



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

**Case reference: PC 2017/0249/D5**

Clyde Stevens Esq

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of the Middle Temple

### Disciplinary Tribunal

**Clyde Stevens Esq**

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 4 February 2019, I sat as Chairman of a Disciplinary Tribunal on 15 April 2019 to hear and determine 3 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Clyde Stevens Esq, barrister of the Honourable Society of the Middle Temple.

#### Panel Members

2. The other members of the Tribunal were:

Mrs Alison Thorne (Lay Member)

Mrs Louise Clements (Lay Member)

James McClelland Esq (Barrister Member)

Godwin Busuttil Esq (Barrister Member)

#### Charges

3. The following charges were proved.

## **Charge 1**

### **Statement of Offence**

Professional Misconduct contrary to Core Duty 5 and rC8 of the Bar Standards Board Handbook.

### **Particulars of Offence**

Mr Stevens engaged in conduct likely to diminish the public trust and confidence which the public places in a barrister or in the profession in that on 13 November 2015, he sexually assaulted a female by penetration contrary to section 2 of the Sexual Offences Act 2003, for which conduct he was, on 25 January 2017, convicted after trial at the Crown Court, and on 10 March 2017 was sentenced to 10 years imprisonment with an order to comply with the requirements of the Sex Offenders Register for life.

## **Charge 2**

### **Statement of Offence**

Professional Misconduct contrary to Core Duty 9 and rC65.1 of the Bar Standards Board Handbook.

### **Particulars of Offence**

Mr Stevens failed to report promptly or at all to the Bar Standards Board as required by CD9 and rC65.1, that on 12 July 2016, he had been charged with nine indictable offences namely: 4 charges of committing or inciting an act of gross indecency with a person under the age of 14 contrary to section 1 of the Indecency with Children Act 1960; 4 charges of indecent assault on a female under the age of 16 years contrary to section 14[1] of the Sexual Offences Act 1956 and 1 charge of sexual assault on a female by penetration contrary to section 2 of the Sexual Offences Act 2003.

## **Charge 3**

### **Statement of Offence**

Professional Misconduct contrary to Core Duty 9 and rC65.2 of the Bar Standards Board Handbook.

### **Particulars of Offence**

Mr Stevens failed to report promptly or at all to the Bar Standards Board as required by CD9 and rC65.2, that on 25 January 2017, he had been found guilty at the Crown Court of 4 charges of committing or inciting an act of indecency with a person under the age of 14 contrary to section 1 of the Indecency with Children Act 1960; 4 charges of indecent assault on a female under the age of 16 years contrary to section 14[1] of the Sexual Offences Act 1956 and 1 charge of sexual assault on a female by penetration contrary to section 2 of the Sexual Offences Act 2003.

### **Parties Present and Representation**

4. The Respondent was not present but was represented by his wife, Mrs Patricia Stevens, who is not legally qualified. The Bar Standards Board (“BSB”) was represented by James Stuart Esq.

### **Preliminary Matter: Whether to Proceed in the Absence of Mr Stevens**

5. At the start of the hearing, the Tribunal noted that reporting restrictions were in place and that nothing must be published which could identify the complainant in the associated criminal proceedings.
6. By reference to his Opening Note dated 9 April 2019, Mr Stuart submitted that it was just to proceed in the absence of Mr Stevens pursuant to rE183. Mrs Stevens told the Tribunal that she had seen Mr Stevens the previous Thursday and that he wanted the Tribunal to proceed in his absence.
7. The Tribunal confirmed that it was happy to proceed in the absence of Mr Stevens. The Tribunal had read the written evidence, considered the submissions made today, and considered whether to proceed in the absence of Mr Stevens. The Tribunal concluded that it was just to proceed in his absence. Mr Stevens had asked (through his wife) for the Tribunal to proceed in his absence. The Tribunal was satisfied that, although he was depressed, Mr Stevens had the capacity to decide whether to attend. Mr Stevens had made his choice and understood the implications, namely that he had to rely on his wife to represent his interests.

