The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2023/0594/D3

Mohammed Latif

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

Mohammed Latif

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 8 April 2025 I sat as Chairman of a Disciplinary Tribunal on 25 April 2025 to hear and determine 3 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Mohammed Latif, barrister of the Honourable Society of Lincoln's Inn

Panel Members

2. The other members of the Tribunal were:

   Helen Norris (Lay Member)

   Ella Schulster (Barrister Member)

Charges

3. The following charges found proven.

Charge 1

Statement of Offence

Professional misconduct, contrary to Core Duty [CD] 10 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook – Version 4.6).

Particulars of Offence

Mohammed Latif, a barrister, failed to take reasonable steps to manage his practice, to ensure his practice is administered properly and efficiently, or to carry out his role within his practice, competently and in such a way as to achieve compliance with his legal and regulatory obligations, in that, despite repeated requests made to him by the Bar Standards Board, between November 2021 and November 2022, to provide transparency information of the kind required to meet his regulatory obligations under rC159 of the BSB Handbook [that is, where the barrister has no website, to provide transparency information in another form ("known as a transparency factsheet")], Mr Latif failed to provide the requested information by December 2022, (or by the date of service of this charge sheet on 30 November 2023).

Charge 2

Statement of Offence

Professional misconduct, contrary to Core Duty [CD] 9 and rC64.1 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook – Version 4.6).

Particulars of Offence

Mohammed Latif, a barrister, failed to be open and to co-operative with his regulator and promptly provide all such information to the Bar Standards Board as it may, for the purpose of its regulatory functions, from time to time require of him, in that, despite repeated requests made to him by the Bar Standards Board, between November 2021 and November 2022, to provide transparency information of the kind required to meet his regulatory obligations under rC159 of the BSB Handbook [that is, if the barrister has no website, to provide transparency information in another form ("known as a transparency factsheet")], Mr Latif

failed to provide the requested information by December 2022, (or by the date of service of this charge sheet on 30 November 2023).

Charge 3

Statement of Offence

Professional misconduct, contrary to Core Duty [CD] 9 and rC64.1 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook – Version 4.6).

Particulars of Offence

Mohammed Latif, a barrister, failed to be open and to co-operative with his regulator and promptly provide all such information to the Bar Standards Board as it may, for the purpose of its regulatory functions, from time to time require of him, in that, despite repeated requests made to him by the Bar Standards Board, between April 2023 and August 2023, Mr Latif failed to provide promptly a response to allegations first sent to Mr Latif on 10 May 2023 or by the date of service of this charge sheet on 30 November 2023.

Parties Present and Representation

4. The Respondent was not present and was not represented. The Bar Standards Board ("BSB") was represented by Mr David Welch.

Preliminary Matters

5. The Respondent did not attend the hearing either in person or remotely. An email was sent on the day of the hearing at 09.12 from the Respondent's email address to BTAS stating the following *(sic)*:
[PRIVATE]

6. An application was made by the BSB to proceed in the Respondent's absence in accordance with rE183 and rE234.1 of the Regulations. We indicated at the hearing that we would proceed in the Respondent's absence and would supply detailed reasons later which we now set out.

7. We are first of all satisfied that the relevant documents required by rE102, 103 and 132.3.c. have been duly served on the Respondent in accordance with rE249 of the Regulations. This includes the convening order containing notice of this hearing which was done via both recorded delivery and email on 9th April 2025. It is obvious from the email above that the Respondent was aware of the hearing.

8. We must consider whether it would be fair and appropriate for this hearing to take place in the Respondent's absence. The test that we apply is set out in a case to which we have been invited to consider by Mr Welch for the BSB, the case of *R v Jones* [2002] UKHL 5. We also have had regard to the authority of GMC v. Hayat [2018] EWCA Civ 2796 in relation to the issues which arise in these circumstances for tribunal hearings.

9. In order to understand the application, the background needs to be set out in detail. This is not the first time that such an application has been made by the BSB in relation to this case (which has a long history). The charges arise out of matters that go back to 2021 regarding the alleged submission to the BSB of a 'transparency factsheet' and the Respondent's subsequent failure to either provide the factsheet or co-operate with the investigation/the BSB through to November 2023.

