begg's submissions on the preliminary points, Mr Begg had responded to the charges put to him. He admitted 2 of the Charges, numbers 5 and 6, and made partial and qualified admissions in respect of the others. In those circumstances, the Bar Standards Board had indicated their wish to proceed with the hearing and to seek to establish each Charge as formulated on the amended Charge sheet, rather than accept the basis upon which Mr Begg had made admissions.
21. The Panel considered each charge separately. As all but one of the charges concerned alleged misconduct which occurred before April 2019, the Tribunal had to apply the criminal standard of proof. The exception was Charge 8, which alleged a failure to report in 2021/22, and to that the civil standard of proof applied.
22. Insofar as the findings sought in respected respective Charges, 1 to 4 depended on the findings made by the court in Jersey, it should be said that the court there applied the civil standard of proof. It also should be said that Mr Begg had not disputed the facts underlying the findings of misconduct made in Jersey. In the circumstances, this Tribunal was not required to undertake any form of rehearing to assess whether those charges could also be established to the criminal standard. It was noticeable that in respect of Charge 1 the Jersey Court had added that they would have been satisfied if they had been applying the criminal standard of proof.
23. The respondent, Mr Begg, had also argued that there ought to be some limitation period which prevented continuation of the charges relating to the matter set out in charges 1 and 2, which occurred in 2009 and 2011 and 2012. There is no such limitation, period and in the circumstances the Panel did not consider that it would be unfair to consider and determine them now.
24. Mr Begg appeared to be open and straightforward in his oral evidence and answered questions in a cooperative manner.
25. Mr Begg suggested that the judgments in Jersey did not provide the Panel with the complete picture. The Panel were satisfied that for the purposes of this hearing, the judgments were sufficient to establish the findings of misconduct made by the Court in Jersey and to show the background and evidential basis to them. They also showed the

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analysis undertaken by the Jersey Court. In reality, much of what Mr Begg had said in his written evidence and submissions to the Panel went more to mitigation rather than to the findings that the Tribunal Panel was asked to make.

26. Dealing with the individual charges, Charge 1 alleged that Mr Begg engaged in conduct which was discreditable to a barrister, prejudicial to the administration of justice and/or likely to diminish public confidence in the legal profession or the administration of justice, or otherwise bring the legal profession into disrepute. By (a), on or about 28th May 2009, knowing that a curatorship was in force and without informing the curator, he removed the suitcase containing silver from the Interdict's home and took it into his custody; (b), on the 11th September 2009, knowing that a curatorship was in force and without informing the curator, he procured by misrepresentation the transfer of the interdict's periodic pension payments out of the control of the curator and into his client account. For which conduct charges of professional misconduct were found, proved by the Royal Court of Jersey as set out in its written judgment dated the 13th November 2012.
27. Although there are differences in terminology used as between Jersey and in England, it was clear, and indeed Mr Begg himself had indicated, that a *curator* is would be seen in English law as a *guardian* and *curatorship* is a form of *guardianship*, administered in a way which is familiar to lawyers in this jurisdiction. The *interdict* referred to would be described in this jurisdiction nowadays as the *patient*.
28. Mr Begg admitted that his behaviour was discreditable to a barrister and that it was likely to diminish public confidence in the legal profession and or bring the profession into disrepute, but he denied dishonesty. He also denied that his conduct was prejudicial to the administration of justice.
29. The Court in Jersey did not make an explicit finding of dishonesty in this regard, although in the circumstances Mr Begg had allowed himself to be party to a deception of the DWP.
30. The view of the Court in Jersey, given in paragraph 34 of its judgment was stated as follows: *'The Court does not find that Advocate Begg acted with any intention of benefiting himself. We are satisfied that he acted out of the misplaced sense of loyalty to and sympathy for the interdict, with whom he had struck up a strong friendship. He found it difficult to say no to her when she asked him to look after silver or client's assist him in transferring the payment of the pension'*.

