The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Disciplinary Tribunal

Case references: PC 2017/0467/D5 + PC 2018/0259/D5

Henry Joseph Christopher Hendron

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

Mr Henry Joseph Christopher Hendron

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 5 January 2021, I sat as Chairman of a Disciplinary Tribunal fixed for 4 days starting on 1 February 2021 to hear and determine 18 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Henry Hendron, barrister of the Honourable Society of the Middle Temple.

Panel Members

2. The other members of the Tribunal were:

   Tracy Stephenson (Lay Member)

   Paul Robb (Lay Member)
   Darren Snow (Barrister Member)

   Sadia Zouq was also nominated as a barrister member of the tribunal but was unable to attend because of a bereavement very shortly before the start of the hearing. In accordance with regulation E149 the Tribunal continued with 4 members.

Parties

3. The Respondent was present throughout. He was not represented. The Bar Standards Board ("BSB") was represented by Ms Harini Iyengar.

Preliminary Matters

4. Procedural directions were given by HHJ Carroll, Chair of the Bar Tribunal and Adjudication Service, on 29 June and 5 October 2020. At a further hearing on 27 November 2020 Judge Carroll dismissed an application by Mr Hendron to strike out 4 of the charges on grounds of delay.

5. It was directed that the substantive hearing listed in February 2021 should proceed remotely by Zoom.

6. In response to the direction for a remote hearing Mr Hendron wrote to the Tribunal asking for the hearing to proceed "in person" or for an adjournment. He said:

   "I simply am unable to do the substantive hearing remotely, I suffer from severe dyslexia and have documented issues with being able to deal competently with remote hearings. I have previously sent through a medical letter to the Tribunal dealing with the issue of remote hearings; I cannot function properly working via zoom or Skype, it is not within my skill set and my dyslexia makes such hearing more than just a nightmare, but virtually impossible."

7. The BSB suggested that a hybrid hearing should be considered to which Mr Hendron responded in an e-mail of 7 January 2021:

   "*[*A*]* hybrid type hearing as Ms Ebanks suggest*[*s*]* is unworkable for me by virtue of my dyslexia. I just cant cope with proceedings over skype / zoom, not in part and not at all. I am sorry if that inconveniences others."

8. In a ruling dated 7 January 2021 Judge Carroll refused the applications by Mr Hendron for an 'in-person' hearing or an adjournment, while adding that the Tribunal remained open to any adjustments that may be suggested to assist Mr Hendron. Mr Hendron was clearly dissatisfied with that decision, writing again that he could not do remote hearings.

9. Because Judge Carroll had based his decision, at least in part, on the insufficiency of the psychiatric evidence which had been provided by Mr Hendron, when the matter was referred to me the Tribunal at my direction wrote to Mr Hendron confirming my view that the decision by Judge Carroll should stand, but that it was open to Mr Hendron to renew his

application for an adjournment to allow for an 'in person' hearing. He was informed that if he chose to do so he should apply as soon as possible, preferably supported by further evidence from his psychiatrist explaining fully why he was unable to engage in a remote hearing using video technology, and whether any particular arrangements or assistance from Mr Hendron might be considered to make a remote hearing easier for him to manage. However, Mr Hendron replied that he was not in a financial position to re-instruct his consultant. He referred to the obligation of a public authority to be proactive in making reasonable adjustments to accommodate disability.

10. Further consideration was then given to the situation and to the possibility of arranging a hybrid form of hearing that might include adjustments which would make the hearing easier for Mr Hendron to manage. It was therefore proposed in an e-mail to Mr Hendron of 21 January 2021 that, as an alternative to the wholly remote hearing which had been directed, it should be directed that there should be a partially in person hearing on the same dates as already fixed (1–4 February 2021). All involved were to attend remotely save for up to 3 panellists, Mr Hendron himself, one other person of his choosing to support/represent him, the BTAS Administrator and an usher (who in the event was not required). Other detailed arrangements were proposed.

11. Mr Hendron indicated that he would attend the hearing on that basis. However, by an e-mail on 29 January 2021 Mr Hendron informed the Tribunal (attaching an e-mail he had sent the previous day to the Ethics department of the Bar Council) that on the morning of 28 January he had received a message from someone called Mark Taylor who said "Henry you have to self-isolate I have coronavirus". Mr Hendron did not explain who this person was but said that it was someone with whom he had been in direct contact on the 2 preceding days. He expressed uncertainty as to whether the message from Mark Taylor was genuine or sent as a joke, but he had been unable to call this person to confirm that it was real and not a prank. Mr Hendron repeated that he was not capable of participating in a remote hearing. Mr Hendron asked if it would be sufficient for him to obtain a negative Covid test to allow the hearing to proceed as planned in the hybrid form. It was decided to ask Mr Hendron to have a test as soon as possible and to provide the result to the Tribunal as soon as possible. To allow that to happen the start of the hearing would be adjourned until Tuesday 2 February. However, on Monday, 1 February 2021 Mr Hendron informed the Tribunal that he had not yet been able to obtain a test. In the event Mr Hendron did obtain

a satisfactory test result of which he informed the Tribunal by e-mail on 2 February, by which time the start of the hearing was further postponed until Wednesday, 3 February 2021. Provisional arrangements were suggested for the 2 days that had been lost to be covered by extra sittings on Friday 5 February and Monday, 8 February 2021. In his e-mail to the Tribunal on 2 February Mr Hendron said that he was keen to push on with the Tribunal and get it "over and done". He said that he was content to start on 3 February but could not attend on Friday 5 February as he was committed to a pro-bono case in the magistrates' court. In a second e-mail to the Tribunal on 2 February Mr Hendron said that he had rethought his earlier position and that, on reflection, as the hearing would inevitably have to go "part-heard" his preference was for the whole hearing to be relisted as soon as possible with a time estimate of 5 days. In a third e-mail sent late on 2 February 2021 Mr Hendron informed the Tribunal that he had 6 named witnesses for the hearing (one of whom was in the United States, although Mr Hendron did not know in which time zone, and that person had a serious heart condition for which he required rest). Mr Hendron also said that he had asked a 7th person to give evidence, but that person maintained that he would not do so.

12. At the start of the hearing on 3 February 2021 Mr Hendron renewed his application for an adjournment, submitting that the hearing would need 5 days and that in any event it was not good to start a hearing knowing that it would have to go part-heard. The application was resisted by the Bar Standards Board, referring to the history of delays which had already occurred and to the fact that the BSB had 4 witnesses who had already waited some time and were available to proceed. After consideration of the application the tribunal decided to refuse the proposed adjournment and it was decided that the hearing would start that day, continuing on 4 February and in the afternoon of 5 February (allowing time for Mr Hendron to attend the hearing in the magistrates' court), and on Monday 8 February, resuming for 4 further days if required on 15–18 March 2021.

13. By the end of the hearing on Monday 8 February the tribunal had heard the evidence of the BSB witnesses, Mr Matharu (referred to as 'CM' in the charges), Mr Whitney (referred to as 'DW' in the charges), Mr Watts and Ms Witting, each of whom was cross-examined by Mr Hendron. Because Mr Hendron had indicated the number of witnesses he intended to call further detailed directions were then made for the provision of witness statements or summaries and for the provision of other submissions in the period before the resumption of the hearing.

14. The hearing resumed on 15 March 2021 when Mr Hendron made a submission of no case to answer in respect of charges 1-10. The submission was upheld in respect of Charges 5 and 6. The tribunal then heard evidence from 6 witnesses called by Mr Hendron: Mr Jon Wood, Mr Andrew Radlett, Mr Richard Hilton, Mr Luka Maxted-Page, Mr Marcus Kain and Mr Patrick McLoughlin. Mr Hendron had indicated that he would not be calling his brother (Mr Richard Hendron), and that he was having difficulty in communicating with his proposed witness in America (Mr Shakeshaft).

15. Although Mr Richard Hendron was not called, during the hearing Mr Henry Hendron produced an e-mail sent by Richard to the BSB on 15 March 2021. In this Richard Hendron referred to what he described as "a very fractional/on off and estranged relationship" with his brother and he expressed surprise that he had not been contacted by the BSB about the allegations as to which he said that he could have provided detail and evidence to clarify matters.

16. By the end of the hearing on 18 March the tribunal had also heard the evidence in-chief of Mr Henry Hendron (who had also by then provided his statement) and part of his cross-examination by counsel for the BSB. A further day was fixed to resume the hearing by completing the evidence of Mr Hendron and for closing submissions. After 18 March a request was received from Mr Maxted-Page to provide clarification of his evidence, and a request also was received from Mr Hendron to provide a statement by a former solicitor, Ms Davies, and (possibly) medical evidence relating to himself. In the event Mr Maxted-Page provided a statement but he was not required to give further evidence, and Mr Hendron produced nothing from Ms Davies or by way of any further medical evidence. Mr Hendron also indicated that he would wish to apply for discontinuance of the proceedings because of failures of disclosure by the BSB, and for Ms Witting to be recalled. Directions were given as to how Mr Hendron might proceed with such an application. Again, these matters were not pursued by Mr Hendron.

17. A further day was allocated on 14 April 2021 when it was possible to conclude the evidence and submissions. A hearing on 26 May 2021 has been fixed for delivery of the tribunal's decision.

