The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2019/0308/D5

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

Disciplinary Tribunal

Caroline Langley

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 28 October 2021 I sat as Chairman of a Disciplinary Tribunal on 15 November 2021 to hear and determine four charges of professional misconduct contrary to the Bar Standards Board Handbook against Caroline Langley barrister of the Honourable Society of Lincoln's Inn.

Panel Members

2. The other members of the Tribunal were:

   John Vaughan – Lay Member
   Hayley Firman – Barrister Member
   Siobhan Heron – Barrister Member

Charges & Pleas

3. Ms Langley denied the charges.

   Charges 1 and 2 were dismissed.

   The following charges were found proved.

Charge 3

Statement of Offence

Professional misconduct, contrary to Core Duty 3 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Caroline Langley, a barrister, acted in a way which undermined her honesty and/or integrity in that she communicated with Person A regarding her client, Person B's contact with Children X and Y, which was inappropriate and/or designed or had the effect of placing undue pressure on Person A to comply with the request for contact by stating the following:

a] On 15 June 2019, in an email to Person A copying in Person B and other third parties *"There are various ways to retrospectively enforce the orders for this weekend. However, I would prefer to see the adults reach a compromise for the sake of the boys'.*

b] On 15 June 2019 in an Instant Message to Person A copying in Person B and other third parties *"To be absolutely clear, the children must [sic] to be to the Father now. You have no legal rights over the children, nor even legal guardiansip. I will enforce this order if I have to."*

c] On 15 June 2019 in an email to Person A copying in Person B and other third parties *"I appreciate that you are in some difficulty being in the middle; however, that you have not released the boys into the care of their Father can only be interpreted as you willfully enabling a breach of Court orders by wrongfully retaining the boys. If there is anything in this statement that is not correct please let me know."*

d] On 16 June 2019 in an email to Person A copying in Person B and other third parties *"Yesterday, you decided per ispum, not to remit the boys to the care and control of my client, directly violating Court Orders and in defiance of my request to do so…My client will be at your premises at 9 a.m. tomorrow morning as per*

Court Order. Should you continue to thwart the order, I will not hesitate to have you sanctioned by the appropriate authorities."

Charge 4

Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Caroline Langley, a barrister, acted in a way which was likelty to diminish the trust and confidence with the public places in a barrister or in the profession in that she communicated with Person A regarding her client, Person B's contact with Children X and Y, which was inappropriate and/or designed or had the effect of placing undue pressure on Person A to comply with the request for contact by stating the following:

a] On 15 June 2019, in an email to Person A copying in Person B and other third parties *"There are various ways to retrospectively enforce the orders for this weekend. However, I would prefer to see the adults reach a compromise for the sake of the boys'.*

b] On 15 June 2019 in an Instant Message to Person A copying in Person B and other third parties *"To be absolutely clear, the children mus [sic] to be to the Father now. You have no legal rights over the children, nor even legal guardiansip. I will enforce this order if I have to."*

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Preliminary Matters

The parties were advised that Andrew Ward, a lay member nominated by the President as a panel member, was unable to attend due to unforeseen circumstances. The Tribunal proceeded in accordance with rE149. There were no objections from the parties present. The hearing was conducted via the Zoom platform.

Parties Present and Representation

4. The Respondent was present and was represented by Amanda Savage QC.

5. The Bar Standards Board ("BSB") was represented by Nicholas Hall of counsel.

Evidence

6. The BSB presented the case on behalf of the BSB. A bundle of documents was provided.

7. Ms Langley provided a written statement and gave oral evidence and was cross examined by Nicholas Hall. No other witnesses were called.

8. The 4 charges result from a complaint by the recipient of e-mails and an instant message from Ms Langley on 15th and 16th June 2019. At that time Ms Langley was acting on a direct access basis for the father of 2 boys, then aged 14 and 12, who was seeking contact with his sons. The father was normally resident in Singapore. The boys were then in the care of their step-father at their home in Hong Kong, their mother being temporarily absent in hospital in the USA.

9. The arrangements for the father's contact and time with the boys were set out in, and governed by, an order made by an Australian Family Court in 2015, replicated in an order of the Hong Kong court made in 2016. One express provision of the order related to the father's ability to have contact over the weekend of the Hong Kong Father's Day, which was subject to a requirement for the father to give 21 days' notice to the mother.

10. The tribunal have only limited knowledge of the underlying background history leading to the events of June 2019 when the e-mails and message, the subject of the charges, were sent; but it appears there continued to be considerable difficulties and tensions between the parents and the step-father.

11. The tribunal, and to some extent Ms Langley, have been hampered by the lack of evidence, written or oral, from her then client, the father, and hampered also because the father has, for some reason not agreed to waive privilege.

12. Accordingly, the full facts and circumstances relating to, and surrounding the events with which the tribunal have been concerned are not wholly clear, and the tribunal have not been given a clear or complete picture of the father's involvement or instructions to Ms Langley.