### **Pleas**

8. In the absence of Mr Stevens, pleas of “deny” were formally entered to the three charges.

## Submissions on Liability

9. Mr Stuart opened the case for the BSB. In respect of charge 1, the BSB relied on the certificate of conviction and rE169.1. In respect of charges 2 and 3, the BSB relied on the witness statement of Alka Puri, Assessment Officer for the Bar Standards Board dated 29 August 2017.
10. Mrs Stevens made submissions on behalf of Mr Stevens. In respect of charge 1, Mrs Stevens said that Mr Stevens position was that he was innocent of the criminal charge but could not appeal the jury's decision. He had been convicted on the evidence of one person. He did not consider himself a barrister. A barrister convicted of dishonesty would (in the submission of Mrs Stevens) be more likely to undermine trust and confidence in the profession than a barrister convicted of a sexual offence. As to charges 2 and 3, Mr Stevens accepted that he did not notify the BSB.
11. The Tribunal retired to consider its decision.

## Decision

12. At 11.50am the hearing resumed, and the Tribunal announced its decision as follows.
13. The Tribunal found the three charges proved. The Tribunal was satisfied so that it was sure.
14. The Tribunal concluded that charge 1 was proved due to the certificate of conviction, the counts in the indictment which underscored the certificate of conviction, and the conduct cited in the counts. There was an overlap between Core Duty 5 and rC8. As to Core Duty 5, the factual matrix of the conviction was evidence of behaviour which would diminish the trust and confidence which the public places in the barrister and the profession. As to rC8, the conduct would undermine integrity: the BSB did not allege dishonesty; the Tribunal was not satisfied in respect of independence. Therefore, charge 1 was proved on the basis of lack of integrity element alone.
15. The Tribunal concluded that charges 2 and 3 were proved. Mr Stevens accepted (through his wife) that he did not advise the BSB of the charges or the convictions.

## Submissions on Sanction

16. Mr Stuart said that there were no previous findings against Mr Stevens. The BSB was not going to suggest sanctions. As to charge 1, Mr Stuart made reference to section B7 (misconduct of a sexual nature) in version 4 of the Sanctions Guidance and section B2 (conviction for assault and violent acts) in version 3 (revised) of the Sanctions Guidance. As to charges 2 and 3, Mr Stuart made reference to section D1 (failure to

report a criminal charge or conviction promptly) in version 4 of the Sanctions Guidance. Charge 1 was far more serious. The BSB was not suggesting a fine in addition to disbarment.

17. Mrs Stevens made submissions in mitigation on behalf of Mr Steven. Mrs Stevens said that Mr Steven's position was that he was innocent but could not appeal his conviction. His behaviour in prison had been exemplary, but there had been a drastic deterioration in his mental health. He had spent 40 years pursuing justice in the justice system on behalf of others. As to the failure to report, he was in a very bad mental state: the need to report did not occur to him.

18. The Tribunal retired to consider its decision on sanction.

### **Sanction and Reasons**

19. At 12.40pm the hearing resumed, and the Tribunal announced its decision on sanction as follows.

20. "The Respondent is 62. He was called to the Bar in July 1978 by Middle Temple. As he did not undertake pupillage, he is an unregistered barrister. Although he was called to the Bar, his professional life was in the structured environment of the courts as a court clerk. He worked in the magistrates' courts in crime and family. There were no complaints about his conduct in his lengthy professional life.

21. The Tribunal notes that the Respondent is absent today. His wife is present. The Respondent has authorised his wife to appear on his behalf. Her presence has been very helpful. The BSB has helpfully cited a number of authorities relating to proceeding in absence. Mrs Stevens has acknowledged the receipt of all relevant pre-hearing documents. She has made it clear that Mr Stevens is aware of the proceedings and wants the Tribunal to proceed. Mrs Stevens has said today that she has seen Mr Stevens very recently and that he does not want to attend and does not want to participate.

22. We have considered the limited medical evidence. We wanted to ensure that the Respondent had capacity. Although the Respondent has depression, he has the capacity to communicate and is participating in prison in supportive roles and doing theological teaching.

