



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2017/0269/D5

Sam Brown

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of the Inner Temple.

Disciplinary Tribunal

Sam Brown

In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 18 October 2019, I sat as Chairman of a Disciplinary Tribunal on 20th to 22nd November 2019 to hear and determine 4 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales [9th Edition] against Sam Brown barrister of the Honourable Society of the Inner Temple.

Panel Members

The other members of the Tribunal were:

Deborah Spring (Lay Member)

John Lyon (Lay Member)

Isabelle Watson (Barrister member)

Alan Steinfield QC (Barrister Member)

Charges

For the reasons set out below, charges 1 and 2 were proven. Charges 3 and 4 were dismissed.

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Parties Present and Representation

The Respondent was present and was represented by David Etherington QC and Matthew Bainbridge of counsel.

The Bar Standards Board (“BSB”) was represented by Miss Naomi Gilchrist of counsel.

Pleas

Mr Brown denied all charges.

Evidence

1. This is a summary of the allegation and the finding made. The full ruling is restricted from publication by virtue of the provisions of the Sexual Offences (Amendment Act) 1992 and the requirement for anonymity in relation to the complainant who will be referred to as T.
2. The respondent faces four charges all of which arose in or about November 2016. Two charges relate to breach of core duty 3 of the Code of Conduct [9th Edition] and two to breach Core Duty 5. The facts relied on by the Bar Standards Board [BSB] in relation to Charges 1 and 2 are the same; and in relation to Charges 3 and 4 are the same. The Respondent denied all the charges.
3. The burdon of proving these charges lies on the BSB throughout. The Respondent does not have to prove his innocence or any particular fact. We cannot find a charge proved gainst the Respondent unless we are satisfied that the BSB has established its case beyond reasonable doubt.
4. We accept the reason for the relatively short delay in the complainant reporting her complaint to the BSB. The subsequent delay in the matter reaching this final stage has taken its toll on both the complainant and the respondent.
5. The complainant is entitled to anonymity and special measures have been afforded her. Fuller reasons in certain aspect of the case would potentially identify the complainant or render her anonymity of no value. We have therefore circumscribed these reasons to the extent necessary to preserve its value.
6. We heard the following witnesses give evidence and we read their written statements:
 - a. The complainant;
 - b. B who was the complainant’s boyfriend and cohabitee at the relevant time;
 - c. The respondent, Sam Brown;
 - d. Sonal Keay, a character witness on behalf of Sam Brown.
7. We read the statements of:
 - a. P, a counsellor to the complainant;
 - b. D, a friend of the complainant;
 - c. W, a friend of the complainant;
 - d. A, a QC;

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- e. H, a friend of the complainant;
 - f. Alejandra Tascon, a character witness on behalf of Sam Brown;
 - g. Charlotte Mitchell-Dunn, a character witness on behalf of Sam Brown.
8. We were referred to a main bundle of documents containing the statements and other documents, a supplementary bundle containing electronic communications, additional witness statements, the complainant's written answers to cross-examination questions, and a copy of Inner Temple's Equality and Diversity Policy 2017. In addition, we were provided with a bundle entitled BTAS BSB v Sam Brown Defence Bundle.
9. Ms Gilchrist provided a case summary and Mr Etherington QC provided written references to the evidence. Both Ms Gilchrist and Mr Etherington made helpful oral submissions. We are grateful to Mr Bainbridge [Mr Etherington's junior] for their great assistance and sensitivity.
10. The charges arise out of a second meeting between the complainant and Sam Brown. The incident complained of is alleged to have occurred on 23 November 2016. The complainant first communicated her complaint outside her immediate circle of friends, her tutor, her GP and her counsellor when she spoke to A QC. The complainant made her formal complaint of 6 July 2017.
11. The agreed facts are:
- a. That Sam Brown was assisting the complainant in relation to her future career at the bar in October 2016;
 - b. There were two meetings between the complainant and Sam Brown. The first on 3 November 2016. The second on 23 November 2016.
12. During the evening of the 23 November the conversation turned to personal matters. They both exchanged information about their respective relationships. The complainant was in a relationship with B that was coming towards its end.
13. Our assessment of the witnesses is as follows:

The complainant

T is now 28 years old and was at the time of the alleged incident just turned 26. The complainant has had significant health problems from which she has made a good recovery. The complainant spent time working overseas and while doing so she was subjected to a serious sexual assault. The complainant was still suffering the psychological effects of this during her bar training, was being supported by her GP and a counsellor. Throughout November 2016 she talked to her counsellor about low mood and feelings of vulnerability. She expressed to B her feelings of vulnerability in relation to men.

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Alongside this we noted that she was at bar school, which was a very significant achievement for her; and she was doing well, particularly in advocacy. The complainant told W on 24th November by WhatsApp that during a shared taxi ride Sam Brown put his hand on “the inside of her thigh”. She told her tutor soon after and in any event before 9th December that he had felt her between the legs.

H’s statement 22nd April 2019(394) did not help us. The complainant said she thought H had got things wrong and she wondered whether he had got it confused. She told D during the time she was making her pupillage applications in early 2017 that Sam Brown had “stuck his hands up her skirt” in the back of a taxi cab. The complainant said that Sam Brown’s advice had been of no help to her but that was a less satisfactory aspect of her evidence. With that proviso the majority of the panel found the complainant to be a credible witness.

B

B was in our collective view a truthful witness. He acknowledged that he and the complainant had made a mistake in their witness statements confusing their actions on the two nights of 3rd November and 23rd November 2016. We do not believe he had any intention to deceive.

Sam Brown

Sam Brown is now 37 years old and was 35 at the time of these events. He was and is a senior junior barrister practising mainly in criminal law. We recognise that Sam Brown has been under considerable emotional and professional pressure since early July 2017 when these charges were first intimated to him. In certain aspects, particularly his motivation for prolonging two long drinking sessions with the complainant his evidence was unconvincing. When faced with incontrovertible evidence of her having been very drunk he refused to accept it. He minimised the alcohol that he said she had consumed. The majority of the panel disbelieved what he said about moving from a wine bar to an alternative public house to make her feel more comfortable. He found her interesting; her background was not traditional, nor was his. He denied having said to the complainant that he had told her an aspiring barrister he had helped before, had been boring and dull but we did not believe him, particularly bearing in mind what he said in his email to the complainant of 14th November (item 16).

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We believe that Sam Brown did give the complainant some appropriate assistance with her wish to become a barrister, particularly by email advice and by an advocacy exercise. The two face to face meetings that involved excessive alcohol consumption were of no assistance to her in that regard.

Sonal Keay

We found Sonal Keay an impressive witness who gave us an insight into the positive aspects of Sam Brown's character.

14. Decision

Having considered all the evidence both oral and in writing and having had the assistance of counsel for both parties and leading counsel for the Respondent we came to the decision by a majority that the Bar Standards Board has proved Charges one and two against Sam Brown to the required criminal standard. We make no findings on Charges three and four and they stand dismissed.

15. Sanction

Having heard mitigation on behalf of the Respondent the sanction we impose is 6 months suspension on each of Charges 1 and 2 concurrent.

Approved: 19 December 2019

**Her Honour Penny Cushing
Chairman of the Tribunal**

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