



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2017/0212/D3

Ms Philippa Page

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Gray's Inn

Disciplinary Tribunal

Ms Philippa Page

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 11th December 2017, I sat as Chairman of a Disciplinary Tribunal on the 22nd January 2018 to hear and determine two charges of professional misconduct contrary to the Bar Standards Board Handbook against Ms Philippa Page, barrister of the Honourable Society of Gray's Inn.

Panel Members

2. The other members of the Tribunal were:

Roland Doven [Lay Member]

Amanda Savage [Barrister Member]

Charges

3. The following charges were admitted:

Charge 1

Statement of Offence

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Professional misconduct contrary to Core Duty 10 and Rules rS6 and rS8 of the Bar Standards Board Handbook.

Particulars of Offence

Between 1 May 2017 and 3 May 2017, Ms Philippa Page failed to take reasonable steps to manage her practice competently and in such a way as to achieve compliance with her legal and regulatory duties in that she carried out reserved legal activities namely the exercise of rights of audience at Wood Green Crown Court and Woolwich Crown Court on the 2 and 3 May 2017 when she was not entitled to do so by reason of the fact that she did not have a practicing certificate and was not authorised to do so pursuant to the Legal Services Act 2007.

Charge 2

Statement of Offence

Professional misconduct contrary to Core Duty 10 and Rule rS8 of the Bar Standards Board Handbook.

Particulars of Offence

Between 1 May 2017 and 3 May 2017, Ms Philippa Page failed to take reasonable steps to manage her practice competently and in such a way as to achieve compliance with her legal and regulatory obligations in that she practised as a barrister when she was not entitled to do so by reason of the fact that she did not have a practicing certificate.

Parties Present and Representation

4. The Respondent attended but was not represented. The Bar Standards Board ("BSB") was represented by Marcus Joyce and Gemma Wright, BSB Investigations Officer, was in attendance.

Judgment

This is our unanimous decision. The BSB has brought proceedings against Ms. Page charging two related offences.

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The first charge is this: Professional Misconduct contrary to Core Duty CD10 and Rule RS6 and Rule RS8 Part 3 of the Bar Standards Board Handbook. The particulars of that offence are that between 1st and 3rd May 2017 Ms. Page, a self-employed barrister, failed to take reasonable steps to manage her practice competently and in such a way as to achieve compliance with her legal and regulatory obligations in that she carried on reserved legal activities, namely the exercise of rights of audience at the Wood Green Crown Court and Woolwich Crown Court on 2nd and 3rd May 2017 when she was not entitled to do so by reason of the fact that she did not have a practising certificate and was not authorised to do so pursuant to the 2007 Legal Services Act.

The second charge is Professional Misconduct contrary to Core Duty CD10 and Rule S8, again Part 3 of the Bar Standards Board Handbook. The particulars of that offence (which as I have said is related) are that between 1st May and 3rd May 2017, Ms. Page, being a self-employed barrister, failed to take reasonable steps to manage her practice competently and in such a way as to achieve compliance with her legal and regulatory obligations in that she practised as a barrister when she was not entitled to do so by reason of the fact that she did not have a practising certificate.

Ms. Page has attended the hearing today and admitted those charges and has expressed her profound apologies to the Tribunal. She has also specifically referred to us to an e-mail she wrote to the Bar Standards Board on 3rd July 2017 during the course of the investigation into the matters before us. In that e-mail she referred to her embarrassment at her own disorganisation, in particular that she thought that she could fill in the relevant form and make the relevant payment over the Bank Holiday weekend 29th April to 1st May 2017 but found that was impossible; the expiring date for her practising certificate being the end of April. She then phoned the BSB on 2nd May, the first possible date, and they explained this. Using her words, "I telephoned the Bar Standards Board on 2nd May, that was a Tuesday, and spoke to Ms. Alexandra Paynter. She advised me that I would have to download the form and fill it out and then return it to the BSB. I was unable to fill it out electronically on my iPad, undoubtedly due to my own incompetence and, as my printer had broken down, I could not print the form out at home."