10. There has been occasional contact by Mr Latif during the Tribunal process but it has generally been limited. He was first notified of the decision to refer him to the Disciplinary Tribunal on 24th October 2023 (Service Bundle S1). Directions from BTAS were sent to the Respondent on 28th November 2023 (S4) requiring him to specify by 21st December 2023 whether he agreed them. He acknowledged receipt of the various items but did not say whether or not the Directions were agreed. An email (S10) was sent from Mr Latif's phone ("on his behalf") asking until 9th January 2024 stating that he had not been well due to having chest pains. He did not provide any further response by 9/1/2024 and therefore in accordance with rE108 the Directions were "deemed" to be effective from 11/1/2024 (S10).

11. The Directions (S11) as well as requiring availability for a hearing between March and May 2024 required the Respondent to set out whether he admitted the charges and, if not,

which areas of fact and/or law were in dispute. In addition, and importantly in this case, the Respondent was required to provide by 23rd February 2024 a copy of documents and a list of witnesses on which he intended to rely. He failed to comply with that direction even though he wrote to BTAS on 9 February 2024, to provide his available dates. (F Bundle F2). The Final hearing was therefore set down to take place on 28th May 2024 before a differently constituted Tribunal.

12. In the light of the Respondent's failure to respond to the Directions, there was further correspondence from the BSB requesting the relevant information including a specific request for a copy of the Transparency Factsheet. In an email dated 24th May 2024 (F1) to the BSB the Respondent complained that he had been suffering from ill-health but that he intended to attend the hearing on 28th May 2024. No further material or response to the Directions was provided.

13. In the event the Respondent did not attend the hearing on 28th May 2024. The BSB prepared a skeleton argument to proceed in absence in anticipation of the Respondent's non-attendance. The hearing was in fact adjourned after an email was received on 27th May at 23.04pm by the BSB as follows from the Respondent's email (F4):

    [PRIVATE]

14. Further detailed directions were given by the Tribunal including the provision of medical evidence (F8). In an email dated 20th June 2024 (and after some further correspondence) Mr Latif submitted a copy of a discharge letter provided by Dr B of the University Hospitals Birmingham NHS Foundation Trust. The discharge letter is dated 28th May 2024. The letter shows that the date of the Applicant's admission to hospital was 27th May 2024 and that the date of his planned discharge was 28th May 2024. [PRIVATE].

15. In an email sent to Mr Latif and to the Bar Standards Board ("BSB") dated 24th June 2024, the Bar Tribunal and Adjudication Service ("BTAS") requested that Mr Latif indicate whether he was available to attend a hearing in July 2024. The potential dates for such a hearing were set out in the email. BTAS requested that Mr Latif reply by close of business on 28th June 2024. Mr Latif did not respond within the specified timescale.

16. On 1st July 2024 an email was received by BTAS. The email (said to be sent by and on behalf of Mohammed Latif stated:

    [PRIVATE]

17. The medical note referred to in the 1st July 2024 email sent on behalf of Mr Latif was a Statement of Fitness to Work ("the FTW Statement") dated 27th June 2024 by Dr Rubina Gul of the Yardley Medical Centre. The statement indicated that Mr Latif was unfit for work and that this would be the case for six weeks. The conditions rendering Mr Latif unfit for work at that time were specified as: [PRIVATE] On 1st July 2024 the BSB responded to the 1st July email sent on behalf of Mr Latif resisting the request for an adjournment.

18. Neil Cameron KC sitting as a Directions Judge gave further directions with reasons for the case to be heard in September 2024. The directions included further orders as regards the standard directions such as notifying the parties of whether the charges were to be admitted or not as well as the service of relevant documents by the Respondent by the 31st July 2024 (F39). Again the Respondent failed to comply with any of the directions. The BSB wrote to the Respondent in August and in September reminding him of his obligation to comply with the Directions. There was no further response from the Respondent.

19. It is relevant to note that we are informed by the BSB that at this point in the chronology of events the Respondent renewed his practising certificate in August 2024.

20. On the 27th September 2024 a further hearing was convened and notice given. (NB. The Tribunal was constituted as for today's hearing and the current constitution have dealt with all hearings since the 27th September).

