Neutral Citation Number: [2016] EWHC 2023 (Admin)

Case Nos CO/4920/2014, CO/2454/2015,
CO/983/2016, CO/1262/2016 & CO/1398/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/07/16

Before :
MR JUSTICE HICKINBOTTOM

Between :

TARIQ REHMAN

Appellant

- and -

THE BAR STANDARDS BOARD

Respondent

And between :

THE QUEEN on the application of
TARIQ REHMAN

Claimant

- and -

THE BAR STANDARDS BOARD
and Others

Defendants

- -

The Appellant/Claimant did not appear and was not represented.
Mark Mullins (in respect of Claim No CO/4920/2014: 27 July 2016),
Kate Mallison (in respect of Claim No CO/1262/2016: 27 July 2016),
and **Alison Padfield** and **Gus Baker** (29 July 2016) instructed by
The Bar Standards Board) for **The Bar Standards Board**

Hearing dates: 27 and 29 July 2016

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Approved Judgment

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Mr Justice Hickinbottom :

Introduction

1. Before the Court there are two statutory appeals brought by Tariq Rehman ("Mr Rehman"), a barrister, against the findings of panels of the Disciplinary Tribunal of the Council of the Inns of Court ("the Disciplinary Tribunal").

2. First, in Claim No CO/4920/2014, Mr Rehman appeals against the decision of a panel (His Honour Michael Baker QC presiding) on 3 October 2014 which found him guilty of one count of professional misconduct, namely that, in a telephone conversation with a solicitor, he alleged that the solicitor had forged a date on a notice under section 21 of the Housing Act 1996, without having reasonably credible material that prima facie established fraud.

3. Second, in Claim No CO/1262/2016, he appeals against the decision of a panel (His Honour Philip Curl presiding) on 26 October 2015 which found him guilty of the following charges of professional misconduct, all as Head of Kings Court Chambers, Birmingham ("KCC").

   i) Mr Rehman failed to take all reasonable steps to ensure that his chambers were administered competently and efficiently and were properly staffed in that a payment of £1,100 due to Mariann Szatmari as a refund of fees was delayed from March to August 2012 by reason of administrative incompetence or inefficiency of himself or staff employed by him.

   ii) Mr Rehman failed to take all reasonable steps to ensure that his chambers were administered competently and efficiently in that payments of money due to public access clients by way of refund of fees or compensation recommended by the Legal Ombudsman ("the LeO") or agreed were delayed by administrative incompetence or inefficiency of himself or staff managed by him, namely (a) £900 due to Pinky Ramatula, (b) £450 due to Alexey Vorobyev and (c) £2,900 due to Volodymyr Lomaka.

4. At the hearing before me, the Bar Standards Board ("the BSB") has been represented by Mark Mullins (in Claim No CO/4620/2014 on 27 July 2016), Kate Mallison (in Claim No CO/1262/2016 on 27 July 2016) and Alison Padfield and Gus Baker today. Mr Rehman did not attend the hearing, nor was he represented; although he did make lengthy written submissions, including skeleton arguments, which I have considered with care.

Background

5. Mr Rehman was admitted to the Honourable Society of Lincoln's Inn on 19 June 1998, and called to the Bar by that Inn on 9 March 2000. From 2011, he was Head of Chambers at KCC.

6. Over the last few years, the BSB has investigated a number of complaints against Mr Rehman in respect of his professional conduct, and thereafter prosecuted charges against him before the Disciplinary Tribunal, which is the body charged with determining such charges under the BSB Handbook (formerly the Code of Conduct of

the Bar of England and Wales ("the Bar Code of Conduct")) and the Disciplinary Tribunal Rules as they have been from time-to-time. In addition, Mr Rehman has been the subject of a number of complaints to the LeO.

7. In four recent cases before different panels of the Disciplinary Tribunal, some charges have been found proved; and, in respect of each, Mr Rehman has lodged a statutory appeal to this court, under section 24 of the Crime and Courts Act 2013.

8. On 25 May 2016, following hearings on 22 April and 10 May 2016, I dismissed the appeals in Claim Nos CO/1860/2015 and CO/2454/2015, declaring the latter to be totally without merit. Except where the decision appealed is one to disbar – and no such decision has been made in respect of Mr Rehman – the decision of the High Court on such an appeal is final, and there is no further appeal from it (section 24(4) and (5) of the Crime and Courts Act 2013). At the same time, I refused permission to proceed in two judicial review claims brought by Mr Rehman against a variety of defendants in respect of disciplinary proceedings and LeO complaints to which he had been subject (Claim Nos CO/983/2016 and CO/1398/2016), declaring both claims to be totally without merit. The judgment of 25 May 2016 is now reported as [2016] EWHC 1199 (Admin).

