Report of Findings

Case Reference: 2023/0348/D5, 2023/0347/D5, 2023/0349/D5

Mr Navjot Sidhu KC

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, November 1993

Disciplinary Tribunal

Mr Navjot Sidhu KC

In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 6 November 2024, I, HH Janet Waddicor, sat as Chair of a Disciplinary Tribunal on 11-22 November 2024,9 December 2024 and 19 March 2025 to hear and determine 15 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Navjot Sidhu KC, barrister of the Honourable Society of Lincoln's Inn.

Panel Members

1. The other members of the Tribunal were:

   Vince Cullen (Lay Member)

   Tracy Stephenson (Lay Member)

   Desireé Artesi (Barrister Member)

   Yusuf Solley (Barrister Member)

Charges

2. The following charges were found proven.

   Charge 2

   Statement of Offence

   Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition), contained in Part 2 of the Bar Standards Handbook (Version 3.4)

Particulars of Offence

Mr Navjot Sidhu KC, a barrister, acted in a way likely to diminish the trust and confidence which the public places in him or the profession, in that, on or around 26 November 2018, whilst in a position of trust, he invited Person 2 to stay overnight in his hotel room and in his hotel bed, during a mini-pupillage or work shadowing experience, such conduct being of a sexual nature, and which invitation he knew or ought to have known was inappropriate and/or unwanted, in circumstances:

(a) He told Person 2 that due to confidentiality they needed the privacy of his hotel bedroom to work on the case;

(b) He made the invitation to stay when they were alone together in the bedroom;

(c) He made the invitation to her late in the evening;

(d) He was aware that Person 2 was staying away from her home city in order to attend a criminal trial in which he was counsel for one of the parties;

(e) He was in a position of professional seniority to Person 2;

(f) He was senior to Person 2 in age;

(g) There was a power imbalance between him and Person 2 in his favour;

(h) He had originally initiated contact with Person 2 via the professional social networking website LinkedIn by sending her an unsolicited message;

(i) He was aware that Person 2:

  (i) was in her 20's;

  (ii) was working as a paralegal;

  (iii) was contemplating and/or had contemplated coming to the Bar;

  (iv) had sought his professional and career advice;

  (v) had sought his assistance with her CV;

  (vi) had sought his assistance with an application for a mini-pupillage;

(j) He had told and/or encouraged Person 2 to apply for a mini-pupillage

(k) He had provided Person 2 with assistance with her application for a mini-pupillage;

(l) He had made communications and arrangements with Person 2 which, wholly or in part, had given Person 2 reasonable cause to believe that Mr Sidhu KC was in charge of her mini-pupillage;

(m) His professional responsibility was engaged towards Person 2 as a result of the work shadowing arrangement;

(n) He had arranged for Person 2 to attend court and shadow him in a criminal trial;

(o) Despite Person 2 stating that she wished to and/or should leave the hotel room, he:

(i) encouraged Person 2 to stay in the hotel room;

(ii) changed out of his day clothes into pyjamas or bed clothes;

(iii) placed pillows on the bed and said, “These will act as a barricade,” or words to that effect;

(iv) insisted that Person 2 should sleep on the bed with him rather than on the sofa in the hotel room;

(v) He knew or ought to have known that his invitation to Person 2 to stay overnight in the hotel room and in his hotel bed was inappropriate and/or unwanted.

Charge 4

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition), contained in Part 2 of the Bar Standards Handbook (Version 3.4)

Particulars of Offence

Mr Navjot Sidhu KC, a barrister, acted in a way likely to diminish the trust and confidence which the public places in him or the profession, in that, on or around 26 November 2018, whilst in a position of trust, he behaved as follows towards Person 2, who was undertaking a mini-pupillage or work shadowing experience, despite Person 2 stating that she wished to and/or should leave the hotel room, he

(a) changed out of his day clothes into pyjamas or bed clothes;

(b) placed pillows on the bed and said, “These will act as a barricade,” or words to that effect;

(c) insisted that Person 2 should sleep on the bed with him rather than on the sofa in the hotel room which conduct being of a sexual nature and which he knew or ought to have known was inappropriate and/or unwanted in circumstances where:

(d) He had told Person 2 that due to confidentiality they needed the privacy of his hotel bedroom to work on the case;

(e) He initiated sexual contact with Person 2 when they were alone together in the bedroom;

(f) He knew or ought to have known that Person 2 did not wish to engage in sexual activity with him;

(g) He knew or ought to have known that sexual activity was inappropriate between them;

(h) He initiated sexual contact with Person 2 late in the evening;

(i) He was aware that Person 2 was staying away from her home city in order to attend a criminal trial in which he was counsel for one of the parties;

(j) He was in a position of professional seniority to Person 2;

(k) He was senior to Person 2 in age;

(l) There was a power imbalance between him and Person 2 in his favour;

(m) He had originally initiated contact with Person 2 via the professional social networking website LinkedIn by sending her an unsolicited message;

(n) He was aware that Person 2:

(i) was in her 20's

(ii) was working as a paralegal;

(iii) was contemplating and/or had contemplated coming to the Bar;

(iv) had sought his professional and career advice;

(v) had sought his assistance with her CV;

(vi) had sought his assistance with an application for a mini-pupillage;

(o) He had told and/or encouraged Person 2 to apply for a mini-pupillage;

(p) He had provided Person 2 with assistance with her application for a mini-pupillage;

(q) He had made communications and arrangements with Person 2 which, wholly or in part, had given Person 2 reasonable cause to believe that Mr Sidhu KC was in charge of her mini-pupillage;

(r) His professional responsibility was engaged towards Person 2 as a result of the work shadowing arrangement;

(s) He had arranged for Person 2 to attend court and shadow him in a criminal trial.

Charge 6

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition), contained in Part 2 of the Bar Standards Handbook (Version 3.4)

Particulars of Offence

Mr Navjot Sidhu KC, a barrister and BSB regulated person, acted in a way likely to diminish the trust and confidence which the public places in him or the profession, in that, on or around 26 November 2018, whilst in a position of trust, he initiated sexual contact with Person 2, during a mini-pupillage or work shadowing experience, which initiation of sexual contact he knew or ought to have known was inappropriate and/or unwanted, in circumstances where:

(a) He told Person 2 that due to confidentiality they needed the privacy of his hotel bedroom to work on the case;

(b) He initiated sexual contact with Person 2 when they were alone together in the bedroom;

(c) He knew or ought to have known that Person 2 did not want him to initiate sexual contact with her;

(d) He knew or ought to have known that Person 2 did not wish to engage in sexual activity with him;

(e) He knew or ought to have known that sexual activity was inappropriate between them;

(f) He initiated sexual contact with Person 2 late in the evening;

(g) He was aware that Person 2 was staying away from her home city in order to attend a criminal trial in which he was counsel for one of the parties;

(h) He was in a position of professional seniority to Person 2;

(i) He was senior to Person 2 in age;

(j) There was a power imbalance between him and Person 2 in his favour;

(k) He had originally initiated contact with Person 2 via the professional social networking website LinkedIn by sending her an unsolicited message;

