



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

A barrister of 14 years standing at the time of the alleged offences answered two charges concerning his conduct during a pre-hearing discussion he had in March 2017 with a litigant in person in a meeting room at court concerning sensitive court proceedings.

- Charge 1 – as amended with permission on the day of the hearing – was a charge of professional misconduct contrary to Core Duty 3 and/or Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th edition) as set out in the Bar Standards Board Handbook (2nd edition).
- Charge 2 was a charge of professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th edition).

The barrister denied both charges.

At the hearing, both the BSB and the barrister were represented by counsel. Each party submitted written opening submissions.

The BSB called two live witnesses, including the litigant in person and tendered statements for three further witnesses. The barrister gave evidence in his own defence. Each live witness was cross-examined.

Each party made full submissions on the facts and the law.

After deliberation, the Tribunal found that both charges were not proved to the relevant (criminal) standard on the evidence. Accordingly, both charges were dismissed.

The hearing lasted a full day. There were no further applications.

In a Postscript to the Report of the Chairman, the Tribunal made the following comments and recommendations:

1. “Two matters arose during this hearing on which the Panel wish to make further comment.
2. First, there is the question of the appropriate course of conduct where a barrister needs to engage in discussions or negotiations with a litigant in person but is not attended by a solicitor or

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any person taking a note. We would encourage a discussion in the BSB and/or the Bar Council as to whether guidance should be issued to encourage the barrister, on a consensual basis, routinely to record such conversations.

3. Second, there is the question of the support that should be offered to a complainant whose complaint is brought before a Tribunal by the BSB and who is to be called to give evidence. There is a risk, as it seemed here, that the complainant may rightly or wrongly form the view that because of the adversarial process they were on trial. It may be that more guidance or explanation from the BSB in advance of the hearing would assist. This might be, at a minimum, in the form of preparation of a short, accessible information leaflet provided in advance to the complainant to manage and inform their expectations; or, perhaps, more structured support in appropriate cases.”

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