21. An email (Addendum Bundle F1-1) was sent to BTAS from the Respondent's email at 07.45 am 27/9/24 as follows:

    [PRIVATE]

22. With some hesitation (given the Respondent's failure to respond to any of the Directions from July 2024), the hearing was adjourned again, this time to take place on 25th

November 2024. Further directions were given (F1-7) in the same terms as before this time asking for a response by 25th October 2024. In addition there was a direction for the provision of medical evidence by 11th October as regards the non-attendance at the hearing. We also made clear that we deprecated the manner of communication from an unknown person using the Respondent's email address.

23. No further response to the Directions was received save to say that the Respondent had been admitted to hospital (F1-11) and again in early October that he was still in hospital (F1-9). This was later confirmed by a doctor (F1-37).

24. In late October, the BSB wrote to the Respondent to indicate that they would seek to have the case heard in his absence in November. No response was received and a further hearing was convened on the 25th November 2024 before us.

25. On 25th November at 09.41 an email was received from a Mohammed Zafer "for and on behalf of Mohammed Latif" from the Respondent's email attaching various medical letters (F1-27). The email said that the Respondent had been up all night [PRIVATE] and had attended A&E that morning.

26. The medical letters confirmed that the Respondent had been discharged from hospital on 8th October 2024 but that it had been discovered that in addition to [PRIVATE]. This was confirmed by medical evidence in the form of a letter to the [PRIVATE] (F1-36-37). The email from Mohammed Zafer suggested that the Respondent was "likely to be out of function in recovery for 6-9 months". The Respondent was said to be "very stressed".

27. In the light of the information above, the hearing was adjourned to the 11th December 2024 for a further directions hearing with a provisional final hearing date of the 25th January 2025 depending on the provision of medical evidence as to why the hearing could not go ahead. The Respondent was permitted to attend on the 11th December 2024 remotely.

28. Further Directions were given as follows:

> Following the Respondent's non-attendance today, there will be a Directions hearing on the 11th December 2024 by remote link at 10 am (estimate 1 hour) to confirm the final hearing date

provisionally set as 24th January 2024 (estimate 1 day). The Respondent and/or a representative are to attend remotely.
The Respondent has indicated by email that he contests the charges. By 11th December the Respondent will specify to the BSB and BTAS **which areas of fact and/or law are in dispute.**
If objection is taken to the hearing date of the 24th January 2025, the Respondent is to provide any medical evidence by the directions hearing that he wishes to rely upon as to why the hearing cannot go ahead on 24th January 2025. The mere fact of having a medical condition is unlikely to be a sufficient basis to postpone the hearing date any further. **The tribunal regards the provision of the areas of fact and/or law that are in dispute as of prime importance.** If these are not provided in sufficient detail by 11th December 2024 we will require cogent reasons as to why they have not been given.
The previous standard directions remain in force.

29. The Respondent did attend the hearing remotely on the 11th December 2024 and indicated that he believed he was due to be operated on in respect of the kidney in January 2025. The discussion with the Respondent included a clear warning from us that it was necessary for him to comply with the Directions and spelling out the importance for the Tribunal in understanding the issues in the case in any future decision to proceed in his absence. The Respondent also confirmed to us that he had carried out work as a barrister on a few occasions in the last calendar year. In addition, following the assertion at the hearing that he had provided the "Transparency document" to the BSB when requested, it was directed that any response should include any evidence upon which he wished to rely that he did provide the documentation.

30. The Respondent responded to the Directions on 17th January by providing a "medical report" and three statements, one from himself and two others from Mohammed Zafer (F1-51) and a Khalid Shafique (F1-52). [PRIVATE]. He also stated that he was content for the directions hearing on 25th January 2025 to go ahead in his absence.

31. His own statement (F1-55) made clear that he contested the charges as follows:

"I Mohammed Latif am providing this short statement as requested at the last directions hearing.

1. I intend to contest the allegations made by the BSB against me and provide this short statement at present and if need be I will provide a more detailed statement at a later date if health permits.
2. I have over the last few years suffered a number of personal issues including a number of bereavement's of close family members as well as a number of significant health issues which are set out in the enclosed medical report. [PRIVATE]
3. I will say that when the request by the BSB was made for documentation I submitted the first response with the documentation by post myself. Subsequently when a further request was made this was submitted by post on my behalf by Mohammed Zafer as he came to see me and as I was unwell I asked him to post it for me he asked me what it was and I told him it was my response for the

BSB's request. He informed me he had posted the letter for me. Mohammed Zafer is a friend I have known for over 20 years.