(l) He was aware that Person 2:

(i) was in her 20's;

(ii) was working as a paralegal;

(iii) was contemplating and/or had contemplated coming to the Bar;

(iv) had sought his professional and career advice;

(v) had sought his assistance with her CV;

(vi) had sought his assistance with an application for a mini-pupillage;

(m) He had told and/or encouraged Person 2 to apply for a mini-pupillage;

(n) He had provided Person 2 with assistance with her application for a mini-pupillage;

(o) He had made communications and arrangements with Person 2 which, wholly or in part, had given Person 2 reasonable cause to believe that Mr Sidhu KC was in charge of her mini-pupillage;

(p) His professional responsibility was engaged towards Person 2 as a result of the work shadowing arrangement;

(q) He had arranged for Person 2 to attend court and shadow him in a criminal trial;

(r) Despite Person 2 stating that she wished to and/or should leave the hotel room, he had:

(i) encouraged Person 2 to stay in the hotel room;

(ii) changed out of his day clothes into pyjamas or bed clothes;

Judgment

4. At a disciplinary hearing, which began on 11 November 2024, and which continued on various dates thereafter, Mr Jo Sidhu KC appeared on fifteen charges of professional misconduct of a sexual nature against three complainants. On 13 November 2024 all fifteen charges were put to the Respondent who denied them all.

5. The Applicant Bar Standards Board (the BSB) was represented by Ms Fiona Horlick KC and Ms Harini Iyengar. The Respondent was represented by Mr Alisdair Williamson KC and Mr Colin Witcher. The Tribunal is grateful to all counsel for their considerable assistance in this case, especially for their careful written and oral submissions.

6. The Tribunal began its deliberations on 22 November 2024, but only had half a day to do so. The deliberations resumed on the morning of 9 December. An ex-tempore judgment containing the verdicts was delivered on the afternoon of 9 December. This is the redacted version of the full judgment

7. The Respondent is now aged 59. He was called to the Bar in 1993 and took silk in 2012, specialising in criminal law. He has served on various committees, including acting as Vice Chair of The Bar Council's Equality and Diversity Committee, and was President of the Society of Asian Lawyers. Between 2021 and 2022, he was Vice Chair of The Criminal Bar Association and the following year he became Chair of that Association. He became a well-known media figure during the barristers' strike in 2022.

8. There were three separate Charge Sheets, a separate one in respect of each complainant. A decision was made by the Directions Judge to hear all three cases together. For the sake of clarity, and for the ease of following this judgment, all the references to the charges use the numbering that appears in the respective Charge Sheets.

9. Charge Sheet 2023/0348 relates to Person 1. It contains a single charge and relates to an electronic message sent by the Respondent in August 2016. Originally the Charge Sheet contained two charges. The first charge was struck out at a Directions Hearing. The single charge relating to Person 1 was dismissed at the close of the BSB's case.

10. Charge Sheet 2023/0347 relates to Person 2. It contains five charges covering a period of one week, in late November to early December 2018. The Charge Sheet originally contained ten charges, five of which were struck out by the Directions Judge and one of which was dismissed by the Tribunal at the close of the BSB's case.

11. Charge Sheet 2023/0349 relates to Person 3. It contains nine charges covering a period between October 2018 and November 2022. Originally, it contained sixteen charges, eleven of which were struck out by the Directions Judge, and two of which were dismissed by the Tribunal at the close of the BSB's case.

12. The Tribunal had no information about any of the charges which were struck out by the Directions Judge.

13. For the sake of clarity, and in fairness to the Respondent, it is important to point out that the fact that there were originally ten separate alleged incidents of professional

misconduct towards Person 2 does not mean that there were ten separate instances of alleged professional misconduct. Likewise, the fact that there were originally sixteen charges concerning Person 3 does not mean that there were sixteen alleged separate instances of professional misconduct. As will become clear from the judgment, with respect to Person 2 , a number of the charges are based on the same underlying facts.

14. All of the charges before the Tribunal concern alleged breaches of Core Duties 3 and 5 of the Code of Conduct of the Bar of England and Wales ("CD3 and CD5") contained in the BSB Handbook.

15. CD3 provides:

> You must act with honesty and with integrity.

It applies when a barrister is practising or providing legal services. There is no definition of "integrity".

16. CD5 provides:

> You must not behave in a way which is likely to diminish the trust or confidence the public places in you or the profession.

CD5 is concerned with upholding the reputation of the profession. It applies at all times and is not limited to practising as a barrister or providing legal services.

17. The Handbook provides guidance on the core duties including guidance as to conduct which may constitute a breach of CD3 and/or CD5. There is no exhaustive list of conduct which could amount to breach of CD3 or CD5.

18. gC16 provides:

> Rule rC8 addresses how your conduct is perceived by the public. Conduct on your part which the public may reasonably perceive as undermining your honesty, integrity or independence is likely to diminish the trust and confidence which the public places in you or in the profession, in breach of CD5. Rule rC9 is not exhaustive of the ways in which CD5 may be breached.

19. gC25 provides:

A breach of Rule rC9 may also constitute a breach of CD3 and/or CD5. Other conduct which is likely to be treated as a breach of CD3 and/or CD5 includes (but is not limited to):

.4 seriously offensive or discreditable conduct towards third parties;

.7 abuse of your professional position.

20. The Handbook provides no definition or examples of seriously offensive or discreditable conduct. It does give one example of conduct that may well constitute a breach of professional position and that is where a barrister refers to their status as a barrister in a context where it is irrelevant, such as within a private dispute.

21. gC27 provides as follows:

Conduct which is not likely to be treated as breach of Rules rC8 or C9, or CD3 or CD5, includes (but is not limited to):

.1 minor criminal offences;

.2 your conduct in your private or personal life, unless this involves:

.an abuse of your professional position; or

.b committing a criminal offence, other than a minor criminal offence.

22. Professional misconduct is defined as follows: "A breach of The Bar Standards Board Handbook by an applicable person, which is not appropriate for disposal by the imposition of administrative sanctions."

23. Not every breach of the duties under the Code of Conduct amounts to professional misconduct. The case of *Walker v Bar Standards Board* PC 2011/0219 established the principle that a breach of the code must be sufficiently serious for it to be categorised as professional misconduct. In *Khan v BSB* [2018] EWHC 2184 (Admin) at [36] Warby J (as he then was) summarised thus:

> "The authorities make plain that a person is not to be regarded as guilty of professional misconduct if they engage in behaviour that is trivial, or inconsequential, or a mere temporary lapse, or something that is otherwise excusable, or forgivable."
>
> Whether or not a breach of duty under the Code amounts to professional misconduct is ultimately a matter for the Tribunal.