Background history

18. Mr Hendron was called to the Bar in November 2006. From 2012 he was a member of Strand Chambers. On 23 March 2016 at the Central Criminal Court Mr Hendron pleaded guilty to possession of a controlled drug (Class B) with intent to supply and oppose action of a controlled drug (Class C) with intent to supply, those offences being committed on 20 January 2015. On 9 May 2016 he was sentenced to compulsory unpaid work of 140 hours with a supervision requirement. As a result, on 17 May 2016 Mr Hendron's practising certificate was suspended on an interim basis, on 26 May 2016 the interim suspension was continued, and on 5 April 2017 a substantive suspension of 3 years was imposed.

19. Following the end that period of suspension Mr Hendron has resumed practice as a barrister. The charges with which the panel has been concerned all relate to allegations of misconduct during the period in which Mr Hendron was suspended. During his period of suspension, he became an unregistered barrister (i.e. a barrister without a practising certificate). The BSB Handbook provides that it applies to (among others) all unregistered barristers. Recent versions of the Handbook had provided in terms that, for the avoidance of doubt, the Handbook continues to apply to those who are subject to suspension.

20. The current BSB Handbook provides:

    "**rE220**
    For the purposes of rE222 to rE224:
    1. The effect of a sanction of suspension for a BSB authorised individual is that:
    .a the respondent's practising certificate is suspended by the Bar Standards Board for the period of the suspension;
    .b the respondent is prohibited from practising as a barrister, or holding themselves out as being a barrister when providing legal services or as otherwise being authorised by the Bar Standards Board to provide reserved legal activities or when describing themselves as a barrister in providing services other than legal services (whether or not for reward) unless they disclose the suspension;"

Charges

21. The hearing has been concerned with the following charges contained in 2 separate charge sheets which had earlier been consolidated.

Under PC 2017/0467/D5

Charge 1

Statement of Offence

Professional misconduct contrary to Core Duty 5 and/or rS8 of the Code of Conduct of the Bar of England and Wales (9th Edition).

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession, in that he held himself out as a barrister in connection with the provision of legal services on the websites of http://www.lawsurgery.com/Home.html and/or http.www.henryhendron.com/ between 27 May 2016 and 10 August 2017 when not authorised to practice as a barrister.

Charge 2

Statement of Offence

Professional misconduct contrary to rC8 and/or rS8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that he held himself out as a barrister in connection with the provision of legal services on the websites of http://www.lawsurgery.com/Home.html and/or http.www.henryhendron.com/ between 27 May 2016 and 10 August 2017 when not authorised to practice as a barrister.

Charge 3

Statement of Offence

Professional misconduct contrary to Core Duty 5 and/or Core Duty 9 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession and/or failed to be open and cooperative with his regulators by failing to take down the websites of http://www.lawsurgery.com/Home.html and/or http.www.henryhendron.com/ from public display within a reasonable period of time despite having received one or more of the following written requests of the Bar Standards Board's Supervision Department to do so on 19 October 2016, 11 November 2016, 5 April 2017 and 10 April 2017.

Charge 4

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity by failing to take down the websites of http://www.lawsurgery.com/Home.html and/or http.www.henryhendron.com/ from public display within a reasonable period of time despite having received one or more of the following written requests of the Bar Standards Board's Supervision Department to do so on 19 October 2016, 11 November 2016, 5 April 2017 and 10 April 2017.

Charge 5

Statement of Offence

Professional misconduct contrary to Core Duty 5 and/or Core Duty 9 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession and/or failed to be open and cooperative with his regulator in that he breached the undertakings provided by him to the Bar Standards Board on 13 January 2016 and 24 March 2016, which can be seen at Schedule 1, by virtue of failing to notify his lay client, CM, that he had been charged and convicted with criminal offences during the period of his instruction by CM from on or around 21 September 2015 until at least 27 September 2016.

Charge 6

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that he breached the undertakings provided by him to the Bar Standards Board on 13 January 2016 and 24 March 2016, which can be seen at Schedule 1, by virtue of failing to notify his lay client, CM, that he had been charged and convicted with criminal offences during the period of his instruction by CM from on or around 21 September 2015 until at least 27 September 2016. Schedule 1 set out the terms of the undertakings given by Mr Hendron to the Bar Standards Board on 13 January 2016 and 24 March 2016. These undertakings were given pending the outcome of disciplinary proceedings or notification by the BSB that such an undertaking was no longer required.

Following a submission made by Mr Hendron after conclusion of the BSB's case the Tribunal dismissed Charges 5 and 6. Essentially it was considered that the undertakings as formulated were not clear enough in setting out Mr Hendron's obligations. Indeed, as had been noted in the final decision of the legal ombudsman when considering the complaint by CM, Mr

Hendron "was seemingly under no obligation, according to the agreement he made with his regulator, to tell existing clients what had happened." There was also an argument that the undertakings had lapsed when the substantive determination was made suspending him from practice.

In the circumstances, there was not sufficient evidence to support the findings sought by the BSB on those charges.

Charge 7

Statement of Offence

Professional misconduct contrary to Core Duty 5 and/or rS6 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession in that he provided legal services as a barrister when not authorised to do so by continuing to act for a lay client CM, between 17 May 2016 until at least 27 September 2016 despite being suspended from practising in so far as he was involved in drafting a witness statement and providing legal advice on legal proceedings and on 21 July 2016 sent an e-mail using a signature block with the descriptor "Barrister".

Charge 8

Statement of Offence

Professional misconduct contrary to rC8 and/or rS6 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that he provided legal services as a barrister when not authorised to do so by continuing to act for a lay client CM, between 17 May 2016 until at least 27 September 2016 despite being suspended from practising in

so far as he was involved in drafting a witness statement and providing legal advice on legal proceedings and on 21 July 2016 sent an e-mail using a signature block with the descriptor "Barrister".

Charge 9

Statement of Offence

Professional misconduct contrary to rS6 and/or Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession in that he carried out a reserved legal activity when not authorised to do so when he exercised a right of audience in the matter of Case No. HQ15X00065 before Master Kay QC in the High Court of Justice Queen's Bench Division on 10 March 2017 when he did not hold a valid Bar Council Practising Certificate by virtue of his suspension.

Charge 10

Statement of Offence

Professional misconduct contrary to rS6 and/or rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that he carried out a reserved legal activity when not authorised to do so when he exercised a right of audience in the matter of Case No. HQ15X00065 before Master Kay QC in the High Court of Justice Queen's Bench Division on 10 March 2017 when he did not hold a valid Bar Council Practising Certificate by virtue of his suspension.

Charge 11

Statement of Offence

Professional misconduct contrary to rS8 and/or Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession in that he held himself out as a barrister within email correspondence to DW, Solicitor at PainSmith Solicitors and/or in email correspondence with his lay client, JW on 24 May 2017 by referring to himself as a 'Barrister, non-practising' when he did not hold a valid Bar Council Practising Certificate by virtue of his suspension.

Charge 12

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that he held himself out as a barrister within email correspondence to DW, Solicitor at PainSmith Solicitors and/or in email correspondence with his lay client, JW on 24 May 2017 by referring to himself as a 'Barrister, non-practising' when he did not hold a valid Bar Council Practising Certificate by virtue of his suspension.

Charge 13

Statement of Offence

Professional misconduct contrary to rS6 and/or Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession in that he conducted litigation, a reserved legal activity, when not authorised to do so by way of serving a Notice of Acting dated 19 April 2017 on solicitor DW of PainSmith solicitors when he did not hold a valid Bar Council Practising Certificate by virtue of his suspension.

Charge 14

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that he conducted litigation, a reserved legal activity, when not authorised to do so by way of serving a Notice of Acting dated 19 April 2017 on solicitor DW of PainSmith solicitors when he did not hold a valid Bar Council Practising Certificate by virtue of his suspension.

Charge 15

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession in that on 24 May 2017 at 17.23 BST, 23 July 2017 at 23.18 BST, 23 July 2017 at 23.59 and

28 July 2017 at 00.18 BST he used inappropriate and/or threatening language within email correspondence sent by him to JW and/or MW particularised at Schedule 2, one or more or a combination of which are inappropriate and/or threatening.

Charge 16

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity in that on 24 May 2017 at 17.23 BST, 23 July 2017 at 23.18 BST, 23 July 2017 at 23.59 and 28 July 2017 at 00.18 BST he used inappropriate and/or threatening language within email correspondence sent by him to JW and/or MW particularised at Schedule 2, one or more or a combination of which are inappropriate and/or threatening.

[It is not necessary to reproduce the Schedule, the contents of the e-mails being set out later].

Under PC 2018/0259/DS

Charge 1

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition).

Particulars of Offence

Henry Hendron, Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession, in that on or around 14 or 15 May 2018 he posted an advertisement on Facebook offering legal services, which can be seen at Annex 1, when he did not hold a valid Bar Council practising certificate by virtue of his suspension.

Charge 2

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition).

Particulars of Offence

Henry Hendron, Henry Hendron, having been interim suspended from practice with immediate effect on 17 May 2016, and having been interim suspended from 26 May 2016 until the conclusion of disciplinary Tribunal proceedings on 5 April 2017 and on that date suspended from practice as a barrister for 3 years with effect from 17 May 2016, behaved in a way which could reasonably be seen by the public to undermine his integrity and independence, in that on or around 14 or 15 May 2018 he posted an advertisement on Facebook offering legal services, which can be seen at Annex 1, when he did not hold a valid Bar Council practising certificate by virtue of his suspension.