I believe there was a request from the BSB and again as I was not in good health when I was visited by Khalid Shafique I asked him to post a letter for me to the BSB as they had requested information from me and appeared to have not received a response from me. My understanding is that he posted this as special delivery or the equivalent method. He is at present trying to find the postage slip and will provide the same if he finds it.

I therefore contest the matters raised against me as I have responded to what has been asked of me.

32. Put simply therefore, the Respondent contends that he sent the transparency factsheet documentation when asked in 2021/2022 and again through friends Mohammed Zafer and Khalid Shafique. There was no explicit defence set out in relation to Charge 3. The statements from Zafer and Shafique (dated 2025) refer to being asked by the Respondent to post an unspecified legal document "in the last 2 years" to his "professional body". In the case of Shafique it was said by him that it had been done by 'special delivery' but that Shafique did not remember what he had done with the receipt.

33. Following the receipt of the Respondent's email of the 17th January 2025, the BSB immediately emailed him that day to ask again if the Respondent could send the original documentation by email (F1-56). No transparency documentation has in fact ever been received at any time.

34. The 2 page medical report was from a Dr M (F1-49). It set out various medical conditions [PRIVATE]. What it unfortunately did not do was deal with the key question as to whether the Respondent is/will be unfit to attend a disciplinary hearing with reasonable adjustments (such as attending remotely as he has done in the past). We do not consider that the medical evidence also did not meet the required standard for medical evidence as set out in Levy v Carr Ellis [2012] EWHC 63 (CH). We were also troubled by the form of the "expert report" (as reflected in the directions we issued that day).

35. At the hearing on 25th January further directions were given as follows.

"These directions should be read alongside the previous directions given in this case.

A further directions hearing took place today (25th January 2025) in the absence of the Respondent due to him undergoing a hospital procedure on the 21st January. (No confirmation of this has as yet

been received by way of medical evidence despite a request to that effect. This should be provided as soon as is practicable). The Respondent agreed in advance that the hearing should go ahead in his absence. Various documents were received ahead of today's hearing including a short statement from the Respondent setting out his essential defence to the charges, two factual witness statements and a medical report. NB. We note that the current statement from the Respondent does not explicitly address Charge 3.

Whilst the medical report from Dr M sets out the various complaints that the Respondent suffers from, we note that it did not contain either the doctor's qualifications or expertise in giving an opinion on issues such as the recovery time. It also did not deal with the key question as to whether the Respondent is/will be unfit to attend a disciplinary hearing with reasonable adjustments (such as attending remotely as he has done in the past). The Tribunal will place far more weight upon any future medical report which complies with the ordinary requirements for an expert opinion. If a further report is served, we would expect it to deal with the question of unfitness to attend (even with reasonable adjustments) and if so, a clear prognosis as to when the Respondent might be expected to be able to attend. Furthermore, if it is suggested that the Respondent is not fit to attend even remotely, the Tribunal would expect the report to deal with whether or not the Respondent is currently fit to practise.

DIRECTIONS

The following directions are given:

1 The final hearing date is set as Friday 25th April 2025 (estimate 1 day to allow time for suitable breaks if required). The panel will be in person but the Respondent may attend remotely.
2 If objection is taken to the hearing date of the 25th April 2025, the Respondent is to provide any medical evidence by the 31st March 2025 that he wishes to rely upon as to why the hearing cannot go ahead.
3 In any event, the Respondent is to serve on BTAS and the BSB any further documentary evidence that he wishes to rely upon (such as any further witness statements, emails, the transparency documentation) by 31st March 2025.
4 In any event, the Respondent is to serve on BTAS and the BSB by 31st March 2025 any financial information upon which he wishes to rely in the event of an adverse finding.
5 The Tribunal will permit any witnesses on behalf of the Respondent to appear remotely if they wish. BTAS should be notified of any such intention by 31st March 2025".

36. Today the Tribunal met again for what was the fourth scheduled "Final hearing" (the earlier confirmed hearings being May 2024, September 2024 and November 2025). We note that despite the Respondent's various medical conditions, the reason for his non-attendance at this hearing is his complaint about chest-pains and that he was attending

A&E. We assume that if he had wanted to advance his other health conditions as reasons not to attend, he would have provided further medical evidence as directed by 31st March 2025.