24. At all times, the Tribunal applied the following principles of law to its judgment of the evidence:

(i). The burden of proof rests on the BSB to prove, firstly, that the alleged conduct took place; and secondly, that it amounted to professional misconduct. The standard of proof depends on the date that the alleged misconduct took place. For conduct prior to 1 April 2019, the standard of proof is the criminal standard, i.e. the BSB must satisfy the Tribunal so that it is sure both that the alleged conduct took place and that it amounted to professional misconduct. For conduct after 1 April 2019, the standard of proof is the civil standard of proof which requires the BSB to satisfy the Tribunal that it is more likely than not that the alleged misconduct took place, and that it amounted to professional misconduct. Where a charge of professional misconduct spans a period before and after 2019, the criminal standard of proof applies throughout.

(ii). The Tribunal is entitled to look at all of the evidence in the case when deciding whether any particular charge is proved. It follows that the evidence of all three complainants can be viewed as a totality, and the Tribunal is entitled to use evidence about one charge, or charges, when deciding whether the charge it is considering is proved. (When announcing its decision to dismiss a number of

charges at the close of the BSB's case, the Tribunal stressed that the evidence relating to those charges remained part of the overall evidence in the case and could be taken into account when considering the remaining charges. Neither counsel submitted at that stage, or at any stage subsequently, that to do so would be impermissible.)

(iii). The Respondent is a man of good character. This is not just in the sense that he has no matters recorded against him, but also in the sense that numerous referees have spoken highly of his integrity, his dedication to his lay and professional clients, to his positive influence on the careers of young barristers, and of his commitment to the profession generally. Of course, good character, of itself, does not provide a defence to the charges. However, the Respondent's good character is something that must be taken into account in his favour; it may mean that he is less likely than otherwise may be the case to have behaved in the manner complained of. The weight to be given to the Respondent's good character is a matter for the Tribunal.

Preliminary issue concerning the convening of the Panel

25. At the outset of the hearing, the parties were made aware that the Tribunal had a concern about what appeared to be the irregular manner in which the Panel had been convened. The concern was explained by reference to Regulations 25.7 to 28 of the Disciplinary Tribunals Regulations ("the Regulations") which govern procedure. The parties were invited to consider whether the hearing itself might be invalidated on the basis of an apparent irregularity. Counsel for both parties took time to reflect and said that they did not consider that there was a problem and that the Tribunal could proceed. After further consideration, it was decided by a majority that the Tribunal had been properly convened and a ruling was made accordingly.

Announcing Decisions:

26. In relation to every ruling made against the Respondent this judgment will state whether the decision was unanimous or by a majority. Likewise, if a charge is proved, this judgment will record whether the verdict on the charge was unanimous or by a majority. Wherever a ruling is made in favour of the Respondent, or whenever a charge is not proved, the judgment will not state whether that decision or verdict was by a majority or was unanimous.

Preliminary Applications

The Respondent's application to attend remotely:

27. The Tribunal was notified a few days before the hearing that the Respondent would attend by video link. There had been no application and hence no direction for the Respondent to attend remotely. Thus, the Tribunal was presented on day one with a fait accompli. As it happened, for reasons that do not need to be set out here, it made complete sense for the Respondent to attend remotely. However, the Panel required

the Respondent to make an oral application for special measures, in order to attend in that manner, and a direction was made accordingly.

The Respondent's linked applications for anonymity and for the hearing to be held in private

28. Both applications relied on medical evidence. The Tribunal heard the evidence of two medical experts in private. One expert had been instructed by the Respondent and one by the Applicant. The BSB was neutral on the application for anonymity, but opposed the application for the hearing to be in private.

29. The Tribunal heard from Ms Louise Tickle who spoke on behalf of all the members of the media present on day one and who opposed both applications. The Tribunal was unanimous in its decision that the Respondent should not be granted anonymity. The Tribunal decided by a majority of 4 to 1 that the hearing should be held in public. The decisions were announced in public. However, because the applications turned on the medical evidence, the reasons for the decisions, which were given at the time, were given in private and will not be repeated here.

The Respondent's application to stay the proceedings

30. Mr Williamson argued that there were three reasons which, taken individually or collectively, would make it impossible for the Respondent to have a fair hearing. Firstly, the Respondent's medical condition. Secondly, the alleged serious failings on the part of the BSB as to disclosure. Thirdly, lack of time realistically to conclude the hearing.

31. The argument about the alleged failure of the BSB on disclosure was not advanced with particular vigour. The Tribunal was not persuaded that there had been any lack of disclosure such as to prevent a fair hearing.

32. As for lack of time available, this submission was unfounded. As it happened, the lack of merit of this point was further exposed when there was no cross-examination of Person 3, and when the Respondent, himself, chose not to give evidence. All of the evidence finished comfortably by Thursday 21 November.

33. The main plank of the stay application was based on the medical evidence which was heard in private. There was no suggestion that the Respondent lacked capacity to follow the proceedings or to give instructions or to participate. No end date was proposed for the lifting of a stay. It was not suggested, for example, that the Respondent would be better able to deal with the case in, say, six months' time. Indeed, the Respondent's clear instructions were that he did not wish the hearing to be adjourned to a later date, since that would simply prolong the agony and uncertainty.

34. It seemed to the Tribunal that underlying the application for a stay was a desperate wish for these proceedings to simply go away and disappear forever.

35. The application was opposed by the BSB. Ms Horlick pointed out that, following the reports to the Bar Council in November 2022 of alleged misconduct, the Respondent had,

at some stage, returned to practice. This had prompted the BSB to apply for an interim suspension order and a date had been set for a contested hearing of that application. On the morning of that hearing the Respondent relinquished his practicing certificate and the contested hearing did not take place. Ms Horlick pointed out that, since it was clear that the Respondent wanted to resume practice, it followed that at some point the charges would have to be resolved. The proceedings could not simply go away.

36. The Tribunal was mindful that, when considering an application for a stay, the question of fairness was not simply a question of fairness to the Respondent. It was a question of fairness to both parties and to the three complainants. The Tribunal was satisfied that the risk of unfairness to the Respondent based on concerns about the possible harm to his health could be resolved by special measures including his attendance by video link, and frequent breaks if and when required. The unanimous decision of the Panel was to refuse the application for a stay and to proceed with the hearing.

The Evidence in the Trial Bundle

37. The main evidence about the allegations was as follows: the statements including the personal impact statements of the three complainants, the reports made by all three complainants to Talk to Spot, an online site set up by the Bar Council which provides the opportunity for concerns about inappropriate behaviour at the Bar to be reported anonymously; messages exchanged electronically between the Respondent and the three complainants; a transcript of the interview of Person 2 by Capsticks, the solicitors instructed by the BSB to obtain evidence from the complainants.

38. The other written evidence consisted of the medical reports and witness statements from Ms Sam Mercer, Head of Diversity and Inclusion and Corporate Social Responsibility at The Bar Council and from Ms Tana Adkin KC, dealing with her awareness of complaints made about the Respondent to the Criminal Bar Association, between 2021 and 2022. Those complaints were by Persons 2 and 3.

Live Evidence

39. The Tribunal heard evidence in the following order from the witnesses called: The two medical experts, Person 3, Person 2, Ms Mercer and then Person 1. There was cross-examination of all the witnesses except for Person 3.