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31. In the circumstances and on close reading of the judgment given in 2012, the Panel did not find dishonesty in respect of Charge 1 and certainly could not do so to the criminal standard of proof. So far as the potential effect on the administration of justice, which Mr Begg disputed, despite his other admissions, the existence of the curatorship and his involvement in a deception of the DWP was bound to have at least a potential for prejudice to the administration of justice. Accordingly, the Panel found Charge 1 was established, save that dishonesty is not found.
32. Charge 2 alleged that Between July 2011 and February 2012, Mr Begg engaged in conduct which was discreditable to a barrister, prejudicial to the administration of justice and/or likely to diminish public confidence in the legal profession or the administration of justice, or otherwise bring the legal profession into disrepute, as set out in matters described in a schedule to the Charge sheet, which conduct was found proved by the Royal Courts of Justice in its judgement of Jersey in its judgment of 18 December 2014. The matters set out in the schedule relating to Charge 2 described various failures by Mr Begg, which were said to be failures to promote the best interests of his client in the conduct of her defence to a Petty Debts Court claim of which particulars were given. Likewise, matters when acting for the same client at the same time, it was alleged that there was a failure to canvass the resolution of the dispute on a positive and ongoing basis and in a fully informed manner with his client, and again particulars were given.
33. Mr Begg accepted before the Jersey Court the essential facts which resulted in findings of misconduct which were then set out in paragraph 22 of that Court's judgment in 2014, and in subsequent paragraphs finding the breaches of the ethical standards required of the profession. It was sufficient to quote only from paragraph. 29 of the judgment then given, when it was said that: *"The Court accepted, as did the attorney general, that in not informing the client of the level of fees being incurred and the possibility of settlement Advocate Beg was not motivated by financial self-interest."* The Court continued: *"Had we concluded that he was, the Court would have taken a much more severe approach. We accept that the explanation for his conduct is a mixture of inefficiency coupled with a mistaken conviction that the case would be won and the mistaken desire not to cause her, [that is his client] distress, as the litigation progressed; but for the reasons that we have given, the misconduct was such as to bring the profession into disrepute and cannot be adequately reflected by a private repute or a public reprimand'.* On that basis, the Court

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stated that the lowest penalty they could properly client impose was a fine. Before this Tribunal Mr Begg admitted that the conduct was discreditable to a barrister but no more. After reading the judgment and material provided in this hearing, the Panel did not accept his limited admission and found Charge 2 established.

34. Charges 3 and 4, both concerned matters covered by the judgement of the Royal Courts of Jersey in July 2022.
35. Charge 3 relates to delay in dealing with correspondence as to which the Jersey Court found the delays to be excessive and so amounting to what was described as moderately serious misconduct. Mr Begg admitted a breach of Core Duty 5, to the extent that it was likely to diminish the trust and confidence placed by the public in him; he did not admit that it was thereby likely also to diminish trust and confidence in the profession. The Panel did not accept that, insofar as such conduct will in reality diminish confidence both in him and in the profession, and so to that extent Charge 3 was established. Under Charge 3, Mr Begg also denied the alleged breach of Rule C8, which relates to conduct which could reasonably be seen to undermine his honesty, integrity and independence. The Panel accepted that in that regard, Charge 3 (in respect of Rule C8) was not established.
36. The Panel considered Charge 4 to be the most serious charge. It alleged that Mr Begg acted in a manner which was likely to diminish the trust and confidence which the public places in him or the profession and/or acted in a manner which could reasonably be seen by the public to undermine his honesty and/or integrity, by (a) failing to forward to his client an open e-mail sent on 27 March 2019 by the legal team acting for the other side in the matter, and by (b) altering a 'without prejudice save as to costs' e-mail sent on 27 March 2019 by the legal team acting for the other side in the matter by removing its date, which would have revealed that it had been received by Mr Begg several weeks before and by removing the word '*inordinate*' from the phrase '*inordinate delay*' before forwarding that e-mail to his client. Those charges of professional misconduct had been found proved, and Mr Begg was removed from the roll of Advocates of the court by the Royal Court of Jersey, as set out in its written judgement dated 13 July 2022. Mr Begg again admitted it to have been conduct likely to diminish the trust and confidence placed in him, but not otherwise. As before, The Panel found that such conduct not only went to diminish trust and confidence in him, but also in the profession.