23. We have considered rE183. We are satisfied as to service. It is just to proceed in the absence of Mr Stevens.

24. The charges were formally recorded as contested, although the Respondent was not minded to contest them.
25. The disciplinary charges arise out of convictions recorded against the Respondent at a Crown Court on 10 March 2017. The convictions related to sexual offences, and in total the Respondent was sentenced to a period of 10 years' imprisonment. The offence which relates to charge 1 of these proceedings is the one committed whilst the Respondent was a barrister and resulted in a sentence of 10 years' imprisonment. The earlier offences relate to the same complainant, but are offences committed before the Respondent was called to the Bar.
26. Mr Stevens contested the allegations at the Crown Court and was convicted by the jury. He has indicated that he maintains his innocence in relation to the charges brought against him. However, he accepts that he was convicted by a jury, and the matters have not been appealed.
27. The offence with which we are concerned relates to a date in November 2015. The Respondent met with the complainant. Mr Stevens was in his late 50s and the complainant a few years younger. Mr Stevens was convicted of assault by digital penetration and insertion of objects in the vagina.
28. As already indicated: for the offence in 2015, the sentence was one of 10 years' imprisonment. For the earlier offences, shorter sentences were imposed (although it should be noted that the sentencing regime at the time when the offences were committed was entirely different to the present day).
29. Only the 2015 conviction is relevant to the Respondent's position as an unregistered barrister. Charge 1 on the charge sheet therefore relates to that conviction. Both sets of convictions are referred to because they are inextricably linked. However, the Tribunal was conscious of the fact that the only conviction upon which it could sentence Mr Stevens was the later conviction.
30. Charges 2 and 3 related to a failure to report being charged with offences and being convicted of offences.
31. Core Duty 5 imposes the requirement that a barrister must not behave in a way which is likely to diminish the trust and confidence which the public places in the barrister or in the profession in general.

32. Rule C8 of the conduct rules requires that a barrister must not do anything which could reasonably be seen by the public to undermine honesty, integrity or independence.
33. Mr Stevens had indicated through his wife that he did not seek to challenge the charges as laid. However, it was incumbent on the Tribunal in his absence to make findings.
34. The Tribunal was satisfied that charge 1 was proved. The proof was the certificate of conviction, which included a brief account of the facts.
35. Core Duty 5 was engaged. The Tribunal was satisfied so that it was sure that grave sexual misconduct of this sort would diminish trust and confidence in a barrister.
36. Rule C8 was engaged. The integrity of a professional man is seriously undermined by sexual misconduct of a serious nature which results in a criminal conviction and a prison sentence.
37. So far as charges 2 and 3 are concerned, Mr Stevens did not deny his failure to report either being charged or convicted. He cites in mitigation the fact that his failure to report these matters was due to inadvertence and his mental health issues rather than a deliberate attempt to mislead or conceal the fact that he had these convictions recorded against him. It is clear that by the time of these convictions he was retired and therefore had no particular reason to benefit from failing to report these matters to the BSB. Therefore, although the Tribunal found charges 2 and 3 proved, the Tribunal accepted that the seriousness of the charges lay in charge 1 rather than in charges 2 and 3.
38. After finding the charges proved, the Tribunal heard from the BSB and from Mrs Stevens in mitigation.
39. As to mitigation, the Tribunal noted that Mr Stevens--at the time of the charges and now--had been suffering from a form of depression or other psychological illness. The Tribunal had considered the medical evidence and the submissions of Mrs Stevens.
40. The Tribunal also noted the fact that these offences occurred outside the Respondent's professional life and that there was never any allegation against him of misconduct (either sexual or otherwise) in relation to his professional conduct.
41. Looking at the list of mitigating circumstances, the relevant mitigating circumstances were that: (1) the charges were not contested; (2) the Respondent was of previous

good character; (3) the Respondent has contributed to society with his work in the magistrates' court.

42. There was one aggravating circumstance: the undermining of the profession in the eyes of the public (factor g in the list).

43. We have considered the Sanctions Guidance for 2018 and 2014. Whilst the 2014 guidelines were in force at the time of the offending, the 2018 guidelines are more appropriate to the facts of the offending. We have considered both versions. The outcome would not be affected by which version we used.

44. This is a very grave offence, which would undermine the faith of the public.

45. For charge 1: we order that Clyde Stevens be disbarred.

46. For charges 2 and 3: we impose no separate penalty.

### **Concluding Matters**

47. Having heard from Mr Stuart and Mrs Stevens, the Tribunal made an order pursuant to rE227.3 requiring the BSB not to issue any practising certificate to Mr Stevens.

48. The Treasurer of the Honourable Society of the Middle Temple is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunals Regulations.

**Approved: 10 May 2019**

**His Honour Stephen Dawson  
Chairman of the Tribunal**