40. It was clear that all three complainants had found it difficult to make their complaints to the BSB. They each said that they made their complaints because they say they were concerned to uphold standards of the Bar, following experiences which they say left them losing trust and confidence in the profession. Mr Williamson had pursued a number of disclosure requests aimed at clarifying how, why and when the complaints had been made and how they had been investigated. In an attempt to answer tactfully and fairly a point raised by the Tribunal about how the Bar Council had become involved, Ms Horlick said that there had been “talk” at the Bar for some time about the Respondent’s conduct.

41. All the complainants will understand that rumours and talk of inappropriate behaviour and hearsay allegations of professional misconduct, which are not reported or pursued, are not evidence that there was any such behaviour or misconduct.

42. The Tribunal judged all three complainants and Ms Mercer to be honest and straightforward witnesses.

43. The Respondent did not give evidence and did not call any witnesses of fact. There was no evidence at all from the Respondent about any of the complaints. The Respondent's Response to the Charges, drafted by his current lawyers, was not evidence. It was a statement of his case, but it was not his evidence. There was no witness statement from the Respondent, notwithstanding a least one direction requiring him to provide a witness statement by a specified date. The Regulations do not provide any sanctions for failure to provide a witness statement. The Tribunal was not invited to draw an adverse inference from the Respondent's failure to provide a written statement, and, in the light of the medical evidence, it did not do so.

44. The Respondent provided 143 pages of character references. Ms Horlick observed that, somewhat unusually, the references had been obtained and submitted by the Respondent, rather than by his solicitors. She also pointed out – correctly – that, although it was obvious that some of the referees had been told in outline what the case was about, it was not clear in relation to many of the referees, what, if anything, they had been told about the nature, let alone the details, of the allegations before the Tribunal. The Tribunal noted the observations made by Ms Horlick, but took all of the references at face value. The weight to be given to the references was a matter for the Tribunal.

"Co-ordination" of the complaints

45. Mr Williamson suggested that the fact that the three complainants had made their complaints to the Bar Council close together in time in November 2022 and that there were similarities in the wording of their complaints was no ordinary coincidence. He referred, on a number of occasions, to "co-ordination" of their complaints. It was part of the Respondent's case that someone was out to get him and to scupper his chances of being elected to further offices at the Bar. He was standing for the position of Vice Chairman of the Bar, and, if successful, it was likely he would go on to become Chairman of the Bar.

46. Mr Williamson's cross-examination of Ms Mercer was along the lines that the investigative process had been oppressive towards the Respondent. He pointed to the fact that, at one stage, the BSB, itself, had written to the Bar Council, to express concern that the Bar Council had instructed a member of the Bar to "represent the three complainants", and that it was, "overstepping boundaries and interfering with the investigative process". The Tribunal noted that the barrister instructed by the Bar Council, whose involvement was pro bono, was not and could not be "representing" the complainants since they were not parties to the proceedings. The tenor of the cross-examination of Ms Mercer was that The Bar Council had gone to great lengths to

encourage the complaints. Ms Mercer said that she had never been in a position before where there had been a number of complaints about the same person. She explained that this was in the context of an awareness that there was at least a perception of the culture of sexual harassment at the Bar. The impression she gave was that her section was finding its feet on how to deal with complaints.

47. Having heard the evidence of all the complainants and of Ms Mercer, the Tribunal was satisfied that the complainants were unknown to each other, and that they had made their complaints independently of each other. They each became aware that there were other complainants, but were unaware of the contents of the other complaints. The knowledge that there were other complainants made each of them less concerned about coming forward to make their own complaints. The fact that the complaints to the Bar Council were made within days of each other did, yes, point to co-ordination. But there was nothing sinister in that. It was a question of co-ordinating the preparation of the case.

48. One concern the Tribunal did have, however, related to the interview of Person 2 by Capsticks, the solicitors instructed by the BSB. At a dinner, sometime in 2021, Person 2 had spoken to a Ms AB a member of the Bar (her identity is being anonymised), about inappropriate behaviour by the Respondent. It was Ms AB who had encouraged Person 2 to press ahead with a complaint. Ms AB was present at the interview of Person 2. It may be that she attended the interview in order to reassure Person 2 and offer support. However, the Tribunal considered the presence of Ms AB to be inappropriate not least because, during the interview, the solicitor conducting the interview asked Ms AB whether she knew of any rumours of incidents involving the Respondent. Ms AB said she had heard rumours and talk of other complaints but nothing "substantial" or "substantiated". The Tribunal listened with great care, to the evidence of Person 2 and was satisfied that integrity of her evidence was not undermined by the presence of Ms AB in the interview.

49. The Tribunal was satisfied that none of the complainants had tailored or exaggerated their evidence. Indeed, Mr Williamson did not suggest as such. The case put on the Respondent's behalf was that, with hindsight, both Person 2 and Person 3 regretted their interactions with the Respondent, such interactions having at all times been entirely personal and consensual, and that they had each reconstructed in their own minds what had happened. The argument by the BSB was that, with the benefit of hindsight, they had understood correctly that their relationship with the Respondent had been a manipulative one, designed to satisfy the Respondent's own sexual desires.

The Five Charges relating to Person 2

50. The background is as follows. Person 2 was working as a paralegal in London. She had a profile, including a photograph, on the networking site LinkedIn. In February 2018, the Respondent invited her to connect with him on the site. She had never met him before and did not know who he was. She noted from his own profile that he was a QC. Person 2 accepted the invitation. Later that month she received a private message

complimenting her on her profile and signing himself as "Jo". There followed an exchange of messages, all in February 2018, about their respective professional interests.

51. There was no further contact until October 2018 when Person 2 sent the Respondent a private message updating him on her change of jobs and saying that she was contemplating a career at the Bar and asking if she could speak to him to ask him about life at the Bar. The Respondent offered Person 2 a mini-pupillage with him after learning that she had been unsuccessful in obtaining a mini-pupillage in another set of chambers. He had assisted her in making the application to the other set of chambers. They met twice in public places to discuss arrangements for the mini-pupillage. These meetings and discussions were always about professional matters.

52. During the hearing, the BSB made enquiries of the Respondent's former chambers about the system for offering mini-pupillages in 2018. The information obtained was that, at the relevant time, applicants for mini-pupillages normally applied by writing to chambers, with a cover letter and a CV. Sometimes, institutions such as universities would send a group of mini-pupils. In addition, some barristers would take on mini-pupils with them without notice to chambers. If mini-pupillages were being administered by chambers the successful applicants would be required to give undertakings as to confidentiality.

53. The Respondent organised the mini-pupillage. Nothing was organised through his chambers. He sent Person 2 reading material. Person 2 had never undertaken a mini-pupillage before and did not know what it entailed. She was not required to sign an undertaking as to confidentiality.

54. The mini-pupillage involved following the Respondent in a trial in a city outside London. Person 2 had never been to the city before. She made her own travel and accommodation arrangements at her own expense. At the time of the mini-pupillage Person 2 was in her mid-twenties. She accepted in cross-examination that she was old enough to know her own mind.