9. In that judgment at paragraphs 54-62, by way of background, I set out the history of three so-called "frauds", in which a Ms Anal Sheikh made wide-ranging allegations that (amongst others) the Bar, the solicitors' limb of the legal profession and the judiciary were involved in a conspiracy against her. Those assertions have consistently been found by the courts to be baseless; and, as a result of her persistence in pursuing them, Ms Sheikh has been the subject of a civil restraint order ("CRO") since 2009, which is still current, being most recently extended by Patterson J last year following her judgment in Anal Sheikh v Marc Beaumont; Anal Sheikh and Rabia Sheikh v Hugo Page and Nigel Meares [2015] EWHC 1923 (QB).

10. At paragraph 63 and following of the 25 May 2016 judgment, I set out how Ms Sheikh has been involved in Mr Rehman's disciplinary proceedings, and how those same allegations have infected Mr Rehman's response to those proceedings. For example, in Claim No CO/1398/2016, a judicial review claim, Mr Rehman relied upon a number of "generic" documents – which he also relied upon in Claim No CO/2454/2015, a statutory appeal – labelled "UK60", "UK60A", "UK61" and "UK62". In UK61, the grounds of appeal (and the grounds for the judicial reviews) were set out, which had sections entitled "Why Anal Sheikh v The Law Society [2005] EWHC 1409 (Ch) can dismantle the entire system of lawyers in the UK" (Section VII) and "The nexus between Anal Sheikh v The Law Society [2005] EWHC 1409 (Ch) and Tariq Rehman v The Bar Council" (Section VIII). Thus, Mr Rehman continued to pursue the claims which Ms Sheikh had previously made but which she was restrained from pursuing further. In dismissing both Claim Nos CO/1398/2016 and CO/1454/2015, I described the claims made in these documents as "legally hopeless" (at paragraph 69), and declared both the judicial review and the appeal to be totally without merit.

11. In the event, on 25 May 2016, I refused both appeals and refused permission to proceed in both judicial reviews, finding all but Claim No CO/1860/2015 to be totally without merit.

12. I understand that Mr Rehman has issued an application in the Court of Appeal (Civil Division) seeking to appeal that judgment. In parallel, on 14 June 2016, he issued two applications in this court.

13. In the first, Mr Rehman applies for a variety of relief, including an order that (i) my orders of 25 May 2016 are set aside, (ii) a number of named barristers (including Mr Mullins and Ms Padfield) be restrained from acting against Mr Rehman, (iii) I recuse myself, (iv) I be struck off the Solicitors' Roll, and (v) the matter be generally referred to the Attorney General.

14. In parallel with that application, Mr Rehman applied to the Court of Appeal (Civil Division) to stay the proceedings in which he is engaged, including the two statutory appeals now before me. That application was refused, as totally without merit, by Richards LJ on 26 July 2016. As I understand it, Mr Rehman is in the process of making some form of application to the Supreme Court, on the basis that Richards LJ too is a party to the conspiracy against him.

15. The application with which I have to deal is, largely, on an identical basis to that refused by Richards LJ. Insofar as it is the same, Richards LJ has considered the merits and found them to be wanting, and it would be inappropriate for me, at a lower level of the judiciary, to reconsider them; although I should say that I have seen nothing that leads me to disagree with Richards LJ's view.

16. Otherwise:

    i) The application is essentially based on the premise that the named barristers and I are part of the conspiracy to which I have already referred, which has been consistently found to have no substance.

    ii) It is said that the orders of 25 May 2016 should be set aside because they have been "procured by false and perjured evidence"; but, as I understand it, that is one of the bases upon which Mr Rehman is seeking to appeal my judgment to the Court of Appeal. The document supporting the application (labelled "UK72-5") is a purported analysis of the judgment, which forms the basis of the appeal.

    iii) There are no sensible grounds put forward for the submission that I should recuse myself: there is simply no evidential foundation for the proposition that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that I was or am or might reasonably be biased, or for any other basis upon which a recusal application could be made good. Simply because I have found other claims and appeals pursued by Mr Rehman to have been totally without merit does not mean that I cannot fairly and justly determine these further appeals brought by him, nor that an informed observer would have any reasonable doubt as to my ability so to do.