Analysis of Application to proceed in Absence

37. We must consider whether it would be fair and appropriate for this hearing to take place in the Respondent's absence. As set out above, the test that we apply is set out in a case to which we have been invited to consider by Mr Welch for the BSB, the case of *R v Jones* [2002] UKHL 5. The starting point is that the Respondent has a right to appear and must have a fair hearing. He can waive those rights but in this case the Respondent (who is a sole practitioner) has not done so and has indicated in an email to the administration that he does wish to contest the charges (see email of 24th May and a document served by the Respondent on 17th January 2025 (F1-55) in response to directions made by us on 11.12.2024). We have a discretion as to whether or not to proceed in his absence but that discretion must be exercised with great care and only in rare and exceptional cases should it be exercised in favour of proceeding, particularly where the Respondent is unrepresented (as here).

38. We take into account all of the factors listed at paragraph 22(5) of *Jones*, which are cited within Mr Welch's skeleton argument dated 24th May 2024. We also have had regard to the authority of GMC v. Hayat [2018] EWCA Civ 2796 in relation to the issues which arise in these circumstances for tribunal hearings.

39. We have set out the background in far more detail than is usual because the application has to be seen in the context of all that has gone on before and in particular the failure of the Respondent to engage with the Tribunal's Directions until very recently. It goes without saying that we have every sympathy with the Respondent for the various health issues he faces. In many cases where there is ill-health, the appropriate decision would be to adjourn the hearing for yet a further occasion. However, whilst we accept that he has had a number of serious health issues to contend with, this is a case where that is not the determinative factor. In our view this is actually a very simple case and is largely to be judged upon documentation. The BSB case against the Respondent is all contained within

documents (emails and letters from November 2021) and his alleged failure to respond. We are mindful that the Respondent has not provided any documentary evidence at any stage to support his case since proceedings began in October 2023. Whilst ill-health can provide some explanation for some delay, it cannot provide a sufficient reason for the failure to provide the essential material. In particular this includes the fundamental document, the transparency factsheet (something which he claims to have sent to the BSB more than 3 years ago). Whilst it is right to say that the Respondent has provided two statements from witnesses, even taken at their highest, they lack any real detail or specificity and are also not supported by any documentation. We note by contrast that although the Respondent pleads ill-health in his inability to respond, he was able to renew his Practising Certificate in July 2023 and again in August 2024.

40. It is in that context that we consider the Jones criteria set out below.

> *In exercising that discretion, fairness to the defendant is of prime importance, but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case, including in particular:*
> *(i) The nature and circumstances of the defendant's behaviour in absenting himself from trial, and, in particular, whether such behaviour was deliberate, voluntary or such as to waive his right to appear;*
> *(ii) Whether an adjournment might result in the defendant attending the proceedings;*
> *(iii) The likely length of such an adjournment;*
> *(iv) Whether the defendant, though absent, is, or wishes to be legally represented at the hearing or has by his conduct waived his right to such representation;*
> *(v) Whether an absent defendant's legal representatives are able to receive instructions from him during the trial and the extent to which they are able to present his defence;*
> *(vi) The extent of the disadvantage to the defendant in not being able to give his account of event, having regard to the nature of the evidence against him;*
> *(vii) The risk of the decision maker reaching an improper conclusion about the absence of the defendant;*
> *(viii) The seriousness of the offence, which affects defendant and public;*
> *(ix) The general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;*
> *(x) The effect of delay on the memories of witnesses;*
> *(xi) ...*

41. We have had particular regard to the fact that the Respondent is absent through ill-health rather than for example refusing to attend. As regards any adjournment and the likely

length, in view of the history of the case, we are not confident that we would not be met in the future with yet further last minute requests for an adjournment. This is after all the 3rd time (or possibly the 4th time) that the Respondent has not attended a Final Hearing due to attending hospital on the day of the hearing for chest pains. We take note that the Respondent is not legally represented. We are confident that we have not reached an improper conclusion as to the reason for his absence.

42. However in our view, on the facts of this case, one of the key considerations in our decision whether or not to proceed in his absence is factor (vi) – *"The extent of the disadvantage to the defendant in not being able to give his account of event, having regard to the nature of the evidence against him".* As set out above, the Respondent finally formally responded to reveal the main factual issue in the case in January 2025 (namely that he had sent the transparency factsheet to the BSB in March 2022). Given the length of time that these proceedings have been going on, our view is that the Respondent has had more than ample opportunity to produce any relevant documents to support that assertion. In the absence of the actual Transparency factsheet or any supporting documentation that it was sent at any time during the entirety of the proceedings, in our view any oral evidence from the Respondent is likely to be of limited value given that it would essentially amount to a bare assertion that he sent the document.