55. On the evening before the trial began, the Respondent, who was staying at a different hotel, met Person 2 in the lobby of her hotel. They spoke for about forty-five minutes about arrangements for the week ahead.

56. The following morning Person 2 met the Respondent at court and shadowed him for that day. At the end of the day, the Respondent suggested that she should go to his hotel that evening to work on legal arguments. They met in the hotel bar at around 7pm. The Respondent suggested that they should go to his room because they were in a public place which was not suitable for a confidential discussion about the case. Person 2 thought it was strange to be invited to his room, but understood the need for confidentiality and had no reason not to trust the Respondent. His behaviour up to that point had always been professional and appropriate. She said he made the invitation seem "normal".

57. During the hearing, Person 2 was asked by the Tribunal whether there was a junior barrister with the Respondent at any time during his trial. Person 2 could not remember. However, Mr Williamson assisted the Tribunal, by informing it that there was, in fact, a

male junior working with the Respondent on that case. There was no evidence as to whether the junior was invited to join the Respondent at the hotel. If the Respondent had given evidence, he would no doubt have been asked why the male junior did not go to the hotel room that evening to discuss legal arguments.

58. The Respondent and Person 2 entered the hotel room and sat on the sofa to work on the case. They worked for a couple of hours and the Respondent complimented her on her understanding. They finished at around 10 pm at which point Person 2 said it was late and that she should leave. The Respondent said she should stay as it was late. At some point the Respondent had locked the door. In cross-examination, Person 2 agreed that the lock was a simple lock involving a switch which she could have unlocked. The Respondent was not aggressive or threatening. He was going in and out of the bathroom and was changing out of his clothes into his pyjamas. Person 2 said she could sleep on the sofa and then the Respondent suggested the bed and placed some cushions down the middle which he said would be a "barricade". She agreed in cross-examination that he did this in a jocular fashion.

59. Person 2 had been expecting to return to her hotel which was walking distance away. She had not taken a change of clothes or anything for an overnight stay. She said repeatedly that she should leave, but the Respondent persisted in saying she should stay.

60. She ended up sleeping on the bed. The Respondent began kissing her. She could not remember the exact sequence. At some point he was on top of her. She was lying on her back and did not respond. She thought that he touched her skin under her clothes. She recalled that he touched her breasts and the lower parts of her body. She did not say "no". At some point she touched his private parts. There was no evidence as to why she had done this or for how long the touching lasted. Person 2 said she could not remember if the sexual activity had included oral sex or whether there was activity once or more than once during the night. There was no sexual intercourse.

61. She left early the next morning and went back to her own hotel and got ready to go to court. She did not tell anyone what had happened at the time and did not think about not completing the mini pupillage because of how it might look. The Respondent "normalised" what had happened. He did not speak about what had taken place other than mentioning on one occasion that she had not been "very responsive" that first night.

62. In the following days the Respondent continued to mentor her. His only comment about what had happened in the hotel room on the first night was that she had not been very responsive. She said the relationship changed during the week and he became flirtatious towards her, commenting on her appearance. She began to think he liked her. He told her he no longer had sex with his wife.

63. On one further occasion he invited her back to his hotel, but she had no recollection of having gone there. However, she had come across an Uber receipt for a journey to the Respondent's hotel timed at 23.29 so she took this to mean that she must have gone there. She could not recall what happened so she could not say whether or not there had been any sexual activity. She agreed in cross-examination that if she had gone to

his hotel a second time, she would have expected sexual activity to take place. In the Response to the Charges, it was not disputed that there was a second invitation to go to his hotel, but the Respondent's case was that Person 2 had only visited his hotel once. (The allegation in Charge 10 is of a second invitation to visit the hotel.) Person 2 went out for dinner with the Respondent alone one evening and joined him and others for dinner on other occasions.

64. The above factual account was not challenged.

65. In cross-examination Person 2 agreed that there was no physical obstacle preventing her from leaving. She said she felt she could not leave because the Respondent was insistent that she should stay.

66. Person 2's unchallenged evidence as to her state of mind was that said she was taken aback to be invited to stay the night. Nothing had prepared her for what happened in the hotel room. She was shocked and confused since all their interactions prior to that point had been work focussed and professional.

67. Person 2 said that she knew it was not right to stay but she felt the Respondent had put her in a difficult position. The Respondent was in charge of her mini-pupillage and she did not feel she could leave. She felt uncomfortable and did not want to stay. She thought the Respondent was very influential at the Bar and she did not want to make a fuss which could have had a detrimental effect on her career.

68. She believed she had laid on the bed fully clothed but agreed that, on her own account, some of her clothing must have been removed at some point. She could not remember when or by whom. She felt she could not do anything but lie there. She did not want sexual activity to take place. She thought it was clear from her saying she wanted to go back to her hotel and from her lack of response that she did not want to be there. She was in shock at what was happening. In her witness statement she said that she might *"not have fought to push him off".* In oral evidence she said that she "*did not feel able to push him off."* In her witness statement she said that she did not believe saying anything else would make any difference.

69. After the mini-pupillage ended, the Respondent ceased to mentor her, but the two remained in communication. They exchanged flirtatious messages sporadically for two years or so. They discussed meeting up possibly at her flat, although that never happened and the two never met again. She accepted in cross-examination that if the visits to her flat had taken place, she expected that there would have been sexual activity. After a long gap in their contact, she messaged him calling him "darling" and saying that she missed him. The last communication was in March 2021.

70. Person 2 said she felt that it was the Respondent's ability to make everything seem "normal" that led to her remaining in touch with him. With the benefit of hindsight she realised that it was completely unprofessional of him to invite her to his hotel room. She should not have been put in that position. She felt that the Respondent had used his position as her mentor to get her to stay in his room and that what happened in the room was wrong.

Assessment of the Evidence and Decisions on the Charges re Person 2

71. Ms Horlick and Mr Williamson each invited the Tribunal to judge the evidence in accordance with their respective interpretations. Ms Horlick submitted that the Respondent was targeting Person 2, an attractive young woman whom he would seek to charm, flatter and ultimately exploit his professional status in order to embark on a sexual relationship with her. Why else would a successful and busy silk spend time looking at the LinkedIn site of a woman he had never met but who looked young and attractive to connect with him? Why else would he offer that young woman a mini-pupillage with him and the opportunity to shadow him for a week which would involve staying in a hotel? Why was he inviting this young woman to his hotel room late at night on the first night of the trial to discuss legal arguments? To these rhetorical questions, the Tribunal adds that it would have been interested to know why the male junior was not present in the room to discuss legal arguments.

72. The rival submission by Mr Williamson was that the Respondent has always gone out of his way to assist and encourage aspiring barristers, male and female, and to promote their careers. So much was borne out by the many references. There was nothing sinister in his approach to Person 2 or his offer of a mini-pupillage.

73. Mr Williamson pointed out that that Person 2 was in the company of many others throughout the week, including a female junior, in addition to the Respondent's junior, and that she had raised no concerns at the time.

