



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

Case reference: PC 2019/0153/D3

Vincent Deane

The Director-General of the Bar Standards Board  
The Chair of the Bar Standards Board  
The Treasurer of the Honourable Society of Lincoln's Inn

### Disciplinary Tribunal

Vincent Deane

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 10 March 2020 I sat as Chair of a Disciplinary Tribunal on 21 April 2020 to hear and determine 1 charge of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Vincent Deane, Barrister member of Lincoln's Inn.

### Panel Members

2. The other members of the Tribunal were:

Stephen Harpum (Lay Member)

Naomi Davey (Barrister Member)

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## Parties Present and Representation

3. The Respondent was present and was accompanied by, Mr Arif Ashraf. The Bar Standards Board (“BSB”) was represented by Simon Murray.

## Preliminary Issues:

4. Hearing in public: At the time directions for this hearing were given, no direction was made about the case being heard other than in public. A hearing in public is the default position (rE1560); there is a powerful public interest in regulatory hearings involving the professions to be open to the public, to instil and retain public confidence in the process.
5. Those directions were given on the 10<sup>th</sup> January 2020, at which stage the worldwide threat to public health posed by the novel coronavirus had not been widely appreciated or acted upon. No one would have thought that it was necessary to direct a private hearing, because the virus’ impact upon our lives and ways of working was quite unforeseeable.
6. The Courts have adapted their processes to allow greater use of video and audio live links to allow certain hearings to continue. Given that the Rules do not specify a physical hearing, this Tribunal can do the same, though a consequence will be that it is not possible to allow public access. In short, this hearing can only proceed if we order that it not be held in public.
7. We have submissions from the Applicant that the administration will put in place measures by which the public, while not having contemporaneous access to the hearing, will be able to see transcripts of the proceedings. We have considered that proposal, and, have considered the history of this case and the indications that the Respondent has given about his stance in respect of the allegations he faces. There is a need for expedition in disciplinary proceedings. We take the view that in the light of all those factors, and, taking into account the wholly exceptional public health situation that the public interest in an open hearing is adequately met, and we order the hearing take place as proposed. We regard such a course as exceptional and necessary for the proper administration of justice.
8. Accordingly, this hearing has been conducted using the Zoom video meeting platform. As a result, members of the public have not been able to attend the hearing in person, nor to observe via Zoom. These proceedings have, however, been recorded; members of the public can, upon request, have access to a transcript or a recording of the hearing.

## Charge / Plea

9. The following charge was admitted by Mr Deane:

### Charge 1

### Statement of Offence

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Professional Misconduct, contrary to Core Duty (CD) 9 and rC64.2 of the BSB Handbook (2<sup>nd</sup> Edition).

### Particulars of Offence

Vincent Deane, a self-employed barrister and BSB regulated person, failed to co-operate with his regulator and failed to comply in due time with the decision of a Disciplinary Tribunal, in that he failed to comply in due time with an order of a disciplinary tribunal, dated 24 August 2015, that he pay a fine of £3000 in a payment period to be agreed with the Bar Standards Board. Such a payment period was agreed on 16 November 2015 by way of instalments at £300 per month, which would have led to compliance with the order by 15 September 2016. Payment was not completed until June 2019 and no payment was made between May 2016 and May 2019.

### Submissions

10. Mr Murray presented the case on behalf of the BSB, setting out the background to the offence and the communications between the BSB and Mr Deane.
11. Mr Deane made submissions in mitigation.

### Findings

12. Chair: By way of background, in summary;
  - i. Vincent Deane, the Respondent, is an employed barrister called on 26<sup>th</sup> July 1976, faces disciplinary proceedings before this Tribunal.
  - ii. The Respondent has been charged with professional misconduct contrary to Core Duty 9 (“CD9”) and rC64.2 of the BSB Handbook (3rd Edition). These provide,
    - a. You must be open and co-operative with your regulators;
    - b. You must comply in due time with any decision or sentence imposed by the Bar Standards Board *or Tribunal*.
  - iii. On the 24<sup>th</sup> August 2015 a Tribunal ordered the Respondent to pay the BSB a fine of £3000 by 16<sup>th</sup> November 2015. He did not satisfy that order until 13<sup>th</sup> June 2019. The Applicants says that in the intervening period he alternated between making desultory payments, failing to pay, and offering payment plans which he failed to meet; all the while not maintaining the level of contact with the Regulator that it expects.