17. For those reasons, the application is refused. Given that the application is substantially based upon the matters which Richards LJ found to be totally without merit (and the conspiracy theory to which, despite consistent findings that that theory is empty, Mr Rehman continues to cleave), I consider this application too to be totally without merit, and the order should be marked accordingly.

18. By his second application issued on 14 June 2016, Mr Rehman seeks to "reopen the final determination of appeal and permissions to appeal under CPR 52.17" in relation to each of the four claims disposed of on 25 May 2016. Given that those claims include the judicial reviews, I assume he intends to include the reopening of the application for permission to proceed in those cases. He relies upon 197 grounds, and gives a time estimate for the hearing of that application of five days. He asks for the application to be heard by "Lord Chief Justice and Divisional Heads".

19. CPR rule 52.17, reflecting the jurisdiction acknowledged in Taylor v Lawrence [2002] EWCA Civ 90, recognises that the Court of Appeal or High Court has power to reopen a final determination of an appeal, but may do so only where the preconditions in rule 52.17(1) are satisfied, i.e. (a) it is necessary to reopen the appeal in order to avoid real injustice; (b) the circumstances are exceptional and make it appropriate to reopen the appeal; and (c) there is no alternative effective remedy. Without satisfying each of those conditions, the court's power to reopen an appeal does not arise.

20. CPR rule 52.17(4) requires the permission of the court to be obtained to reopen an appeal. The relevant procedure is set out in section 7 of CPR PD 52B. The application for permission to reopen an appeal must be made to the court whose decision the party wishes to reopen (paragraph 7.1); the application must be supported by written evidence verified by a statement of truth (paragraph 7.2); and the application for permission will be considered on paper by a single judge (paragraph 7.4).

21. CPR rule 52.17 only applies to the reopening of appeals, and is distinct from the High Court's inherent jurisdiction, in exceptional circumstances, to reconsider a matter which it has finally decided on a claim for judicial review; but the test to be applied under that inherent jurisdiction is analogous to that set out in CPR rule 52.17 (R (Harkins) v Secretary of State for the Home Department [2014] EWHC 3209 (Admin)).

22. The application brought by Mr Rehman is misconceived on at least two bases.

23. First, in respect of all of the claims he seeks to reopen, in substance, he does so on the same grounds as he seeks to stay the proceedings, namely that he (Mr Rehman) has been the victim of a conspiracy that incorporates the "frauds" originally raised by Ms Sheikh. For example, Ground 127 is that I made my judgment in the claims "with the ulterior motive of suppressing and furthering" those frauds. Other grounds assert that, by failing to acknowledge and report those which (it is asserted) are involved in the "frauds", I too committed criminal offences under 17 identified statutory provisions and the common law. These claims have repeatedly been found to have no foundation. They are no better for being repeated, again, here. Indeed, the assertions are even more extreme than those that have gone before: for example, Ground 126 denies that that I am a judge, and denies that this court is a court. For from being necessary to reopen the appeals and judicial reviews to avoid real injustice, it would be inimical to the cause of justice to reopen them.

24. Second, in respect of the two statutory judicial reviews disposed of on 25 May 2016, Mr Rehman's application of 14 June 2016 patently fails to satisfy another precondition. The application grounds are headed "Grounds of Appeal", which

correctly identifies their nature. Mr Rehman has the right to appeal the ruling of 25 May 2016 refusing permission to proceed in the two judicial reviews to the Court of Appeal, subject of course to obtaining permission to do so. As I understand it, that is a right he is currently exercising, on the basis of the 197 grounds. There is, therefore, to Mr Rehman's knowledge, an alternative effective remedy to an application under the court's inherent jurisdiction; and so, to his knowledge, the required preconditions to that jurisdiction to reopen the judicial reviews in this court are not satisfied.

25. Therefore, leaving aside its procedural defects and other possible grounds upon which the application may founder, this application is misconceived and has no merit. I refuse it. The order should be marked that the application was totally without merit.

26. I now turn to the two specific appeals before me. The background to the current regulatory scheme, and the proper approach to a statutory appeal under section 24, are dealt with in paragraphs 18-25 of the judgment of 25 May 2016, and I need not repeat them here; save to confirm that, in terms of reasons, under the relevant procedure, as well as a panel giving oral reasons on the day of the hearing, the chair then prepares a report ("the Chair's Report") which goes to the relevant Inn of Court.