74. The Charge Sheet contained three separate charges i.e. Charges 2,4, and 6 in respect of the hotel bedroom incident. The narrative details were compendious and were repeated across the charges. Many of the allegations were duplicated in the separate charges with the result that the Charges, particularly Charges 4 and 6, were not easily distinguishable. All three charges alleged breach of CD5.

75. All the Charges relating to Person 2 allege that the Respondent was in a "position of trust" towards her. Mr Williamson took issue with this assertion. He said that this was a nebulous phrase which does not appear anywhere in the Code of Conduct. Ms Horlick's counter argument, which was not challenged, was that being in a "position of trust" was not a material averment. It remained the BSB's case that the Respondent was in a position of trust because he had assumed responsibility for Person 2 by virtue of the mini-pupillage. Ms Horlick argued that a barrister who mentors another pupil, whether mini-pupil or pupil, is trusted by the pupil, by the profession and by the public to behave in a manner that maintains public trust and confidence. The Tribunal accepted this argument.

76. Mr Williamson also took issue with the BSB's pleaded case and the use of the word "inappropriate" to describe the Respondent's behaviour. He described the word as nebulous and meaningless and submitted, in reliance on *Beckwith v SRA* [2020] EWHC

3231 (Admin) that a finding that conduct was "inappropriate", without more, was incapable of amounting to a breach of CD5. Again Ms Horlick's unchallenged response was that the word "inappropriate" was not a material averment. She cautioned against over reliance on the case of *Beckwith* which the appellate court stressed turned on its own facts and was not of wider application. The Tribunal considered both authorities and accepted the submissions by Ms Horlick.

77. Mr Williamson submitted that the totality of the evidence was that the sexual activity was consensual and therefore did not breach CD5. He pointed out that it is not unusual for pupil supervisors to engage in intimate relationships with their pupils which relationships sometimes led to marriage. He drew the Tribunal's attention to current guidance from the Bar Council to assist barristers on professional conduct and ethics. The Guidance, which postdates the period in question and which does not bind the BSB or the Disciplinary Tribunal, states as follows:

"Para 20. A sexual relationship between a pupil and pupil supervisor, or between a pupil and any member of chambers or clerk who could be perceived to have any influence over that pupil's professional future, is strongly discouraged. The risk of a breach of CD3, CD4, CD5 and/or CD8 is very high indeed. The risk may take the form of apparent or actual discrimination against the pupil concerned (particularly if the relationship breaks down before a tenancy decision is made) or against other pupils in Chambers, who may perceive themselves to be at a disadvantage. There will always be the risk of a perception that, for example, X was given a tenancy or better work because of the influence of the senior person with whom X was in a relationship.

Para 21. The pupil is inevitably in a very vulnerable position. There is a very real risk that a pupil will feel under pressure to enter into a sexual relationship with a supervisor or other member of chambers, at a time when that pupil's future lies in the hands of members of those chambers."

78. Mr Williamson drew a distinction between the position of Person 2 who was a mini-pupil as opposed to a pupil. Mini-pupils are not being assessed as potential tenants and are not competing with other pupils for a tenancy. It followed that, whereas a sexual relationship with a pupil might be perceived to have an influence over the pupil's professional future, there could be no such perception in the case of a mini-pupil. Although a pupil might be a very vulnerable person who risked feeling under pressure to enter into a sexual relationship with a supervisor, there was no comparable risk in the case of a mini-pupil. The Tribunal rejected that argument. Person 2 knew that the Respondent was a senior member of the Bar and had approached him for help with her career. She was awed by his status as an influential senior member of the criminal Bar and she feared that he could damage her career. In her Talk to Spot report, Person 2 wrote of her experience of the first night in the hotel. *"He was so senior to me and personally in charge of my mini-pupillage. He could have thrown me off and damaged my chances of getting pupillage. He is also such a prominent figure within the Bar, and the legal industry as a whole, he could have damaged my whole career……he was in a professional capacity and a position of trust and he abused that."*

79. Mr Williamson stressed that a barrister is entitled to know what the Regulator deems to be unacceptable conduct that might put them in breach of CD 3 or 5. The Code and the Guidance failed in this regard. The Tribunal took the view that common sense dictates and case law acknowledges that it would be impossible to draft a list of all the types of conduct that risked contravening the Code of Conduct. The Tribunal had no doubt that the Respondent, an experienced and respected silk who regularly taught students and spoke at legal events, knew very well that his conduct that night put him at risk of breach CD5. The Respondent did not need the Code of Conduct to spell out to him that inviting his mini-pupil back to a hotel bedroom and then getting her to stay the night and initiating sexual activity was likely to be a breach of CD5. It was noteworthy that the Respondent himself told Person 3 in October 2021 that it would be too risky to have sex with her because his reputation at the Bar would be at risk if it was known that he had sexual encounters with students.

80. It is important to record that the BSB did not allege that the sexual activity was non-consensual. The allegation was that it was *"inappropriate and/or unwanted".* Person 2, whom the Tribunal found to be honest, repeatedly said that she did not want sex that night in the hotel. She did not respond, save for touching the Respondent's private parts, and she did not resist. On the one hand, it was not suggested to her that the Respondent had asked her if he could kiss her and touch her. On the other hand, it was not part of her evidence that he took her hand and forced her to touch his penis. Her evidence was that at all times that night she was confused and did not know what to do. Mr Williamson suggested that this willingness to touch the Respondent's private parts must cast doubt on the notion that the sexual touching was unwanted. Ms Horlick suggested that the fact that Person 2 volunteered this information – which was against her interest – both during her interview and in her statement highlighted Person 2's honesty and candour.

81. The issue of wanted/unwanted sexual activity was not clear cut. There was evidence that, at least initially, it was unwanted. The Respondent did not challenge Person 2's evidence that was on top of her, kissed her and that she did not respond to his kisses. Nor did he challenge her evidence that later that week he commented on her lack of enthusiasm that night. The Tribunal considered the possibility that Person 2 did not want any sexual activity and that, when she touched the Respondent, she was simply going along with the sexual activity, albeit without enthusiasm, because she was confused and, as she said, she felt trapped. Against that, the Tribunal bore in mind that later that week she was willing to spend time alone with the Respondent and she was prepared to return to his hotel on another night expecting that there would have been sexual activity.

82. The Tribunal accepted Person 2's evidence that she was confused and that she lacked confidence. The Tribunal was wary of approaching this evidence by adopting what are sometimes called "*rape myths*". The Tribunal was mindful of the need to avoid leaping to the conclusion that the sexual activity must have been wanted because there was no violence or threat of violence and because she did not leave the room, even though it would have been physically possible for her to do so. The Tribunal bore in mind that Person 2 had gone to the hotel, not expecting anything untoward to happen. She had

not taken any night clothes, or any change of clothes for the following day. The Tribunal accepted her evidence that she trusted the Respondent and took into account that she had no previous experience of work at the Bar and no connections with the Bar and that she was a woman on her own in an unfamiliar city.

83. The Tribunal read a redacted version of Person 2's personal impact statement in which she said she had relived the episode, over and over in her memory, and had questioned whether she was somehow at fault for what happened. Overall, it seemed she was embarrassed and upset about what happened and she came to blame it on herself.