43. We also note that significantly the Respondent did not (as directed) notify BTAS of any intention to call any witnesses by 31st March or since and that neither of his witnesses (Shafique or Zafer) in fact attended the hearing either in person or remotely. The Respondent's most recent ill-health was not a bar to either of his witnesses attending to give evidence.

44. The further factor for us to consider is *"The general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates".* These proceedings have been going on since October 2023. We are also conscious that there is a distinction between proceeding in absence in a criminal trial and a tribunal (as set out in GMC v Hayat). That authority (at paragraphs

34 and 35) cites with approval the judgement of Sir Brian Leveson in GMC v Adeogba [2016] EWCA Civ 162 and which we consider pertinent to this case.

45. In particular, we note Sir Brian Leveson made the important point that there is a difference between continuing a criminal trial in the absence of a defendant and the decision to continue a tribunal hearing. The latter decision must also be guided by the context provided by the main statutory objective of the Regulator. Applying this to the current case, we are entitled to consider the necessity of the regulator to maintain the standards of conduct for barristers and in doing so to do what is necessary to protect the public or the public interest. The first request for documentation was in March 2020. There have since been numerous demands, hearings, directions all to no avail. Every opportunity has been given to the Respondent to comply with providing the Transparency Factsheet and/or any other relevant documentary evidence to support his assertion.

46. Sir Brian Leveson also made clear that there are other differences from the criminal equivalent including the obligation of all professionals subject to a regulatory regime to engage with the regulator both in relation to the investigation and the ultimate resolution of allegations made against them.

47. Having weighed the factors with care, we have unanimously decided that the appropriate course here is to continue in the absence of the Respondent. We will be able to consider his explanation in relation to the disputed charges and consider the documented responses that he gave to the BSB at the time. We are unanimously satisfied on the facts of this case that there is no prejudice to the Respondent in proceeding in his absence.

48. We are also unanimously satisfied that it is overwhelmingly in the interests of the public in maintaining the standards of the Bar that this case should proceed today despite the absence of the Respondent.

Pleas

49. The Respondent contests the three charges.

Evidence

50. This disciplinary hearing arises out of the alleged failure of the Respondent to comply with the provision of transparency documents. This important regulatory requirement was introduced by the BSB in 2019 and various spot checks took place to ensure compliance by practitioners. Such a spot check on the Respondent took place in March 2020 to which he responded indicating to us that he was aware of the requirement. He was given feedback and informed that the BSB would be re-assessing his compliance in the future (B.3-1).

Charges 1 and 2

51. In November 2021 the BSB contacted the Respondent again about complying. The documents at B3-1ff set out a clear history of the request from the BSB and the response (or lack of) by the Respondent. Further emails and phone calls followed. We are satisfied that by 16th February 2022 (B3-5) the Respondent was aware of the BSB's requests from the email he sent to the BSB on the subject. The email correspondence indicates that he spoke to a member of the BSB and was again informed of his obligation.

52. Further chaser emails and voicemails were left on 2/3/222, 10/3/22 and 13/9/22. On the 15th September 2022, the Respondent contacted the BSB to state that it had been sent by post. When informed that it had not arrived, he stated that it would be sent by the following week (B317-18).

53. A further telephone call took place on 3/10/2022 between the BSB and the Respondent because the transparency factsheet had still not been sent. The note records that the Respondent stated that he had sent the factsheet to the BSB by post in March 2022. He was told that it had not been received and must be sent immediately. He said that he would do so "when he was back in the office the following day" (B3-14).

54. The factsheet was again not received by the BSB and they contacted the Respondent again on the 11th October 2022 to say that if it was not received by the 13th October 2022, the matter would be referred to the Legal and Enforcement Department (B3-15) for breach of Core Duty 9, the obligation to be open and prompt with the Regulator. No document was received.