Annex

Facebook Post by Mr Henry Hendron dated 14 or 15 May 2018:

"Legal sale of the Century: To raise some dosh before I return to practice as a barrister on the 17th May 2019, I am auctioning 20 legal packages the life, to run from 17th May 2019 for life. (purchase must be made by 06.06 2018) £2k gets you all legal advice and back office support for life, while £4k gets you all the back office assistance and advice in addition to all court representation that you might need, for life. Only 20 slots on offer. email me now for the full terms and conditions. henry@courthouselegal.co.uk. Hurry, this once in a life-time offer is limited to 20 people".

22. These charges were put to Mr Hendron and all denied by him. The burden of proving the charges lies upon the BSB throughout. Each charge has to be considered separately. The Tribunal must apply the criminal standard of proof when deciding the charges of professional misconduct where the conduct alleged within that charge occurred before 1 April 2019. That is the position in relation to each of the charges against Mr Hendron.

23. As appears, the 18 charges comprise 9 allegations each of which is charged both as behaviour likely to diminish the trust and confidence which the public places in the respondent or in the profession and as behaviour which could reasonably be seen by the public to undermine his integrity. Charge 2 under PC 2018/0259/DS differs in that the behaviour is alleged to be such that could be reasonably be seen by the public to undermine

not only his integrity but also his independence. The obligations under rule C8 derive from separate Core Duties, in these terms: "You must not do anything which could reasonably be seen by the public to undermine your honesty, integrity (CD3) or independence (CD4)."

24. Counsel for the BSB clarified that the 2 formulations of the charges for each of the 9 allegations were not intended to be treated as mutually exclusive alternatives.

25. In closing submissions Mr Hendron reminded the tribunal of the decision in Khan v. Bar Standards Board [2018] EWHC 2184 (Admin) in which reference was made [at para 31] to the firmly established principle that behaviour must attain a certain level of gravity before it can qualify as professional misconduct. In his judgment Warby J (as he then was) stated [at para 36] that

> "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 temporary lapse, or something that is otherwise excusable or forgivable."

Warby J went on to suggest caution in setting precise parameters for what can and cannot qualify as professional misconduct.

Evidence

26. The BSB provided a bundle of documents relevant to each of the charge sheets, a bundle of witness statements and a bundle of additional material. During the hearing CM provided quite a considerable amount of further documentation relevant to the charges concerning him, and Mr Hendron also provided a bundle of documents.

27. Mr Hendron had provided the BSB with an initial response to the charges on 29 July 2018. He later (in October 2020) provided a Defence, and in the course of the hearing he provided a statement date 17 March 2021 with documents attached. Written statements were provided for some, but not all, of the witnesses called by Mr Hendron.

28. Mr Hendron has on occasions made clear to the tribunal the strain he has felt. In a letter sent by e-mail to the BSB on 15 July 2018 he wrote:

> "My suspension, as opposed to disbarment, in April 2017, was in many respects a false present. And I now simply do not have the will, energy, effort, drive or desire to continue 'the fight' to be able to practice again; far from being a fight to save one's career, or

reputation or whatever, it has become [and] all-encompassing, overwhelming and corrosive exercise."

29. However, on other occasions Mr Hendron has contested the charges against him with vigour. In his recent statement of 17 March 2021, he said:

"I accept that I have behaved in a less than satisfactory way during the course of the elongated final hearing, at times being argumentative and wholly uncooperative; it is fair to say that I have not wanted to help myself; of which I offer my unreserved and sincere apologies to the tribunal for. These proceedings have been for me far more than just an enormous strain (of which they without question have been an almost unbearable strain), for the most part I have felt just paralysed, knowing in myself what I ought to be doing, but for reasons I can't adequately explain, just not being able to make any effort to."

Findings

30. The Panel found unanimously as follows:

Charges 1 and 2

Holding himself out as a barrister in connection with the provision of legal services on 2 websites.

The charges refer to a period between 27 May 2016 and 10 August 2017. Evidence in support of those allegations was given by Julia Witting, Head of Supervision in the Regulatory Assurance Department of the BSB.

In her first statement Ms Witting said that on or around 19 October 2016 she became aware that Mr Hendron was holding himself out as a practising barrister on his website henryhendron.com. In her second statement she said that by use of the Wayback Machine website she had captured screenshots from henryhendron.com for 25 November 2016 and again on 29 March 2017. These showed a photograph of Mr Hendron, they described and promoted him as a barrister, and they referred to his professional fee charges.

Ms Witting summarised e-mail correspondence with Mr Hendron in 2016 and 2017, including an e-mail from him to her of 10 April 2017 in which he said that he had redirected his website to another website, lawsurgery.com. This was a website address used by Strand Chambers for which Ms Witting provided screenshots captured on 30 April 2017 which

included a photograph of Mr Hendron with his name below, together with photographs of other barristers offering direct access work.

Further evidence was given by Michael Watts, the Chambers Director of Strand Chambers. In his statement he explained that lawsurgery.com had been set up by Mr Hendron at the outset of his active practice as a public access barrister around 2011 and that it was his sole responsibility, but the website and domain name were used in parallel by Strand Chambers. From March 2016 that website ceased to be under the control of Strand Chambers: control was taken by Mr Hendron, and Mr Watts said that he could no longer get access to it to make changes. Mr Hendron had asserted his sole ownership of the domain lawsurgery.com in an e-mail sent to Strand Chambers on 11 May 2016. Mr Watts described it as becoming a frozen website from March 2016 that still existed in cyberspace.

In Mr Hendron's interim response to the complaint of 29 July 2018 he denied holding himself out as a barrister and asserted that he had taken all reasonable steps to have any reference to himself removed from the websites. In this response he said that as soon as he was technically able, he had amended henryhendron.com to reflect that he was no longer practising and that a banner was prominently displayed in the taskbar saying that he was a non-practising barrister. Upon his suspension being made final all reasonable efforts were made to ensure that the website was taken down and that he had asked his ISP for confirmation of the date when it was taken down but he had not received confirmation of that date. It does not yet seem to have been provided. Mr Hendron informed the Bar Standards Board that the lawsurgery.com website was at all times controlled and managed by Mike Watts, and that after his suspension he had telephoned Mike Watts on a number of occasions asking that any reference to him on lawsurgery.com should be removed. In August 2018 this assertion was put by the BSB to Mr Watts in correspondence: Mr Watts responded that he did not recall telephone calls or any emails from Mr Hendron about taking down his profile, and if Mr Hendron had called him about it he would have pointed out that he (Mr Watts) no longer had control of the website. Mr Watts said that the lawsurgery.com website itself was finally taken off-line in its entirety in about July 2017.

In his Defence document of 12 October 2020 Mr Hendron said that he had inserted a tagline in the taskbar at the top of the page on henryhendron.com with rolling text reading "Henry Hendron, barrister, non-practising". He said that he also amended the site to record that he had been suspended. He said that immediately after his substantive suspension he took all

reasonable steps to comply with Ms Witting's request to amend henryhendron.com. In respect of lawsurgery.com, Mr Hendron repeated that he had no control over it, the computer which hosted the site being at Strand Chambers to which Mr Hendron was not allowed to return after his suspension, and he had no access to that computer. He said that lawsurgery.com was operated and managed by Strand Chambers. He repeated that he had contacted Strand Chambers to ask specifically for the removal of the references to himself on the website, and he referred to the statement by Mr Watts that the website was finally taken off-line in its entirety in about July 2017.

Ms Witting gave evidence that she had never seen the tagline or banner referred to by Mr Hendron. Ms Witting said that if she had seen the banner it might have changed her view. The tribunal have also not seen evidence of the tagline or banner.

Mr Hendron did not explain why he did not simply take down the henryhendron.com website as asked, but rather he had arranged for it to be redirected to the lawsurgery.com website where he remained shown as one of a group of practising barristers, without any reservation as to his status. In evidence he said that his thinking was that it would be dealt with by Mike Watts.

It is the tribunal's conclusion that Mr Hendron had responsibility for what appeared on the websites relating to him. He knew what was required of him so that he did not continue to appear to be holding himself out as a barrister who was still able to provide legal services. For a suspended barrister in Mr Hendron's position to fail to do what was required was capable of damaging the public's trust and confidence in the profession. In that respect the tribunal are satisfied that Charge 1 is established.

Although there are various possible explanations for Mr Hendron's behaviour and attitude at that time which the tribunal has considered, the tribunal have concluded that there is not enough for a definite finding that the same behaviour could reasonably be seen by the public to undermine his integrity, and so Charge 2 is not established to the required standard of proof.

The extent of his culpability really depends upon the determination of the connected Charges 3 and 4 relating to an alleged failure to address the concerns of the BSB about the continued existence of the content relating to him on those websites.

Charges 3 and 4

Failing to take down the 2 websites within a reasonable period despite written requests to do so.

The evidence relating to these charges was given by Ms Witting.