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37. Although Mr Begg had denied the alleged breach of Rule C8, in his later skeleton argument and oral evidence, he accepted the alleged conduct would be likely to be seen by the public to undermine his honesty and or integrity. However, Mr Begg emphasised his denial of any actual dishonesty. It was important to note that in respect of Charge 4 dishonesty was not alleged by the Bar Standards Board, who had simply relied upon the findings of the Jersey Court, and that it was that conduct which led to his removal from the roll.
38. Having reviewed the evidence and submissions, the Panel found Charge 4 to have been established.
39. Charges 5 and 6 alleged failures to report promptly to the Bar Standards Board that he had been charged with and then convicted of a disciplinary offence covered by the judgement of in 2012. Mr Begg admitted both those Charges, while explaining that he was unaware at the time alleged that there was any obligation on him so to report. The Panel noted that, in fairness to Mr Begg, at the time he was called to the Bar, there was no such obligation and, according to such evidence as the Panel received during the hearing, the obligation to report a conviction for professional misconduct appears only to have been established in 1998.
40. Charge 7, alleged failure under Rule 65.3 to report promptly, or at all, that he was subject to disciplinary proceedings in Jersey in 2014. Mr Begg admitted that charge on the basis that he did fail to report, saying in respect of these matters that had he known of the duty under the rule, he would have done what was required. Mr Begg denied the alleged breach of Core Duty 12, requiring him to be open and cooperative with his regulator, the Bar Standards Board. Mr Begg emphasised that he did not know of the rule containing the duty. Mr Welch, on behalf of the Bar Standards Board, contended in reliance on paragraph 54 of the judgment in the case of *Iteshi v. The Bar Standards Board* [2006] EWHC 2943 Admin that there was an obligation on people such as Mr Begg to keep themselves informed of the developments in the rules. In paragraph 54 of that judgment it was said by Mr Justice Holroyde (as he then was): '*There is nothing in my view which is unfair or unreasonable in expecting every member of the profession, including a non-practising member, to inform himself or herself of the professional standards which he or she is required to meet*'. Mr Begg sought to distinguish that case of *Iteshi* in which Mr Iteshi had wanted to hold himself out as, and possibly to practise as, a barrister in

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England, and Mr Begg also pointed out that Mr Iteshi had been called in 2008 after the creation of the Bar Standards Board. By contrast, Mr Begg regarded his status as an English barrister as having been a “mere stepping stone” to his qualification in Jersey. The Panel found that, in the particular circumstances of this case, it would have been oppressive, and would not have been reasonable, to expect Mr Begg, who had no contact at all with the English Bar after his call in 1980, to maintain familiarisation with the detail of the Handbook and with changes in the detailed requirements in the intervening period. Charge 7 was accordingly established only to the extent admitted by Mr Begg.

41. Charge 8 alleged failure in 2021/22 to report promptly to the Bar Standards Board that he was subject to disciplinary proceedings in Jersey. Namely, those which resulted in the order and judgement leading to his being struck from the roll. Mr Begg admitted breach of Rule 65.3 but again denied breach of Core Duty 9. This raised the same issue as that raised in respect of Charge 7. Accordingly, the Panel determined that Charge 8 was established only so far as admitted by Mr Begg.
42. Charges 9 and 10 went back in time to 2012 and 2014 and as formulated in the Charge sheet, alleged a failure to report professional misconduct as covered by the judgments in 2012 and 2014. Those charges alleged failure to report *professional misconduct*. However, the relevant rule imposes a duty to report the commission of *serious misconduct*. Mr Begg argued that these matters, although findings of professional misconduct, did not amount to “serious” misconduct. Having re-read the judgments given at the time in Jersey and noted the level of fines imposed at that time, the Panel considered that these were matters of serious misconduct which strictly should have been reported at that time. The breaches of rule 65.7 under Charges 9 and 10 were established, but again the panel did not find breaches of Core Duty 9.
43. Those were the unanimous findings of the panel.

## Sanction and Reasons

44. The BSB drew the Panel’s attention to the Sanctions Guidance, and to Categories K, F, A and E.
45. The Panel considered the appropriate sanctions following the findings which had been made at the end of the hearing.