55. Whilst the Respondent said to the BSB at the time and repeats to us that the transparency factsheet was sent we find on the balance of probabilities that this is not the case. We have had regard to the statements provided by his witnesses (although uncalled and untested) but as noted above find that they lack specificity and any supporting documentation (such as a certificate of registered post). We do not find that evidence (such as it is) to be credible. It is hard to understand why the document (if it existed) was not just emailed as an attachment. It is even harder to understand why the document (if it existed) has not been provided to this Tribunal at any time. We find that both Charges I and 2 are proved.

Charge 3

56. The evidence for Charge 3 is to be found in the documents contained in Bundle C. In essence the BSB complain that once the Legal and Enforcement Department took over the case (from April 2023), the Respondent continued to fail to engage appropriately with the BSB. After numerous attempts to engage with the Respondent by registered letter and email, he wrote to the BSB by email on 27th July 2023 asking for an extension of time to file a response. The Respondent raised health issues and said that he had not been getting his post. We reject the latter explanation in light of the fact that the email address used throughout has been the same but in any event, he was given more time by the BSB to 31st July 2023. It was noted by the BSB that he had applied and been issued with a practising certificate on 12th July 2023. (C22)

57. The Respondent continued to ask for more time (C24 to 7th August 2023). After further delays, on the 21st August 2023 he asked for more time due to a bereavement. He was given until 18th September. On the 20th September the BSB received an email from Mr Latif's mobile phone and using his email address saying that he had been admitted to hospital with chest pains (C34).

58. By this time the BSB had decided to place the papers before the Independent Decision Panel (IDP) and had indicated as much to the Respondent that this was the next step by the end of July. This part of the process had already been delayed and a further 2 weeks

was granted to 2nd October. He was invited to provide medical evidence if there was a need for a further delay.

59. On the 3rd October a similar email to the last was received by the BSB from Mr Latif asking for a further 2 weeks (C36). No further extension was granted in view of the lack of medical evidence and the papers were submitted to the IDP on the 17th October 2023.

60. On the balance of probabilities, it seems to us that again the Respondent failed in his obligation under Core Duty 9 to respond promptly to the Regulator. We take account of the background of health issues but we do not see that they are such as would have prevented him from responding in good time, especially given that in the same time scale he renewed his practising certificate.

Findings

61. We are therefore unanimously satisfied on the balance of probabilities that these charges are proved.

Sanction and Reasons

62. In passing the sanctions we are satisfied in accordance with rE234 that the relevant procedure under rE183 has been complied with (that which applies when a finding and sanction were made in the absence of the respondent in relation to the service of relevant documents and notification of the hearing date).

63. We have had regard to the BTAS Sanctions Guidance. The Misconduct here falls within Group L (Obligations to the Regulator). In terms of seriousness we take the view that there is 'significant culpability' especially given the duration and scope of the non-engagement with the Regulator. The Respondent was first warned in March 2020 about compliance regarding the Transparency Factsheet. 5 years on there is no evidence that he has ever in fact produced one. The misconduct complained of in Charges 1 and 2 were over the period of a year. The misconduct in Charge 3 was over a period of 6 months. On the other hand there is no evidence of actual harm and we consider the risk of any harm to be Low. That places the misconduct within the "middle range" with an indicative sanction of a medium-high level fine.

64. The aggravating factors include the failure to respond to the Regulator but we are also conscious that we must avoid double counting given that those failures form part of the essential misconduct in this case. The mitigation essentially lies in the history of ill-health which we take into account.

65. The BTAS sanction guidance lists a medium fine as being between £5000-£15,000. Despite being directed on numerous occasions to provide financial information in case of an adverse finding, the Respondent has failed to do so. Nonetheless, we work on the basis that the Respondent's ill-health must inevitably have had an impact on his earnings. We also have in mind totality. We therefore reduce the fine significantly from what would have been the case.

66. Taking all matters in the round, we have unanimously decided that the appropriate fine is one of £5000 in total. At the hearing we said orally that this would a total of £5000 on each charge concurrently. On reflection we have decided that it is better expressed as being made up as follows – Charge 1 £2000, Charge 2 £2000, Charge £1000 - but still a total of £5000.

67. There is also an application by the BSB for Counsel's costs in the sum of £4500 which we grant having taken into account the history of the case before the Tribunal.

68. The Respondent must pay the fine and costs within 28 days of the hearing (25.4.25).

Dated: 29.4.25

David Brooke KC

Chairman of the Tribunal