84. Having grappled with the issue of whether this sexual activity was unwanted, and applying the criminal standard, and having taken all of the evidence into account, the Tribunal could not rule out the possibility that over the years, Person 2 has reframed the incident in her mind and that, in so doing, she has seen and interpreted this incident through the prism of exploitation which is how she has come to characterise her relationship with the Respondent. In the end, the Tribunal could not be sure that the sexual activity was unwanted.

Findings and Decisions on Charges 2,4, and 6 re Person 2 – the hotel bedroom

85. **Charge 2** The Tribunal applied the criminal standard of proof and was unanimous in making the following findings. The Respondent was acting in a professional capacity when he invited Person 2 to go to his hotel that evening to work on legal arguments. Up until the invitation to stay, all interactions between the two had been professional not personal. He had invited her to do a mini-pupillage. He knew that she had no previous experience of the Bar and was interested in a career at the bar. He held himself out as someone who could help. In the circumstances, the Respondent was in a position of trust. There was a power imbalance between the Respondent and Person 2 by virtue of his professional status as senior silk and her status as an aspiring barrister. Person 2 had gone to the room expecting to work and nothing had prepared her to expect to be invited to stay the night in the Respondent's hotel room. Despite Person 2's repeatedly expressed wish to leave, the Respondent persisted with the invitation to stay in his room. The Respondent insisted that Person 2 should sleep on the bed rather than the sofa. The Respondent changed into his night clothes while Person 2 was in the room. The invitation to stay the night and to sleep on the bed was sexually motivated, inappropriate and unwanted and the Respondent knew or ought to have known that it was inappropriate and unwanted. The Respondent's conduct is likely to diminish the trust and confidence which the public places in him or the profession. Accordingly, Charge 2 was proved. The decision was unanimous.

86. **Charge 4** The above findings of fact apply to Charge 4. In addition, having applied the criminal standard of proof, the Tribunal was unanimous in finding that the Respondent initiated sexual activity, that the sexual activity was inappropriate and that the Respondent knew or ought to have known that it was inappropriate. The Respondent's conduct is likely to diminish the trust and confidence which the public paces in him or the profession. Accordingly, Charge 4 was proved. The decision was unanimous.

87. **Charge 6** Neither Ms Horlick nor Mr Williamson addressed the Tribunal on the difference between the allegations in Charge 6 and Charge 4. Both Charges include the allegation that the Respondent initiated sexual activity and that he knew or ought to have known that sexual activity was inappropriate. The Tribunal found that allegation proved. The only discernible distinction between the allegations in Charge 4 and Charge 6 is that:

Charge 4 reads**:**

> e) He *initiated* sexual contact with Person 2 when they were alone together in the bedroom;
>
> f) He knew or ought to have known that *Person 2 did not wish to engage in sexual activity.*

Charge 6 reads:

> b) He *initiated* sexual contact with Person 2 when they were alone together.
>
> c) He knew or ought to have known that *Person 2 did not want him to initiate sexual contact* with her.
>
> d) He knew or ought to have known that *Person 2 did not wish to engage in sexual activity.*

Thus, Charge 6 contains an additional allegation that the Respondent knew or ought to have known that Person 2 did not want him to initiate sexual activity. The distinction between not wanting sex to be initiated, and not wanting any engagement in sex, was not addressed in submissions. The Tribunal could not be sure that the evidence established that there was a distinction. In the circumstances, given that the Tribunal could not be sure that the sexual activity per se was unwanted, it followed that the question of whether or not the Respondent knew or ought to have known that, at any stage, the sexual activity was unwanted fell away. However, the Tribunal's unanimous finding applied equally to Charge 6.

Charge 6 was proved, but on the basis set out above in relation to Charge 4 i.e. that the initiation of sexual activity and the engagement in sexual activity were inappropriate and that the Respondent knew or ought to have known that they were inappropriate.

The Tribunal's findings of fact mean that there is no distinction between Charges 4 and 6.

Sanctions

88. On 9 December 2024, following a contested hearing lasting several days, the Tribunal found 3 charges of professional misconduct proved. What follows is the report of the decision of the Tribunal at the conclusion of the sanctions hearing on 19 March 2025. The decision, together with reasons, was announced at the end of the hearing.

89. All 3 charges concern sexual misconduct towards one individual who has been referred to throughout as Person 2. The charges date back to November 2018 when Person 2 was undertaking a week of mini-pupillage with the Respondent.

The Impact on Person 2

90. In August 2024, in the first of her two personal impact statements, Person 2 recounted that she had been proud to obtain a mini-pupillage and had been looking forward to it. However, her experience of mini-pupillage had been ruined by what happened. She said that, looking back, she could "kick herself" for thinking it was normal to go back to his hotel, but that she had relied on the trust that she had built up with the Respondent as her mentor. "*I believe I ended up in his room because he engineered it that way."* She said that for a long time she had blocked the experience from her mind. She had found it very difficult to talk about what happened. For a long time she had blamed herself. She was worried about the consequences for herself of reporting the Respondent given that he was so powerful and influential at the Bar. She had undertaken therapy which had helped her. Her first statement concluded: *"The Respondent's actions have sadly impacted every aspect of my life, including destroying my faith in men, especially in a professional capacity."* It was clear from the second impact statement that, regrettably, the protracted proceedings and the uncertainty as to whether and when the hearing would take place, have added to the stress and upset felt by Person 2. Whilst accepting the evidence of Person 2 on the impact of the proceedings, it was not a factor that the Tribunal took into account in its assessment of harm.

Sanction

91. The Tribunal applied the Sanctions Guidance Version 6 issued on 1 January 2022 (the "Guidance") applicable to all decisions on sanctions regardless of when the misconduct occurred. The Tribunal bore in mind the purpose of sanctions for professional misconduct. The following were of particular importance: the maintenance of public confidence and trust in the profession and the enforcement system; the maintenance and promotion of high standards of behaviour and performance at the Bar; the deterrence to the individual barrister and to the wider profession from engaging in the misconduct subject to the sanction.

92. The misconduct falls within Group B – misconduct of a sexual nature. The Guidance points out that such behaviour, which is prevalent at the Bar, seriously undermines public trust and confidence in the Bar and has a negative impact on recruitment and retention at the Bar.

93. The Tribunal was unanimous in identifying the following factors from the list in Group B and in the Annex 2 in relation to culpability and harm:

- The misconduct took place in a professional context;
- The misconduct was intentional;
- The Respondent's motivation was his own sexual gratification;
- The use of his position to pursue an inappropriate relationship;
- The misconduct was directed at a person in a vulnerable situation;
- There was sexual touching;

- The misconduct involved elements of planning at least on the day it happened if not earlier;
- It was a one-off incident but it was sustained;
- The Respondent acted in breach of a position of trust;
- There was a significant disparity in seniority and experience between the Respondent and Person 2;
- The Respondent had sole responsibility for the circumstances giving rise to the misconduct;
- The harm to Person 2 could have reasonably been foreseen;
- The misconduct caused injury to Person B's feelings;
- The misconduct impacted on Person 2's emotional well-being.
- The misconduct had a detrimental impact on the public confidence in the legal profession.