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46. In considering sanctions, the Tribunal had to have regard to the BTAS Sanctions Guidance, dated January 2022, even though the alleged misconduct may well have occurred long before that. The principle to the stress was that sanctions are not to punish, although they may have a punitive effect.
47. The purpose of applying sanctions to professional misconduct are as follows:.
- (i) protection of the public and consumers of legal services; (ii) maintenance of public confidence and trust in the profession and the enforcement system; (iii) maintenance and promotion of high standards of behaviour and performance at the Bar: and (iv) to act as a deterrent to the individual barrister as well as the wider profession from engaging in the misconduct which is subject to sanction.
48. The fundamental principle behind the imposition of the sanction is that any sanctions should be proportionate, weighing the interests of the public with those of the practitioner, and must be no more than necessary to achieve the purposes previously stated. In this particular case it was relevant to refer to paragraphs 4.21 onwards of the Guidance which deals with cases such as this, where there have already been findings by another regulator.
49. Paragraph 4.21 says that *“Where a barrister, is dual registered and subject to regulation by another professional body, they can be subject to professional misconduct findings by the other regulator in relation to misconduct committed under the rules of that regulator. Such findings will normally result in disciplinary proceedings in their role as a barrister, as they are likely to diminish the trust and confidence placed by the public in the Bar, and/or the individual.”*
50. That part of the Guidance continues by saying in paragraphs 4.22 and 4.23 that in bringing associated proceedings, the purpose is not to punish the barrister for a second time, but to protect the public and maintain the confidence in the Bar. Accordingly, The Panel should impose the least restrictive sanction, which is sufficient to achieve these objectives. When determining which misconduct group to use to sanction the misconduct, which has already been subject to sanctions by another regulator, the Panel should focus on the nature of the behaviour, to determine which group it most appropriately fits within; and finally, in paragraph 4.24, It is said that the Panel should note that the sanction imposed by another regulator should not be taken as an appropriate guide to the seriousness of the offence. The range of sanctions which were available under the other

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regulator's enforcement procedures and the approach taken in determine determining the sanction may be different to those which are available and relevant to BTAS/BSB Panels.

51. The Guidance proposes a staged 6 step approach to sanction set out in that guidance. The Panel had regard to those steps and sought to follow them. In particular, starting by determining the appropriate applicable misconduct group for the proved misconduct and then going on to consider the seriousness of the misconduct by reference to culpability and harm factors, then proceeding to determine the indicative sanction level for proved misconduct and to apply relevant aggravating and mitigating factors. In particular in this case, given that there were 10 charges, the Panel had also to bear in mind the totality principle.
52. It was to be noted that 6 of the 10 charges related to Mr Begg's dealing with the BSB. However, in approaching the task in this case the Panel regarded it as appropriate to begin by focusing on what was seen to be the most serious charge, that is to say, Charge 4. As was stated in the reasons for the findings which were given earlier, it needed to be repeated that the Panel were not asked to make a specific finding of dishonesty, although it was conceded by the respondent that his conduct might reasonably have been seen by the public as undermining his honesty and or integrity. Paragraph 5.5 of the Guidance, states that *"A Panel must only sanction the respondent in relation to the charges currently before it, and if dishonesty has not been specifically alleged by the BSB, the Panel should not base their sanctioning decision on an assessment that the misconduct is dishonest. This does not preclude the panel when assessing the culpability of a respondent, along with any aggravating factors, as warranting an order to disbar, but such an order should not be based on dishonesty or a lack of honesty."*
53. Accordingly, the Panel approached Charge 4 as the most serious charge and did so on the basis that it fitted within Category F, concerning the respondent's misleading of his client in a professional context. The Panel accepted that his actions were not financially motivated, but rather to escape criticism and avoid embarrassment and were designed to protect his relationship with his client. The Panel considered that in doing what he did, culpability was high, but recognised that the harm or potential harm resulting from what was done was hard to assess; however, it was inescapable what was done did expose his client to some level of risk.

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54. The Bar Standards Board and Mr Begg both suggested that it was the case which fell within the middle range of sanctions. The Panel did consider it have been serious misconduct. On balance, disbarment was not required, but suspension should be imposed by way of an order that the Bar Standards Board should not issue a practising certificate to the Respondent under Regulation E227 as set out in the Sanctions Guidance at page 28.
55. The view of the Tribunal was that this is a case in which such an order should be imposed for more than 3 years' duration. It had to be currently recognised that Mr Begg now no longer has skills to practise as a barrister in England and that he did not suggest that he would want to do so. However, the fact remained that he had been found that to have committed serious misconduct. The Panel was sanctioning him, not just for Charge 4, but for other charges, in particular 1, 2 and 3, each of which met the middle range of sanctions recommended in the Guidance.
56. In the circumstances, an order lasting for five years was imposed in respect of charges 1, 2 and 4.
57. In respect to the remaining Charges, 5 to 10 inclusive, the Panel would have reprimanded Mr Begg, but given the order made in respect of the other charges, no further sanction was necessary.
58. The Panel made no order in respect of the application for costs made by the BSB. They noted that Mr Begg had already paid a high price, both professionally and financially, for his misconduct.

**Dated:** 29 April 2024.

**HH James Meston KC**  
**Chairman of the Tribunal**

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