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In the e-mail she went on to say this: "As I had already accepted work for 2nd May I did not feel able to return it at short notice. In hindsight I concede that I should have done. I cannot explain why I then subsequently failed to deal with my practising certificate on 3rd May. I have no recollection of what happened that day but I did then finally attend the BSB offices on 4th May and, with Ms. Paynter's help, I completed the form and made the payment including the 20% late surcharge at that time."

Ms. Page expanded on those matters in oral submissions this morning. We asked her if there were any specific matters she wished to draw to our attention. She made a number of general observations including about her tendency to let less important matters slip but she did not draw our attention to any specific health, personal or professional matters to which her default could specifically be attributed.

Mr. Joyce, counsel for the BSB, drew our attention to the fact in 2015 Ms. Page was the subject of a determination by consent in relation to a very similar matter. We were handed a piece of paper in relation to that which I am not going to read verbatim, but the charge concerned was Professional Misconduct contrary to Core Duty 10 and Rule S6 and Rule S8. The particulars of the offence were these: that Ms. Page practised as a barrister and carried out a reserved legal activity, namely the exercise of rights of audience between 1st May 2015 and 18th May 2015 when not entitled to do so under the Legal Services Act as she did not have a valid practising certificate in place. This failure was serious by virtue of its nature in that it is contrary to the requirements of section 13(2) of the Legal Services Act 2007 and may also constitute a criminal offence under section 14 of that Act.

The Committee recorded that it considered mitigating and aggravating factors as well as sentencing guidance. They recorded by way of mitigating factors, I should record this, that Ms. Page had put forward personal circumstances. The Committee also took into account Ms. Page's admission of the charge, her remorse, her acceptance of responsibility that she has no previous disciplinary findings recorded against her and her financial circumstances. The Committee imposed a fine of £600 upon Ms. Page by way of sanction.

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We have also had our attention drawn by Mr. Joyce to paragraph E.3d in the Sentencing Guidance which is provided for this Tribunal. That is found at page 51 of the Sentencing Guidance within the section concerning "Breach of practising requirements". Under the caption "Possible circumstances" it says, "Repeated failures to meet practising requirements, or breach of licence/authorisation to practise (but no previous disciplinary history of this)." The "Starting Point" in the related column is "Short suspension (usually conditional)".

We have given careful consideration to Ms. Page's position. The matters charged and admitted are serious ones. In particular, as was recorded in 2015, "the carrying out of a reserved legal activity may constitute a criminal offence".

There are, it seems to us, various aggravating factors to be borne in mind. First, there is a degree of repetition on the charge before us as pointed out by Mr. Joyce for the BSB. Secondly, and notably, there is the previous Disciplinary Finding, albeit resolved by consent. Thirdly, we note that Ms. Page did not engage with the procedural steps towards this hearing though we go on to note that this is not a matter on which we place particular reliance.

Moving to particular mitigating factors: first, Ms. Page has clearly admitted the charge and indeed it was clear from her e-mail of 3rd July last year that that was always going to be the case. I have made specific reference to that e-mail already. Secondly, Ms. Page has shown genuine remorse about her default and the fact that it has caused so much trouble. Thirdly, we note that she contacted the BSB on 2nd May which was the first available date and went in person on 4th May, filled in the relevant form and paid the necessary sum including a surcharge for late payment. While there was no clear explanation for why she did not attend on 3rd May, the further delay beyond 3rd May to 4th May was not, in our view, material in the circumstances. Fourthly, in questioning from the Tribunal today she expressed a wish and willingness to set up arrangements within her Chambers to ensure compliance in the future and to speak to an individual, an acquaintance, at the Criminal Bar Association whom she believed would be in a position to help.

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Taking everything into account, we consider that although serious this is a matter which falls short of suspension. In the circumstances we consider this matter is one deserving of a fine, but we consider a fine at lower level would not properly recognise the seriousness of the matter and the fact that this a repeat offence.

In all the circumstances we consider the appropriate sanction is an overall fine of £1,000.

Following further submissions, the Tribunal ordered the fine to be in respect of the first charge, with no further penalty for the second charge. It was ordered that the fine be payable to the BSB within eight weeks of the expiry of the appeal period.

Approved:



Michael Gibbon QC
Chair of the Tribunal

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