By an e-mail of 19 October 2016, she wrote to Mr Hendron about his henryhendron.com website:

> "Dear Henry
>
> Our professional Conduct Department has noticed that your website is still alive, which means that you are, in effect, still holding yourself out as a practising barrister…
>
> Can you please arrange to have website taken down promptly to avoid further disciplinary action?
>
> Kind regards…"

By a further e-mail of 11 November 2016 ("Subject: RE: Holding out as a practising barrister Your website") Ms Witting wrote again:

> "Dear Henry, I have not had a reply from you on this matter and I see that the website is still live.
>
> Kind regards…"

Again, there was no response from Mr Hendron. Ms Witting did not write again until 5 April 2017, the day on which Mr Hendron was suspended from practice for 3 years. She then wrote:

> "Dear Henry
>
> I have been informed of the outcome of the today. As per my previous emails, can I ask you to address, as a matter of urgency, the matter of your website? It is still live. Please arrange to have it taken down immediately. This is a serious matter that the Professional Conduct Department are aware of; they will need to take enforcement action if you do not take it down immediately, as you could be said to be "holding out" as a practising barrister. They will not initiate enforcement action if you resolve this as a priority."

Mr Hendron answered on the same day:

> "Thank you for this. I have to first obtain with the ISP the details to login and delete. I will make efforts first thing in the morning to have this removed.
>
> Just so as we are clear, during my period of suspension I'm right in thinking that I can still use the title "barrister" albeit as long as I caveat that with "non practising", is that correct?"

Ms Witting replied also on the same day (5 April 2017):

"Thank you. Please confirm to me when you have removed it."

She went on to deal with his question about whether he could describe himself as a non-practising barrister by referring him to links to the Bar Standards Board guidance for unregistered barristers, and telling him that if he had questions a contact at the BSB was listed, and that he could also speak to the Bar Council ethical enquiries line.

On 10 April 2017 Mr Hendron wrote to Ms Witting:

"Further to your email last week I have now managed to redirect the main site, henryhendron.com to another site so that all you would get if you clicked on henryhendron.com is taken to lawsurgery.com, a site that I also own.

However I think that some elements of henryhendron.com are technically still out there in the ether, somehow (although I am not particularly IT literate) and I working hard at present to bring down all traces of the old site insofar as they contain any reference to me presently practising.

I will revert when I think the latter has been successfully accomplished."

On the same day Ms Witting replied:

"Thank you for the update. You will need to remove your own profile from lawsurgery.com."

To this Mr Hendron responded also on 10 April 2017:

"Thank you, Julia, I did not realise that I still had a profile on LawSurgery.com, but in any event I will get it removed as quickly as I can.

Thanks."

Nothing more was communicated by Mr Hendron on this topic and accordingly on 10 August 2017 Ms Witting made a referral to the Professional Conduct Department in which she said that, despite the assurance from Mr Hendron that the websites would be taken down, they were still live as of that date (10 August 2017). That does not fully accord with Mr Watts' account that the lawsurgery.com website was entirely taken off-line in about July 2017, but the tribunal accept that Ms Witting found what she described in August 2017 which then prompted her referral for consideration of disciplinary action.

Although the witnesses did not give the tribunal a wholly clear, chronological account of what did or did not happen or of how much more Mr Hendron could have done, the evidence of Ms Witting and Mr Watts showed that after 10 April 2017 Mr Hendron did nothing to reassure the BSB that he had done, or had continued to try to do, what was being asked of him. If, as he suggested, the problem had gone beyond his control he could quite simply

have so informed the BSB. To that extent there was a failure of cooperation by Mr Hendron to do what he knew the BSB expected of him, or, at the very least to inform the BSB of, and explain, any continuing difficulties in doing what the BSB expected.

In his oral evidence Mr Hendron said that in hindsight he could perhaps have done more, and in closing submissions Mr Hendron accepted that his response to the requests by the BSB was "not as thorough as it might have been". He said that he had shrugged his shoulders and got on with life. Although he also said that he had no intention to maintain his profile on the websites, the tribunal are satisfied that he allowed the situation to go on for too long, that his behaviour was serious enough to amount to professional misconduct and that accordingly charges 3 and 4 have been established.

Charges 7 and 8

Continuing to provide legal services as a barrister for his lay client CM between 17 May and 27 September 2016 despite being suspended from practice.

This allegation as charged refers to 3 elements: Mr Hendron's involvement in drafting a witness statement, Mr Hendron providing legal advice on legal proceedings and Mr Hendron sending an e-mail on 21 July 2016 using a signature block with the descriptor "Barrister".

Mr Watts gave evidence in his statement that CM was a client of Mr Hendron, that CM paid an initial £300 on 21 September 2015 for a conference and that CM paid a further £2,400 on 19 October 2015 recorded on the payments ledger as "going on record, drafting and back-office work not including court rep."

A "Client Care and General Terms of Business" document governing the relationship between CM and Mr Hendron was signed by CM on 21 September 2015.

CM provided evidence in a witness statement and in extensive oral evidence of his involvement with Mr Hendron. He had instructed Mr Hendron in September 2015 in connection with proceedings brought against 2 former tenants of CM for non-payment of rent and damages for disrepair.

While the proceedings were ongoing CM received from Mr Hendron a letter dated 9 May 2016 (i.e., shortly before Mr Hendron's interim suspension) in the following terms:

"Dear C…

Re: Restructuring of service

In a constantly evolving legal market, it is important that those that provide legal services adapt and evolve with the ebb and flow of legal change. In that regard I have embarked upon a restructuring process of how legal services are delivered to my clients with the objective to deliver best value and greater efficiency and improved levels of service.

As part of this restructuring process all my personal litigation responsibilities are going to be transferred to a separate entity called Defacto Legal, which is a regulated legal entity by the Bar Standards Board.

As of the 10th May 2016 all my clients will be transferred to Defacto Legal who will go on record (where appropriate) and who will be responsible for case management.

What do these changes mean for you?

In short it is business as usual, except that the contracting party with you will no longer be me but will be Defacto Legal.

Starting from the 10 May 2016 the new contact details will be:

Address: Third Floor 6 Pump Court
Temple
London
EC4Y 7AR

……

There is no change in respect of the work that I have agreed to do in your matter nor is there any additional cost to yourself. Defacto Legal is now the entity that will discharge you*[r]* litigation obligations.

Both Defacto Legal and I will be working together building a stronger success rate for all of our clients.

Yours sincerely

Henry Hendron

Barrister

Strand Chambers"

CM said in his statement that Mr Hendron then continued to act on his behalf and that Mr Hendron did not tell him that he had been suspended from practice in May 2016. Mr Hendron had discussed aspects of the trial of CM's case, how Mr Hendron would meet various deadlines and the preparation of the witness statement, trial bundle and Scott Schedule. In various communications CM also pointed out that he never entered into any agreement with Defacto and that he had not agreed to assignment of his agreement with Mr Hendron to Defacto, nor been asked to do so.

After May 2016 CM appeared to become increasingly dissatisfied with Mr Hendron who continued to have the assistance of Andrew Radlett, a paralegal. E-mails in July 2016 show CM's dissatisfaction with the level of service provided, and on 21 July 2016 CM wrote to Mr Hendron and Mr Radlett: "It is time for you guys to stop messing me around", referring to his expectation that a statement would have been done 4 weeks before.

In response Mr Hendron sent an e-mail to CM on 21 July 2016 at 13:02 (referred to in the Charges):

> "Subject: Re: Witness Statement
>
> I'm not messing around. Should you continue to be so rude in your terminology then I will consider your instructions terminated.
>
> We have no problem in having, what is a basic witness statement, done by this time next week. No problem at all. It would take an hour or so on the phone or skype to have this done, once you have your scott schedule completed.
>
> Henry
>
> **Henry Hendron | Barrister | Defacto Legal | Third Floor | 6 Pump Court | Temple | EC4Y 7AR** "

Mr Hendron had also sent an e-mail to CM and to Andrew Radlett slightly earlier at 12:59 in which he said that he required the Scott Schedule in Word. This had the same descriptor. In a further e-mail on the following day (22 July 2016) written by Mr Hendron to CM Mr Hendron asked for further details for the witness statement. In this he did not describe himself as a barrister but as a Legal Consultant.

By an e-mail of 27 July 2016 Mr Hendron sent Andrew Radlett the statement for CM (apparently drafted by Mr Hendron) saying that some of the blanks highlighted in yellow needed to be filled in. It is quite clear from that e-mail that Mr Hendron was responsible for the drafting and finalisation of that statement.

In late September 2016 CM sought advice from another barrister and his case came to trial in October 2016.

In December 2016 CM wrote to the Bar Standards Board and to the Legal Ombudsman giving his account of the conduct of Mr Hendron and his brother which he is described as

"shambolic" with "an absence of professionalism throughout the case". His main concern was the level of fees charged compared with the amounts recovered in the proceedings.

In November 2017 Mr Hendron brought County Court proceedings against CM for £21,217.24 "in respect of (1) outstanding fees of the Claimant and Defacto Legal Limited (which have been assigned to the Claimant), and (2) contractual costs arising from the Claimant and Defacto's legal representation of [CM]…", all referable to CM's case which had concluded in October 2016. The Particulars of Claim dated 5 September 2017 and signed by Mr Hendron described him as having ceased practice as a self-employed barrister in May 2016 and as then commencing work as a legal consultant at a law firm Defacto Legal Ltd which was set up and run by Mr Hendron's brother Richard Hendron, also a barrister.

Solicitors for CM filed a Defence to the monetary claim by Mr Hendron. Among other things Mr Hendron was put to proof of the alleged assignment by him to Defacto. The tribunal were informed by Mr Hendron that his claim was later struck out because of a failure to serve an allocation questionnaire which Mr Hendron attributed to what he called a prolonged drugs binge.