94. Having taken all of the above factors into account, the conclusion of the Tribunal, by a majority of 3 to 2, was that the misconduct involved significant culpability and significant harm and that it fell within the upper range of seriousness. The majority considered that misconduct caused significant harm to public confidence in the profession and was particularly serious in view of the Respondent's seniority and prominent position at the Bar. The conclusion of the minority of the Tribunal was that the misconduct fell within the middle range of seriousness and involved moderate culpability and moderate harm which included harm to the confidence in the profession. There was consensus that the fact that the misconduct took place six years ago had no bearing on culpability or harm. The indicative sanction for upper range seriousness is disbarment and for middle range seriousness is suspension for over 24 months up to disbarment.

95. The Tribunal then considered aggravating and mitigating factors and was unanimous in its conclusion that there were no aggravating or mitigating factors under Group B.

96. With reference to aggravating factors in Annex 2, the Respondent's senior level of experience was relevant.

97. There was no reflective (or indeed any) statement from the Respondent so it was not possible to draw any conclusion favourable or unfavourable on the questions of remorse and insight.

98. With reference to mitigating factors in Annex 2, the Tribunal had medical evidence and evidence about the personal circumstances of the Respondent. It was not suggested that these caused or influenced the misconduct. The Tribunal was informed that the Respondent was undertaking therapy.

99. The relevant mitigating factors were the previous good character and good references. The Tribunal took account of the fact that not only had there been no previous disciplinary findings but also that he was highly regarded as a talented and hardworking

advocate who was committed to the profession and to encouraging aspiring barristers from underrepresented groups. There were many excellent references from male and female colleagues and from mentees past and present all of whom spoke of the Respondent's dedication to the profession and to his commitment to the promotion of diversity and inclusivity at the Bar. The Tribunal accepted all the references.

100. The Tribunal was mindful of the need to treat areas of mitigation with caution when dealing with misconduct of a sexual nature.

101. The Tribunal applied the principle of proportionality which requires sanctions to be no more than is necessary to achieve the purposes of sanctions.

102. Having considered all of the above matters, the majority decision (by 3 to 2) was that the indicative sanction of disbarment was the only just and proportionate sanction in all the circumstances. The minority decision was that the just and proportionate sanction was a term of suspension of 25 months less credit for the time spent under the interim suspension order imposed on 9 December 2024.

103. The Tribunal imposed a sanction of disbarment on Charge 2 and 4. The Tribunal imposed no separate penalty on Charge 6 since the findings of fact on which it was proved did not differ from those in Charge 4 with the result that the Charges as proved were indistinguishable.

Costs

104. The Tribunal considered cross-applications for costs. The Respondent contended that the BSB should pay some or all of his costs on the basis that the BSB had pursued charges unnecessarily, unfairly and unreasonably as was evidenced by the fact that the great majority of the original charges had been dismissed, many of them at preliminary hearings and that, of the fifteen charges which had gone to trial, only three had been proved. The BSB relied on the authority of *Baxendale-Walker v Law Society* to the effect that, in the absence of dishonesty or bad faith, a costs order should not be made against a regulator unless there is good reason to do so. The dismissal of charges did not amount to a good reason. The Tribunal had to balance the financial prejudice to the Respondent on the one hand against the need for the BSB to exercise its function of making reasonable and sound decisions without fear of exposure to undue financial prejudice if the decision is successfully challenged. The Tribunal saw no evidence of dishonesty or bad faith on the part of the BSB and was not satisfied that there was any good reason to order costs against it. The application by the BSB for costs was refused on the grounds that the Respondent's financial circumstances are already very difficult and are unlikely to improve in the near future. In the circumstances the imposition of a costs order would be harsh.

Publication

105. The Tribunal considered the question of publication. Regulations E243-243A, which govern publication of the findings, sanctions, and report of the Disciplinary Tribunal provide as follows:

rE243

The following procedures apply to the publication of the finding and sanction of the Disciplinary Tribunal:

1 *BTAS:*

a) must, where charges are proved, publish the finding and sanction of the *Disciplinary Tribunal* on its website within 14 days of the date when the *Disciplinary Tribunal's* proceedings end, unless, on application by the *respondent* at the hearing, the *Disciplinary Tribunal* directs that it is not in the public interest to publish the finding and/or sanction; and

b) must, where charges have been dismissed, including following an application under rE127.2, not publish the finding on its website, unless the *respondent* so requests; and

2. The *Bar Standards Board* is free to publish the findings and sanction of a *Disciplinary Tribunal* on its website in accordance with rE243.1.

106. **rE243A**

The following procedures apply to the publication of the report of the *Disciplinary Tribunal* Decision:

1 *BTAS*:

a) must, where charges are proved, publish the report of the *Disciplinary Tribunal* decision on its website within a reasonable time after the date when the *Disciplinary Tribunal's* proceedings end, unless, on application by the *respondent* at the hearing, the *Disciplinary Tribunal* directs that it is not in the public interest to publish the report; and

b) must, where charges have been dismissed, including following an application under rE127.2, not publish the report on its website, unless the *respondent* so requests; and

c) must, where charges have been dismissed, including following an application under rE127.2, publish an anonymised summary of the report on its website, unless on

application by the *respondent* at the hearing, the *Disciplinary Tribunal* directs that it is not in the public interest to publish the anonymised summary; and

d) may, where charges have been dismissed, publish the report of the *Disciplinary Tribunal* on their website at any time, provided that in this case all details of the relevant parties involved in the hearing are anonymised.

107. The Respondent sought a direction that neither the report of the decision on the charges that were proved nor the anonymised summary of the report of the charges which were dismissed should be published on the Tribunal's website. It was argued that any such publication would attract widespread publicity which was likely to cause serious harm, not only to the Respondent whose life had been threatened, but also to his family whose well-being had been and continued to be harmed as a direct consequence of publicity. The Respondent was a ruined man and there could be no public interest in exposing him and his family to the further suffering which would inevitably follow from publication of the Tribunal's reports. In the circumstances of this high-profile case, the anonymisation of reports would afford no protection to him or his family.

108. The Tribunal heard from Miss Baksi, a representative of the media, who supported the principle of open justice. The hearing had taken place in public subject to the necessary anonymity afforded to the complainants. There had already been widespread reporting of the charges and the decision. Whatever the decision of the Tribunal on the Respondent's application, the Tribunal had no power to prevent further reporting by the media.

109. The BSB was neutral on the issue of publication but Ms Horlick ventured to suggest that publication by the Tribunal of an accurate report might be of benefit to the Respondent.

110. The Tribunal retired to consider the rival submissions and concluded unanimously that, notwithstanding the understandable and genuine concerns of the Respondent, the argument that publication pursuant to the Regulations was not in the public interest was not made out. The unanimous decision was that the Respondent's application be refused.

1 May 2025

HH Janet Waddicor
Chair of the Tribunal