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- iv. The BSB relies upon the following chronology subsequent to sanction being imposed:
- |          |   |
|----------|---|
| 06.10.15 | Letter from the Bar Standards Board (“BSB”) to seeking payment by 23.10.15 of the fine sum of £3,000.   |
| 28.10.15 | Letter BSB to R; nothing having been paid seeking payment in full by 11 November 2015.  |
| 13.11.15 | Further chasing letter BSB to R.  |
| 13.11.15 | Email BSB to R noting a voicemail from R in which he sought to agree an instalment plan.  |
| 16.11.15 | Letter BSB to R following telephone discussion setting agreed payment plan at rate of £300 per month, payments to commence on 15 December 2015 to conclude 15 September 2016.     |
| 17.12.15 | Email BSB to R confirming receipt of first instalment of £300.  |
| 20.01.16 | Email BSB to R noting second instalment due 15.01.16 had not been paid.   |
| 26.01.16 | Email BSB to R noting second instalment of £300 had been paid.  |
| 02.02.16 | Letter BSB to R recording, following agreement, a revised payment schedule with different dates – the total sum to be paid off by 30 September 2016.                              |
| 02.03.16 | Email BSB to R noting chasing payment due on 29.02.16 under the new plan which had not been paid.   |
| 06.04.16 | Internal BSB email notes a payment from R of £300 in relation to this fine.   |
| 06.07.16 | Email BSB to R noting payment due 31.05.16 was still overdue.   |
| 20.07.16 | Tel call to Lisa Ryan, clerk to R noting that R had not paid April, May and June’s 2016 instalments.  |
| 02.08.16 | Email BSB to Lisa Ryan for R requesting an update and noting arrears.   |
| 05.08.16 | Tel call BSB to R providing reasons for non-payment. It was agreed the file handler would contact R in October 2016 for payment to cover all outstanding payments to that date. R |

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- was asked to put his explanation in writing. This was not done.
- 13.10.16 BSB called R three times – there was no answer. A voice mail was left.
- 21.10.16 Letter BSB to R noting that £1,800 was now overdue and R had not paid as had been agreed in the August conversation. The letter indicated that if the BSB had not received payment by 04.11.16 the failure to comply would be referred for consideration of further disciplinary action.
- 03.11.17 There having been no contact or further payment by R in preceding year; letter BSB to R seeking payment within 14 days of outstanding £1,800. This letter highlighted that the failure to engage with the regulator is contrary to CD9.
- 17.11.17 BSB letter of 03.11 was re-sent given concerns earlier letter had gone missing in transit.
- 17.11.17 Tel call R to BSB giving various reasons for non-payment. He said that he had not worked since June and was the full-time carer for his mother who was ill. He offered to pay £250 and the next month to make a further payment.
- 21.11.17 Tel call BSB to R – no answer message left.
- 20.12.17 Letter BSB to R enclosing two letters dated 03.11.17 and 17.11.17 which had been returned marked “not called for”.
- 18.01.18 Tel call BSB to R. R stated that he was supposed to be starting work again in February at Ashraf Law Chambers. R agreed to send an email to the BSB setting out his update in writing. This never occurred.
- 24.01.18 Email BSB to R chasing email promised by R on 18.01.18.
- 31.01.18 Email R to BSB setting out that his home was on the market and he ‘would be able to repay sums when a sale is effected’.
- 09.03.18 Email BSB to R seeking an update.
- 19.03.18 Email BSB to R seeking an update – response required in 7 days.
- 27.03.18 Email BSB to R seeking an update.
- 10.04.18 Tel call R to BSB re a different matter and saying he was not able to deal with this matter due to his circumstances.