It is not necessary or appropriate in relation to the charges against Mr Hendron to determine the merits of CM's complaints about the handling of his case by Mr Hendron or of the fee arrangements and disputes. Those complaints were set out in a form which was sent by CM to the Legal Ombudsman dated 1 March 2017 and in extensive further correspondence between CM and the Ombudsman and the BSB, leading to a final decision by the Ombudsman in July 2019.

Mr Hendron's response to the charge that he continued to provide legal services as a barrister to CM, is that he did so without undertaking any new work for CM and that he did so as an employee of Defacto. He suggested that CM's complaint was disingenuous and untruthful, and that it was a clear response by CM to Mr Hendron's action against him for unpaid fees.

The tribunal reject those criticisms of CM who was a clear and credible witness who had been disappointed by the service he received and confused by the situation created by Mr Hendron's personal difficulties.

CM was pressed in cross-examination by Mr Hendron as to what he had been informed by Mr Radlett about Mr Hendron's status. CM said he thought he was aware that Mr Hendron had been suspended from practice, but that he could not be "100%" certain about that. He said that it was not clear to him what Mr Hendron's situation was in terms of working.

Mr Wood (another client of Mr Hendron and one of his clients involved in the High Court proceedings relating to in Charges 9-16) also said in his statement that he was told by Mr Radlett that Mr Hendron was allowed to work on his case post suspension because Defacto had conduct of the litigation and Mr Hendron was an employee of Defacto.

The essential question in respect of Charges 7 and 8 is whether or not, in reality, Mr Hendron was continuing to act as a barrister and used Defacto Legal Ltd as a vehicle to do so. According to Mr Radlett, CM was particularly anxious about Mr Hendron's situation when he became aware of the criminal proceedings against Mr Hendron. CM was informed that Mr Hendron was working on contingency plans in order to ensure that his clients' interests were covered. Mr Radlett told the BSB (in an e-mail of 11 September 2018) that CM "was informed that Henry was working on setting up a platform whereby he could continue to work with the case along with [Mr Radlett] to ensure that his clients had continuity whilst ensuring that if Mr Hendron lost his Practising Certificate his clients would not be left high and dry…".

Defacto Legal Limited was incorporated in February 2016, and from 24 March 2016 it was an entity licensed by the Bar Standards Board to provide reserved legal services. Mr Hendron asserts that he became an employee of Defacto Legal (although he occasionally referred to himself as a legal consultant). The letter of 9 May 2016 to CM (and the similar letter to Mr Wood), shortly before his interim suspension, emphasised the continuity of service to be provided and stated in terms that it was to be "business as usual".

In a later e-mail dated 17 July 2017 from Mr Hendron to Mr Jackson of McFaddens (who took over representation of Mr Wood in May 2017) Mr Hendron wrote:

> "… The agreement that I had with Defacto, in consideration for me doing all the work on the cases, was that I would take whatever sums were received or recovered in each case. This might seem an unusual arrangement generous to me, but in the context where Defacto was set up solely as somewhere to put my cases when it was anticipated I would be disbarred, and something for me to do in the event that I was disbarred. I was

responsible for paying all the office costs and staff salaries upfront out of my own pocket, irrespective of the income of the business; I was effectively Defacto, Defacto *[sic]*."

The submission made on behalf of the BSB is that it is clear from the evidence that, despite a superficial pretence that, in theory, Mr Hendron was working as a paralegal employed by Defacto under the supervision of Richard Hendron, Mr Henry Hendron was at the relevant times, in practical reality providing legal services as a barrister, flouting the disciplinary sanction of suspension of his practising certificate.

However, internal BSB e-mail communications of 5 April 2017 (just as he was suspended from practice) produced by Mr Hendron (as part of Exhibit F to his witness statement) show that the BSB were aware that Mr Hendron worked for his brother Richard in a BSB regulated entity, and that a suspension or disbarment did not necessarily prevent him from working in a BSB entity unless it was prohibited by a specific condition imposed as part of his suspension. In an e-mail of the same date from Ms Witting to others in the BSB she informed them that anticipation of imprisonment was quite likely to have been a key driver in setting up the entity and that Mr Hendron's open cases had been transferred into the entity for Richard Hendron to manage, with Henry Hendron employed as a paralegal by Richard Hendron. In a later e-mail of 3 May 2017 Ms Witting wrote to others in the BSB:

"It is possible that HH is working as a paralegal with Defacto, the BSB authorised entity. If there is any concern about Defacto, please let me know."

It is clear that the BSB already had properly become concerned to protect Mr Hendron's ongoing clients when, as was likely, he was suspended or disbarred, particularly those clients who had paid money for work that had not been completed. Other material disclosed by the BSB show that the previous year (2016) there had been discussions by the BSB with Mr Hendron and his then Chambers including a meeting on25 April 2016 in which Mr Hendron had explained that his plan was to transfer all his cases to Richard Hendron's entity – Defacto – which the BSB had recently authorised, and he explained that he had put money in Defacto for that purpose.

It therefore appears to the tribunal that the BSB were aware of the position, that nothing was done to restrict Mr Hendron from acting as a paralegal employed by Defacto and that there was no clear express definition or regulation of what Mr Hendron could or should do

in respect of work which he took to Defacto. In answer to cross-examination by Mr Hendron Ms Witting said that she had given him guidance in May 2017 which had said that he could be employed by chambers in another capacity. She said:

> "It is a question of what you do when you are an employee. You can work for another entity as long as you follow guidance and clients understand what your role is. It is about the whole package of what you present to clients."

In reality, Mr Hendron was enabled to present to his clients what he described as a "restructuring" of his services, without mention of his suspension as the real reason, and he did so without offering any refund or new contract to his clients such as CM. However, the work done by Mr Hendron for CM after his suspension, was work for which CM had paid before Mr Hendron's suspension, and it was not work which could only be done by a barrister with a practising certificate.

The tribunal recognise that the public would be concerned that a suspended barrister could circumvent his suspension in the way in which Mr Hendron did. The tribunal had serious concerns that Defacto was allowed to take on Mr Hendron's workload under the supervision of Mr Hendron's brother, particularly as it was not clear how real or effective that supervision was.

Despite those concerns, the conclusion of the tribunal is that professional misconduct by Mr Hendron as alleged in Charges 7 and 8 has not been established.

The separate part of these charges, that on 21 July 2016 Mr Hendron sent an e-mail using a signature block with the descriptor "Barrister" is not disputed by him. In his Defence Mr Hendron said that the signature block was "not consciously sent to [CM] but in error" when his e-mail had defaulted to his old signature and Pump Court address. He said that he had not noticed it until the BSB wrote to him. This appears to have been a careless oversight by Mr Hendron, rather than a deliberate attempt to mislead, and would in itself would not be sufficient to establish Charges 7 and 8.

<u>Charges 9 and 10</u>

Exercising a right of audience before a Master in the Queen's Bench Division on 10 March 2017 when he did not hold a practising certificate.

From about July 2014 Mr Hendron acted for the claimants (including Mr Jon Wood) in proceedings in the Queen's Bench Division.

On 9 May 2016 Mr Hendron sent Mr Wood a letter in the same terms as that sent of the same date sent to CM explaining that his litigation responsibilities were being transferred to Defacto Legal.

In the course of those proceedings there was a hearing listed before Master Kay QC on 10 March 2017. A transcript of the hearing has been provided, the front sheet of which shows that "MR H HENDRON (of Defacto Legal) appeared on behalf of the Claimants", that counsel appeared for the first defendant and that the second defendant appeared by her Deputy.
The transcript of the opening exchanges reads as follows:

"MASTER KAY: It's eleven o'clock on 10 March. This matter is John Wood and others against Robin Felgate and another, 15X00065. For the claimant, Mr Hendron, appears – of counsel, is he?
MR HENDRON: I'm an employee of the, a law firm.
MASTER KAY: Which is, which firm?
MR HENDRON: Defacto Legal.
MASTER KAY: Who?
MR HENDRON: Defacto Legal.
MASTER KAY: Thank you – of Defacto Legal. You're not a solicitor.
MR HENDRON: I'm a qualified barrister.
MASTER KAY: Fair enough. And for the defendant, Mr Topal ….."

Later in the transcript (at page 10), while the Master was considering a draft order it was clear that he did not propose describing Mr Hendron as counsel, but rather as "a member of the solicitors firm acting for the claimant".
At the end of that hearing there was a short discussion about taking documents to be sealed in which Master Kay referred to Mr Hendron as a member of the bar.

In a subsequent response by Master Kay to enquiry by the BSB he wrote that from his note (to which he had referred) and from the version of the order he had seen it did not appear that Mr Hendron was holding himself as a barrister but rather as a member of Defacto Legal.

In his Interim Response to the complaints by the BSB of 29 July 2018 Mr Hendron said that his attendance before Master Kay was not in breach of his suspension at all. His attendance

was in the capacity of an employee of a regulated entity as he had made clear to the Master. He argued that his suspension from practice as a barrister suspended his right of audience derived from his status as a practising barrister but did not disqualify him from rights of audience obtained by other routes. He said that he attended only as an employee of Defacto Legal which was then a regulated entity. He referred to the exceptions in Schedule 3 to the Legal Services Act 2007.