13. However, she was instructed because the children were not made available for collection by the father as he expected.

14. The tribunal have been provided with a bundle containing all relevant documents including the complaints made by the step-father. There has been no evidence from the mother of the children, the other party to the order.

15. The BSB called no oral evidence. Ms Langley gave oral evidence, having provided a written statement.

16. The tribunal have skeleton arguments from both counsel for the BSB and from leading counsel for Ms Langley, and heard oral submissions.

17. The 4 charges all relate to the 4 communications from Ms Langley to the step-father. The charges are not mutually exclusive alternatives charges, although there is clearly a considerable element of overlap between them.

18. Charges 1 and 2 depend on the allegation that Ms Langley wrote the 4 communications knowing that her client had not given the requisite notice to the mother.

19. There is no direct evidence of the notice being given. The BSB invited the tribunal to infer that Ms Langley knew that the required notice had not been given. When the step-father raised this suggestion at the time (in June 2019) Ms Langley wrote emphatically to him that the notice had been given in good time. The tribunal do not consider that there is any proper basis for inferring that she was not telling the truth or that she had reason to think or know otherwise. Accordingly the tribunal is not willing to infer that she knew that notice had not been given as required.

20. It follows from this that charges 1 and 2 should be dismissed.

21. Charges 3 and 4 allege that the 4 communications from Ms Langley to the step-father were inappropriate and/or were designed to, or had the effect of, placing undue pressure on the step-father to comply with the father's request for contact with the children.

22. Charge 3 alleges that this thereby undermined Ms Langley's honesty and/or integrity.

23. Charge 4 alleges that the communications were likely to diminish the trust and confidence which the public placed in her or in the profession. The word "or" is missing from the charge as drafted, but nothing turns on this.

24. The tribunal have had to consider whether the 4 communications went beyond robust warnings by Ms Langley to the step-father and whether they were, in their context, inappropriate and intimidatory and amounted to misconduct.

25. The tribunal bear in mind that: 1] The step-father, who was left in charge of the children at the time, was not a party to the order relating to the children; 2] He was not legally represented; 3] The mother was not copied into the correspondence from Ms Langley; 4] The step-father had no previous correspondence from Ms Langley leading up to the first e-mail from her.

26. It was incumbent on Ms Langley in the circumstances to write to the step-father, insofar as it was necessary to do so, in clear, careful and straightforward terms.

27. With hindsight Ms Langley acknowledges that she should have recommended in her first e-mail that the father should consider taking his own legal advice, particularly as she was referring to enforcement of the court orders and was not copying in the mother who may have had her own point of view about what should happen.

28. The tribunal's main concern has been the tone and terms of the communications by Ms Langley.

29. In respect of charge 3 the tribunal do not consider that there has been shown to be any lack of honesty on Ms Langley's part, but the tribunal do find that these communications, read in their context and in full, were inappropriate and had the effect of placing undue pressure on the step-father and as such undermined her professional integrity.

30. Likewise in respect of charge 4 the tribunal consider that these were likely to undermine the trust and confidence which the public placed in her and in the profession.

31. The main concerns of the tribunal are that Ms Langley did not explain to the step-father what she meant or intended to mean by retrospective enforcement of the order (to which he was not a party). She has now explained to the tribunal that she meant only that the father might return to the court to obtain further contact in substitution for that which had been missed by him and that he might also claim the expenses of having to return to Hong Kong for such compensatory contact. She has also explained to the tribunal that she was thinking in terms of a criminal charge against the step-father for neglect under the provisions of a local ordinance. This too was not explained to the step-father but should have been, particularly as he was unrepresented.

32. Terminology used by Ms Langley in the communications such as: "I will enforce this order if I have to"; "You are wilfully enabling a breach of court order"; and "I will not hesitate to have you sanctioned by the appropriate authorities"; together with her reference to "…defiance of my request" were not, in the view of the tribunal, appropriate and were intended only to put pressure on the step-father. The BSB described those communications as coercive. The tribunal accept that submission and description.

33. On that basis the tribunal unanimously find charges 3 and 4 to have been established.

Sanction and Reasons

34. The Tribunal found the above charges proved to the requisite standard of proof, namely the civil standard, the balance of probabliites.

35. The unanimous decision of the Tribunal was that i] Ms Langley be reprimanded on both Charges proved; ii] ordered to pay a fine of £750.00. The fine should be paid within 28 days.

Costs

36. The BSB applied for costs in the sum of £1,200. Following further retirement to consider the matter, the Tribunal ordered that the respondent is to pay to the BSB £500 towards the costs to reflect that an allegation of dishonesty, although purused, was not found to have been established. The costs should be paid within 28 days.

Approved: 22 November 2021

HH James Meston QC
Chairman of the Tribunal