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- 18.04.18 Email BSB to R seeking an update regarding the payment due.
- 26.04.18 Email BSB to R seeking an update regarding the payment due.
- 04.05.18 Email BSB to R seeking documentary evidence to support his assertions as to circumstances made in call on 10.04.18. Rule rC64 was referenced in this email.
- 16.05.18 Further email BSB to R seeking documentary evidence to support his assertions as to circumstances made in call on 10.04.18. Rule rC64 was again referenced in this email.
- 10.01.19 Email from R to BSB saying that he had paid £200 today. No payment received.
- 15.01.19 Email R to BSB in response to emails sent to him by the BSB principally in connection with another matter, which included a reference to seeking agreement to pay off outstanding balance in instalments.
- 15.01.19 Email BSB to R agreeing and seeking that R sets up a direct debit and providing bank details. First payment to be made on 01.02.19 of £300.
- 30.01.19 Email BSB to R chasing confirmation that direct debit had been set up to make the payment.
- 13.02.19 Email BSB to R noting that no payment had been made whether by direct debit, cheque or at all and requiring payment by 15.02.19, nor had R provided an explanation as to why no payment could be made, so papers would be prepared to raise a complaint for a breach of rC64.2.
- 28.02.19 Email R to BSB stating that a £300 payment had been made on that day, that his property had been sold and he was waiting for proceeds of sale and the “full amount would be cleared in 4 weeks”.
- 01.03.19 Email BSB to R noting the payment and the offer to pay the balance by 28 March 2019. The history of offers of payment was set out.
- 23.05.19 Letter BSB to R informing him that a complaint had been raised against him with respect to his failure to comply with Tribunal decision of August 2015.

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13.06.19 R made payment of the outstanding sum of £1,500.

9. The Respondent has, by his admissions today, accepted the facts alleged. Further, the Respondent did not contend that those facts did not amount to misconduct.
10. Accordingly, we are satisfied the charge is proved to the requisite standard of proof which is the criminal standard.

## Sanction and Reasons

11. We turn to sanction.
12. The Applicant submits it behaved responsibly, generously and with understanding to the Respondent's stated difficulties in paying, but that he took advantage of that generosity.
13. The Respondent's disciplinary history comprises the 2015 Tribunal finding, which arose from a failure to complete CPD hours. Additionally, on the 8<sup>th</sup> September 2011 a COIC Tribunal found him guilty of professional misconduct by virtue of having practised without a practising certificate for the entire year 2010; he was fined.
14. The Respondent addressed us and called a character witness, Mr Arif Ashraf, his employer and a barrister.
15. The Respondent told us that during the time since the Tribunal order was made against him time he has been in grave financial difficulties. In late 2016 the firm he was working for collapsed. He joined another firm, which failed to pay him what he was due for work done. In December 2017 he joined the firm run by his former pupil, Mr Ashraf. He has done some work since then, but personal circumstances have limited his ability to work. The Respondent's mother suffers from Alzheimer's disease and has cancer. She is terminally ill and has required constant care for some years. The Respondent and his wife serve as her carers. The Respondent was unable to meet his mortgage payments and his house was repossessed in April 2018, though the funds were not released for another year. In late April 2019 he suffered a heavy emotional blow when his son's half-brother was murdered in a particularly brutal fashion.
16. The Respondent is a vulnerable person with regard to Covid-19, as is his mother; as a result, he is in isolation and expected to remain isolated for some time.
17. Mr Arif Ashraf spoke warmly of the Respondent and stressed that he was a man whom he would have expected to pay his debts if able.
18. We have approached our task with reference to the BSB Guidance. We bear in mind the following features of aggravation
  - That the Respondent's conduct was persistent over a number of years;

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- That he has previous disciplinary findings against him which each relate to his relationship with the Regulator;
  - That he appears to lack insight into the seriousness of failing to engage with the Regulator.
  -
19. As to mitigating features, we have identified
- That the Respondent has admitted the charges;
  - That he has expressed remorse which we regard as genuine;
  - That he did pay the sum owed;
  - That he had endured genuine financial hardship during the period of the breach;
  - That his personal circumstances were such as to cause great stress and upset, for a variety of reasons;
  - And that a colleague spoke highly of him.
20. The guidance range for a failure to comply with a tribunal order is wide. We regard this case as being properly characterised as *a deliberate decision not to engage with the BSB, showing a disregard for the authority of the regulator*. We regard the decision not to engage as amply demonstrated to the proper standard by the gaps in communication shown by the Applicant's chronology. And, of course we remind ourselves that we are considering *engagement*, not just *payment*.
21. In the circumstances the starting point would be a medium-term suspension. Taking into account all the features of this case we feel able to reduce the period of suspension, though not to draw back from the principle. We conclude that Vincent Deane be suspended for 2 months.
22. In view of what we have heard of Mr Deane's financial circumstances, we do not regard it as just to make an order for costs.

Approved: 24 April 2020

Tom Crowther QC  
Chairman of the Tribunal

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