The charges are that Mr Hendron exercised a right of audience when he did not hold a practising certificate. In this regard Mr Hendron has not been charged with holding himself out as a barrister. It is clear from the transcript that when the Master asked if Mr Hendron was 'of counsel', he answered that he was an employee of a law firm, Defacto Legal, and that only when the Master went on to ask if he was not a solicitor, that Mr Hendron said that he was a qualified barrister. Although it might have been if Mr Hendron had said, or added, that he was an unregistered barrister, on that occasion he did not suggest he was then appearing before the court in his capacity as a barrister.

On 17 March 2021Mr Hendron called as his witness Mr Luka Maxted-Page, who had also attended the hearing before the Master on 10 March 2017. Mr Maxted-Page explained that he was also employed by Defacto Legal Ltd as a paralegal. At the time he was in the process of qualifying as a barrister. He said that Richard Hendron was in charge of Defacto. Richard Hendron had discussed with him what employees could do when attending hearings. He said on 10 March 2017 there had been no requirement for both him and Henry Hendron to be there at court. He had gone for experience of a court hearing, to observe, to take notes and to assist if needed. When giving oral evidence Mr Maxted-Page did not describe any unusual events or features relating to the hearing. However, subsequently Mr Hendron, when giving oral evidence to the tribunal, said that he thought it had been agreed that Mr Maxted-Page would conduct the hearing on 10 March 2017. He Hendron then said it was his clear recollection that he (Mr Hendron) was not going to do the hearing but on the morning of the hearing his dog had excreted over Mr Maxted-Page's trousers and that Mr Maxted-Page was in a fuzzy place… in a daze." Mr Hendron said he did not think that Mr Maxted-Page was up to doing the hearing and was all nervous. Mr Hendron said he did not want them to show themselves up in front of the client. Mr Hendron said that accordingly he had told his brother that he would do the hearing. This account by Mr Hendron had not appeared in any previous evidence or other response by him to the charges.

It appears that there then was a press report of this account given by Mr Hendron during the tribunal hearing, and that as a result on 19 March 2021 Mr Maxted-Page wrote to the BSB and to the tribunal saying that he would like to be given the opportunity to give clarification if permitted. Accordingly, he was allowed to submit a written statement, which he then did. In that statement Mr Maxted-Page said that he had not expected or prepared to represent the clients at the hearing on 10 March 2017, although there had been 'a last-minute scramble' about who would represent them at the hearing. Mr Maxted-Page said he had been asked to go to court to greet the clients and potentially represent them. He did not indicate in his statement who had asked him to do this. He said that he remembered being in the corridor with the clients when Mr Henry Hendron had, thankfully, appeared and represented them. Mr Maxted-Page said that the press article in which it was said that Mr Hendron had told him to represent the client because his dog had fouled him (Mr Maxted-Page) was not what had happened. Mr Maxted-Page did not elaborate on what parts of it were not correct.

Mr Maxted-Page was not required to be re-called to give further oral evidence to deal with this conflict, and accordingly the tribunal has not heard the differing versions of Mr Hendron and Mr Maxted-Page tested in cross-examination. It is surprising that if events had happened as described by Mr Hendron, he did not mention them before. Mr Hendron's explanation of how he came to appear as an advocate at the hearing in March 2017 seemed to be an afterthought.

However, that recent explanation by Mr Hendron of how he came to address the Master is not relevant unless he was exercising a right of audience in circumstances in which it was not permitted. Even if Mr Hendron could not have then exercised a right of audience as counsel with a practising certificate, the question is whether he could have done so, as he claims, relying on the exemptions in Schedule 3 to the Legal Services Act 2007.

Under the Legal Services Act 2007 "Reserved legal activities" include the exercise of a right of audience and the conduct of litigation. Schedule 2 to the Act defines "a right of audience" as the right to appear before and address of court, including the right to call and examine witnesses". The question whether a person is entitled to carry on a reserved legal activity is determined in accordance with section 13 of the Act, section 13 (2) defining those entitled as being (a) an authorised person and (b) an exempt person. Section 18 defines an "authorised person" as being a person authorised to carry on the relevant activity by a

relevant regulator. Exempt persons are those who have a right of audience otherwise than by virtue of being authorised persons. Exempt persons are defined by section 19 and by schedule 3 to the Act. This includes (under paragraph (1) (7) of schedule 3) those who assist in the conduct of litigation under the instructions and supervision of an authorised person, but only where proceedings are being heard in chambers.

Mr Hendron contends that he was acting as an employee of Defacto Legal Ltd and was doing so under the instructions and supervision of his brother, Richard Hendron. In his statement and in oral evidence Mr Hendron said that he would have weekly meetings with his brother to discuss live cases. In oral evidence he also said that he and Richard were "at absolute war" and that he could not cope with taking directions from Richard.

As indicated above, the tribunal has not heard evidence from Richard Hendron, but was provided with the e-mail from Richard Hendron to the BSB of 15 March 2021. In this Richard Hendron said that he could confirm that Henry Hendron attended the hearing on 17 March 2017 [in fact 10 March 2017] as an employee of Defacto, that Henry Hendron was authorised to do so by Defacto and was entitled to do so under schedule 3. Richard Hendron said that "I was the authorised regulated person in the entity". Richard Hendron also said that he had taken advice from the Bar Council in respect of Henry Hendron and Luka Maxted-Page attending certain hearings as a representative of Defacto and that the advice was positive and had confirmed that he could send them to represent the firm on appropriate cases. Mr Richard Hendron produced some e-mails from him to Ms Witting, at the bottom of which it was said:
"*Defacto Legal Ltd is a law firm that is authorised and regulated by the Bar Standards Board to conduct litigation and carry out reserved legal activities.*"

In the circumstances, and despite Mr Hendron's curious, late explanation of how he came to appear as an advocate at the hearing in March 2017, the tribunal is satisfied that he was able to do so under the provisions of the Legal Services Act. Accordingly Charges 9 and 10 are dismissed.

Charges 11 and 12

Holding himself out as a barrister in e-mail correspondence on 24 April 2017 with solicitors and on 24 May 2017 with his lay client. In this correspondence Mr Hendron referred to himself as "Barrister, non-practising".

The evidence in respect of these allegations was provided by Mr Whitney, a solicitor with a firm called PainSmith. He explained that he had acted for one of the defendants in proceedings in the Queen's Bench Division (the same proceedings relating to the hearing in March 2017 referred to in Charges 9 and 10). Mr Whitney said that in May 2016 a firm called Defacto Legal Ltd went on record as representing the claimants in those proceedings and that all of the correspondence about those proceedings which he (Mr Whitney) exchanged with Defacto Legal was with Mr Hendron. By negotiation terms of settlement were agreed between the parties which Mr Whitney had then confirmed on 19 April 2017. On the same day Mr Whitney received an e-mail from Mr Hendron attaching a Notice of Change. The Notice of Change (headed "Notice of Acting") was as follows:

"**TAKE NOTICE** that the Claimants have instructed **Henry Hendron** of 'Court House Legal Ltd', of
Court House Legal Ltd
No. 6, 118 Richmond Hill,
Ashburton,
Richmond Upon-Thames
TW10 6RJ
DX: 424 Chancery Lane LDE
To act for them in the above matter in place of Defacto Legal Limited of Quality Court, Chancery Lane, London WC2A 1HR.
All correspondence in this matter should hereafter be sent to the address above.
Notice of acting has been served on every other party.
SIGNED:
DATE: 19th April 2017"

The accompanying e-mail from Mr Hendron to Mr Whitney was as follows:

"Dear David,

Further to our conversation this afternoon I have re-checked our system here vis the notice of change as mentioned on the phone, and there was a problem, on this side not yours, with the outgoing mail server, which hopefully is now resolved (hopefully).

Please find attached a Notice of Change. The signed N434 shall follow in the post. Given this is the first email from this firm to yourselves I have also carbon copied this e-mail to my client direct for information purposes. Please ensure that any response is direct to this firm at info@courthouselegal.co.uk or at the post address below.

As also discussed, I note your oral acknowledgement during our call re the letter of acceptance from Defacto Legal dated 13th April 2017, and your client's agreement to it therein, however I would be grateful if you could acknowledge that letter in writing.

I shall draft the necessary and appropriate Orders (I think we both agree on a Consent Order in Tomlin form) and have them with you for the morning.

Yours,

Henry

Henry Hendron
Court House Legal
No 6, Ashburton
118 Richmond Hill
Richmond
TW10 6RJ"

Mr Whitney answered by e-mail shortly after on 19 April 2017 in which he said that he was happy to acknowledge the letter from Defacto Legal and confirm the terms were agreed. He continued:

"I do not wish to appear rude but obviously there is a lot of money involved so could you confirm the details of the regulator for Court House Legal as no details are in the footer and the website is blank."

To this request Mr Hendron replied as follows by an e-mail of 21 April 2017 under the subject heading "Status":

"Dear David,

Thank you for your email on the 19 April 2017 in response to my email and call on the same date.

To address the query that you, quite righty *[sic]*, raise in your email regarding the regulated status (if any) of Court House Legal Limited.

Firstly, I remain an employee of Defacto Legal Limited, in which capacity I attended the mediation and subsequently drafted the Consent Order in Tomlin Form (which shall follow shortly).

Court House Legal has been instructed by the Claimant subsequent to settlement to assist on matters post litigation, which includes matters ancillary to the already stated settlement.

I can confirm that Court House Legal Limited has only just been registered as an legal entity at present is not a regulated entity either by the Bar Standards Board or the Solicitors Regulatory Authority. The reference to "entity" is purely in the Companies House sense of the word, although that position is likely to change imminently.

In the meantime, having checked with the Bar Council in my capacity as a barrister (albeit non-practising until May 2019), as to what I can do myself with my non-practising status, and having refreshed my memory as to the definition and scope of what are "reserved legal activities" pursuant to the Legal Services Act 2007, I can confirm that both myself and Court House Legal, as a legal consultancy, are acting within the bounds of what can be done by a non-regulated person under the law as it stands.

In any event, addressing the tenor of your concern which appears to be the large sum of money that is to be transferred, I hope that the schedule to the order which provides that the settlement money be paid by way of [three]seperate transfers (1) to Jon Wood of #125k for him and his father, (2) to Timothy Carl of #1k, and (3) the remaining #49k to this organisation as a contribution towards the Claimants legal cost of the proceedings, to expressly include Defacto's costs, and those incurred when the litigation commenced under my own name, when I had the right to Conduct Litigation).

I hope that this clarify the situation. Please do revert should you have any questions. I am working from the offices of De-Facto this afternoon and can be contracted there on the phone should you need to speak to me.

I shall send through the suggested Consent Order in Tomlin Form shortly. As there are 2 parties who are protected parties you will of course be aware that the agreement cannot be a "done deal" until such time as the court get around to approving the settlement, in the same way that infant settlements occur.

Having spoken to the Maters support unit, there is an off chance that we could get the signed agreement before the Master next week.

Henry

Henry Hendron,
Barrister, (Non-Practising)
Court House Legal

No 6, Ashburton
118 Richmond Hill
Richmond
TW10 6RJ"

The e-mail of 24 April 2017 to Mr Whitney, specifically referred to in Charges 11 and 12, was as follows:

"Subject: RE: Consent Order.V1. ….

Dear David,

I would be grateful if you could acknowledge receipt of my email to you on 21.04.17 attaching for your consideration the consent order in tomlin form, such draft reflecting the agreement reached between the parties.

Although I do not anticipate there should be any changes to the draft if there are changes your end to be made could I have those suggestions at your earliest so that the necessary people can be contacted this end, in good time.

Finally, even though our clients have a concluded agreement, on a "just in case" basis and to protect their position, "just in case", our clients had instructed us on their behalf to ask you for a copy (in full) of your client's disclosure as set out on your signed disclosure list; such request is obviously without prejudice to the agreement and our clients will meet all reasonable copying charges of your Firm of the copying.

Yours.

Henry

PS- I have forwarded you (below) my e-mail of 21.04.17 with attached draft for your ease.

Henry Hendron,

Barrister, (Non-Practising)

Court House Legal

No 6, Ashburton

118 Richmond Hill

Richmond

TW10 6RJ"

The later e-mail of 24 May 2017 from Mr Hendron to his lay client, also specifically referred to in Charges 11 and 12, is the first of the 4 e-mails referred to in Charges 15 and 16. By this time Mr Hendron had become concerned about the payment of the settlement funds from the litigation and in particular about the payment of legal fees from the agreed settlement

sum, as to which there was also disagreement between Mr Hendron and his brother. He wrote to Mr Wood, that e-mail being copied also to Mr Wood's mother:

> "Jon,
>
> Please send me the contact details of the solicitor that you say is going to receive the full payment of 175k?
>
> AS I understand it, from your call. This Solicitor will take in the funds and then transfer to me and you immediately, those funds as to 50k and 125k respectively.
>
> Please do not take this the wrong way, but given your financial position and what you say you intend to do with your 125k (i.e. transfer it to your dad to avoid creditors etc etc) I have no other option but to put you, and your mother who is the main funder and in reality the main recipient of the settlement monies, on notice that in the event that I do not receive the fee monies (50k) immediately upon them being transferred out of PainSmith Solicitors account, then I will have no other option but to seek a freezing order agent *[sic]* you, your fathers and your mothers bank account(s) and to institute emergency proceedings to preserve those funds, in which case I will of course produce this e-mail in aid of.
>
> As I say, I am sure that the above will not be necessary, but as a lawyer I hope that you won't critique me for trying to cover all bases, of which this email is but one of those bases.
>
> All the best
>
> Henry
>
> cc. Mrs Marilyn Wood.
>
> **Henry Hendron**
> **Barrister**, non-practising
> …"

The description by Mr Hendron of himself as a "Barrister, non-practising" appeared in his e-mails to Mr Whitney on 21 and 24 April 2017 and to Mr Wood on 24 May 2017. By then Mr Hendron had specifically asked Ms Witting of the BSB on 5 April 2017 whether he could use that wording, and Ms Witting had referred him to links for the official guidance.

The introduction to that guidance (which is dated January 2014) stated:

> "The BSB Handbook defines a practising barrister as a barrister who is supplying legal services and holds a practising certificate. There are many barristers who do not have a practising certificate either by choice or because they do not qualify for a practising certificate.

Such barristers are now called "Unregistered Barristers" because they are not on the public register of barristers who have practising certificates. It is important to note that the term "non-practising barrister" which has been used in the past should no longer be used as it can cause confusion since some barristers without practising certificates do provide legal services and are, in effect, practising as lawyers.…

Even though the rules which apply only to practising barristers do not apply to them, all unregistered barristers remain members of the profession and members of their Inn and are expected to conduct themselves in an appropriate manner. In this context, they remain subject to certain Core Duties and Conduct Rules at all times. If they provide legal services, they must comply with the Core Duties and they have a responsibility not to mislead anyone about their status. These are new requirements introduced by the Handbook."

A later part of the guidance specifically dealt with "Holding out as a barrister". It stated:

"The restriction on 'holding out' prevents barristers who do not have a practising certificate but who are supplying or offering to supply services from using the title 'barrister' or otherwise conveying the impression that they are practising as barristers. It is not possible to provide a comprehensive list of the circumstances which might amount to holding out but it is hoped that the following examples will give an idea of what is prohibited."

The examples given included:

"Describing oneself to clients or prospective clients as a non-practising barrister or barrister-at-law (titles which have been allowed in the past but not in recent years)."

Accordingly, Mr Hendron, having sought and been referred to guidance, was aware, or ought to have been aware, in April 2017 that he should not describe himself as a non-practising barrister in a professional context. Indeed, in his closing submissions Mr Hendron accepted that by 24 May 2017 he had been made aware of the guidance. The reality is that he had been made aware of the guidance before his emails of 21 and 24 April 2017 were sent.

The tribunal have concluded that charges 11 and 12 are established.

Charges 13 and 14

Conducting litigation, a reserved legal activity, when not authorised to do so by serving the Notice of Acting dated 19 April 2017 (i.e. that referred to in connection with Charges 11 and 12).

In his interim response to the complaints by the BSB of 29 July 2018 Mr Hendron referred to this as work which Court House Legal Ltd undertook in a consultancy capacity for Jon Wood. Mr Hendron said the administration of that work, including the sending out of the Notice of Acting was done by his former partner Marcus Kain "who at the material time provided all the day to day administrative services for [Court House Legal]." Mr Hendron said in this response that Marcus Kain had sent out the notice in error, and that at that time he (Mr Hendron) was about to start or had just started treatment for serious drug and alcohol misuse, and that he was in no fit state to manage Court House Legal or anything else. In this response Mr Hendron also suggested that Marcus Kain was getting involved to maximise Mr Kain's theft of funds from Mr Hendron and Court House Legal. Mr Hendron repeated in his Defence in October 2020 that his then partner Marcus Kain was running what Mr Hendron described as his "legal consultancy", and that he (Mr Hendron) had no knowledge of the notice of acting which he said was sent without his consent or approval.

In his more recent statement Mr Hendron said that he had left Defacto initially in August 2016, returned in November 2016 and left finally in early 2017 when he "disappeared on a drugs binge". In his absence Marcus Kain had tried to hold his remaining clients together, Mr Hendron describing them as clients he had as a legal consultant. He repeated that it was Marcus Kain who had sent the notice of acting to PainSmith. He added that Marcus Kain had sent another notice of acting in a case in the Supreme Court, and that the BSB had accepted that Marcus Kain was responsible for that. His relationship with Marcus Kain ended in the summer of 2017 and he obtained a non-molestation order against Marcus Kain. He had taken Marcus Kain back in the autumn of 2017. Their relationship ended in about September 2019.

Mr Kain was called by Mr Hendron to give evidence to the tribunal. From that evidence it was apparent that Mr Kain had no legal experience or training in legal work. He did some administrative work for Mr Hendron, but the tribunal found it implausible that Mr Kain would have drafted the e-mails or documents as Mr Hendron suggested. Mr Kain himself said that these were probably drafted by Mr Hendron.

In his oral evidence Mr Hendron seemed equivocal as to whether he maintained his assertion that Marcus Kain had sent the notice, but in his more balanced closing submissions he said that although his initial response had been that the notice was sent maliciously by Marcus Kain, he now accepted that if Marcus Kain had sent it out it had been at his (Mr Hendron's) direction. He accepted the notice bore his name, but he added that he did not concede it

was misconduct because he could not remember it. He accepted that the reason, and only reason, for giving notice that Court House Legal was acting, was for legal fees to go to him.

The tribunal are satisfied that Mr Hendron was responsible for sending the Notice of Acting and that charges 13 and 14 are established.

Charges 15 and 16

Using inappropriate and/or threatening language in e-mail correspondence.

The e-mail of 24 May 2017 is set out above.

The e-mail of 23 July 2017 (at 23:18) from Mr Hendron to Mr Wood, Mr Wood's mother and to Mr Hendron's brother was as follows:

"**Subject: – Litigation. Last Warning.**

Jon/Marilyn

Strictly Without Prejudice and in Confidence

Unless you release the 50K cost monies by midday Monday 24.07.17, I will issue against the pair of you and your erstwhile solicitors, but I will first recover from you both, which ultimately means you Marilyn, since it is only upon your instructions (according to your solicitor) that the 50k cost monies is not being paid out.

When you pick a fight against someone who has nothing to lose, you have nothing to win; I learnt that recently.

You, have both, been warned.

HH

Henry Hendron on

Legal Consultant"

Mr Hendron sent a further e-mail on 23 July 2017 at 23:34 to Mr Jackson (of McFaddens), Mr Wood, Mr Wood's mother and to Mr Hendron's brother in which he said "Richard and I have had enough of these games, and must now draw a line." He said that if by midday on the following day (24th July) payment of £50,000 had not been made to himself and his brother (as to £15,000 to his brother and £35,000 to himself) he would issue immediately "against you all" in the High Court and that he would do all he could to ensure that the SRA investigated McFaddens.

Mr Jackson appears to have sent a measured and detailed letter to Mr Hendron by e-mail on Monday, 24 July 2017 commenting that the tenor and tone of Mr Hendron's various communications were extremely threatening. Mr Jackson reserved the right to bring the correspondence to the attention of the Court and the Bar Council as he believed that the tone and tenor of the emails and the way in which Mr Hendron had conducted himself was highly unprofessional. The letter also contained an offer of settlement in the sum of £40,000.

Although this offer was apparently accepted by Mr Hendron and his brother on 25 July 2017, Mr Hendron then wrote the e-mail of 25 *[not 23]* July 2017 (at 23:59) to Mr Wood, Mr Wood's mother and to Richard Hendron as follows:

"**Subject: Early Notification of an intended Claim**

Dear Sirs,

Without Prejudice and in strict confidence. It is not clear if you are still instructing McFaddens, in particular if they are instructed to receive my particulars of claim that I intend to issue against (1) Mr Jon A Wood (2) Mr Jon Wood, (3) Mrs Marilyn Wood in the coming days in respect of a claim for economic duress and/or breach of contract.

I made my position clear a long time ago in correspondence, but Jon chose to play myself off against my brother in this attempt to profit from the dispute, I said I would not let that treachery go, and I will not.

On a without prejudice basis, I will accept £10k in compensation, if paid within 3 days of today, and only if accepted by 12 noon on Wednesday 26.07.2017. That 10k is simply the money that Jon, in effect stole from the cost monies by crook. Should you not agree then I will come after you all for at least £23k plus costs and damages. As to the signed full and final document of today. Get yourself a proper solicitor who can and would advise you as to the tort of economic duress, since in the circumstances they bear no more weight than the docs that you, Jon, signed on protest in front of Robin Felgate 4 years ago.

Further, most of the stuff that your earstwhile solicitor has tried to blacklist as without prejudice, is, as far as I am concerned disclosable in my imminent proceedings.

I warned you about the consequences of your actions, yet you chose to repay the loyalty that I had shown, with theft and treachery. It is now open season.

Please note that I will trace the settlement monies to wherever they might have ended up, and I will recover.

You were all warned, all of you.

Regards,

Henry Hendron."

The e-mail of 28 July 2017 (at 00:18: 53) was written by Mr Hendron to Jon Wood:

"**Subject: Re: Please confirm where to serve.**

Dear Jon,

Without Prejudice

I am afraid I simply don't let go in such circumstances; it is not my style.

I hear what you say about not profiting at all from the 50k cost monies but I do not believe you in the slightest, not least because only 48 hours before (on your instructions) the 50k was reduced to 40k, you had asked me to send you an e-mail to confirm the 6k which I did not do, spotting some sort of trick. I am further inclined to take the view that you have profited from the 50k given the fact that you very clearly broke the agreement that we had, in that you retracted your instructions to McFaddens to pay me before cost monies.

In any event, McFaddens has stated that their cost to be 4k. But even if it were 14k I would still pursue you for the treachery you displayed in breaching the agreement for your own ends.

Never try to screw your lawyers, past or present, it always backfires.

I have nothing against your family, I think that you are all a nice bunch, this is not personal, its business.

You see Jon, the end of the day I am £23k down from where I should have been, because you failed to honour your word. I will see to it that that position is put right; at least I will have a jolly good go at trying. I will accept £4k from you in full and final settlement of all claims that I have against you including your family, on the basis that such settlement is private and strictly confidential; this is my last and final offer and it is not an invitation to horse trade.

Should you accept, then I intend to pursue McFaddens Solicitors for the balance of £23k, but I will leave your lot out of the claim.

Assuming that you won't accept the above, please just confirm where to serve papers for yourself and father. Given that McFaddens will also be a defendant I am sure that they have identified that conflict and informed you of such, so that you will not be able to use them in this new litigation.

I await confirmation of where to serve?

HH."

Subsequently Mr Hendron brought proceedings against McFaddens and also served a statutory demand against Mr Jon Wood. His proceedings against McFaddens were dismissed, as appears from an order made on 28 September 2018 after Mr Hendron had failed to attend a hearing of an application to strike out his claim.

Although it is clear that Mr Jackson of McFaddens felt strongly about the conduct of Mr Hendron in seeking payment to him of legal fees, that is not a matter about which the Tribunal has to make a finding. The charges relate only to the e-mail communications.

Oral evidence was given by Mr Jon Wood in which he made clear that he was not troubled by the tone of the emails which he did not consider them to have been threatening. He understood that Mr Hendron was then a suspended barrister who was seeking payment for work done. Mr Wood said he regarded it as "just business" and as "water under the bridge", "a long time ago". He made a point of adding that it would be "a real shame to punish such a brilliant barrister as Henry".

In his Defence document in October 2020 Mr Hendron denied the charges, saying that Marcus Kain would have been responsible for "day-to-day emails from all the Court House Legal e-mail accounts", and that he (Mr Hendron) had no recollection of sending any of the specified emails. He averred that, in any event, none of them were in breach of the Handbook.

In his oral evidence Mr Hendron did not pursue the suggestion that he was not the writer of the e-mails. He said that he did not recall sending them and that it had been at a time when he was "hardly functioning" because of his drug addiction. He accepted that he probably had sent them.

He asked for the e-mails to be seen in context. He said that he was always quite forthright and aggressive, and that a degree of harshness was needed in civil litigation to show that one meant business. He said that he accepted in hindsight that maybe he should have toned it down a bit. He pointed out that he was not practising at the time but dealing with former clients from whom he required payment of fees.

It is clear to the tribunal that these e-mails were intended to put pressure on the recipients to agree immediately to make the payments sought by Mr Hendron. The question is whether they were more than robust requests for payment with warnings of proceedings if payment was not made. The language used was more than intemperate. It was inappropriate and threatening. The tone, terms and threats used by Mr Hendron in these e-mails (including allegations of theft and treachery and the reference to "open season") were ill judged and reprehensible. It is the judgment of the tribunal that they cross the line into professional misconduct which was likely to lower public confidence in the professional standards of the Bar and which could reasonably be seen by the public to undermine his integrity. Accordingly, charges 15 and 16 are established.

Charges 1 and 2 under PC 2018/0259 - The Facebook advertisement.

The allegation was that the placing of an advertisement by Mr Hendron at time while he was suspended from practice was conduct which was likely to diminish the trust and confidence which the public placed in him and the profession and conduct which was likely to undermine his integrity and independence.

In his statement Mr Hendron said that before putting the advertisement on Facebook he had emailed the BSB seeking advice as to whether he was allowed to do it. Mr Hendron also said in his statement that the Terms and Conditions made clear that he was not providing any legal services and that he was just an intermediary between the client and the selected legal service provider.

However, the documentation provided by Mr Hendron as an exhibit to his witness statement shows only that he first communicated with the Bar Standards Board on the topic by e-mail of 16 May 2018, which was apparently only after the advertisement had appeared. His e-mail referred to the letter he intended to send to "a large number of people who had contacted [him]" over the previous 24 hours seeking to take up "a deferred contract for the provision of legal services". In the e-mail he said that he was running this by the BSB to ensure that he was compliant with the rules. The only response he appears to have received was an e-mail of 17 May 2018 from the BSB Casework Manager thanking him for his e-mail and saying that she was unable to give him advice about compliance with the BSB Handbook and that if he had any queries he should contact the Bar Council Ethics helpline.

It is not necessary to comment on the Terms and Conditions of the "package" that Mr Hendron was seeking to offer or on Mr Hendron's suggestion that he was to be just an intermediary. The essential point is that although Mr Hendron was offering legal services, and seeking payment in advance, he was not offering to provide any actual legal services before his period of suspension ended. He was therefore not indicating an intention to breach the terms of his suspension from practice. Those charges are not established.

Summary.

The charges found by the tribunal to have been established are:

Charge 1

Charges 3 and 4

Charges 11 and 12

Charges 13 and 14

Charges 15 and 16

At the hearing on Wednesday 26 May 2021 (at 10:30 a.m.) the tribunal will consider sanctions and any application for costs.

Dated: 20 May 2021
His Honour James Meston QC
Chairman of the Tribunal