27. I can consequently move straight to the appeals themselves.

Claim No CO/4920/2014

The Charge

28. Mr Rehman appeals against the decision of a panel of the Disciplinary Tribunal on 3 October 2014, which found him guilty of a single charge of professional misconduct contrary to paragraphs 301(a)(iii) and 901.7 of the Bar Code of Conduct, with the following particulars:

> "Tariq Rehman engaged in conduct likely to diminish public confidence in the legal profession or the administration of justice or otherwise brought the legal profession into disrepute, contrary to paragraph 301(a)(iii) of the Code of Conduct, in that on 14 November 2011 in a telephone conversation with Adrian Green, a solicitor, he alleged Mr Green had forged the date on a section 21 Housing Act 1988 notice, and when he made that allegation he did not have before him reasonably credible material which established a prima facie case of fraud against Mr Green."

29. Paragraph 301(a)(iii) of the Bar Code of Conduct, so far as relevant to this appeal, provided:

> "A barrister… must not… engage in conduct whether in pursuit of his profession or otherwise which is… likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute."

Paragraph 901.7 provided that any failure by a barrister to comply with paragraph 301(a)(iii) shall constitute professional misconduct.

The Facts

30. Mrs Nosheen Sadik rented 110 Duchy Avenue, Heaton, Bradford, a dwelling house, from Khalid Khan on a periodic assured shorthold tenancy.

31. Mrs Sadik brought proceedings against Mr Khan for disrepair, which appear to have been successful, and Mr Khan was ordered to pay £7,700. Mr Rehman was not involved in those proceedings, and they play no part in this appeal.

32. However, in a separate claim, Mr Khan sought possession of the property under section 21(4)(a) of the Housing Act 1988. Under the relevant statutory provisions, a landlord does not need to give any reason for requiring possession; but he does need to serve a notice that he requires possession after the expiration of two months from service of the notice ("a Section 21 Notice"). In respect of these proceedings, Mr Rehman acted for Mr Khan, on a direct access basis. Mrs Sadik was represented by Jaroslaw Stachiw, a partner in Stachiw Bashir Green, a firm of solicitors in Bradford.

33. Mr Rehman assisted Mr Khan in completing a Section 21 Notice. Mr Khan had obtained the form from Bradford County Court, and it appears to have been completed by Mr Khan, with Mr Rehman's assistance, on 6 July 2011, at the Leeds Road Post Office in Bradford. Mr Rehman says that he completed the form properly, and he remembers giving the date of the notice as 7 July 2011 (as the date upon which, via the post, it would be served) which he inserted in his own handwriting (see paragraph 5 of his statement dated 8 December 2011, and paragraph 5 of his statement dated 30 April 2014), and the date of expiry of the notice as 17 September 2011. He says that the post office counter assistant witnessed that (paragraph 6 of his statement of 8 December 2011); and, indeed, there is a statement from such an assistant (Sadia Choudhary) dated 12 January 2012, which says that she recollected that Mr Rehman and Mr Khan came into her post office that day, asked her for a pen, and Mr Rehman then "entered the date 07-07-11 on the document in [her] presence" (paragraph 4).

34. The notice was duly received by Mrs Sadik, who consulted Mr Stachiw who gave her a letter of advice dated 17 August 2011. That letter suggests that Mr Stachiw had spotted that the date of the notice was incorrect; it was dated, not 7 July, but 7 November 2011 written as "07.11.2011". The date of expiry was given as 17 September 2011. He thought that this might not ultimately assist Mrs Sadik; but, put bluntly, he advised that they keep quiet about the point for the time being.

35. In due course, on 5 October 2011, accelerated possession proceedings were commenced by Mr Khan in the Bradford County Court; and these were served on Mrs Sadik. The photocopy Section 21 Notice served with the proceedings was dated, not 7 November, but 7 July 2011 written in cursive style as "7th July 2011".

36. On 28 October 2011, a Defence and Counterclaim were filed. Because Mr Stachiw was on holiday, the statement of truth was signed on behalf of Mrs Sadik, not by him, but by his partner, Adrian Green. The document was dated in the form "28/10/2011". In paragraph 2, the Defence denied that Mrs Sadik had received the Section 21 Notice

attached to the claim for possession; and it attached a copy of the notice dated 7 November 2011 as the version that was then served. The Defence pleaded that this notice was defective, in that it did not give two months' notice as required by section 21 "and the date of the expiry of the notice does not accord with the last day of the tenancy".

37. Mr Khan's reaction to that Defence was uncompromising. It is set out in his statement dated 12 December 2011. He immediately took the firm and unshakeable view that the notice had been altered by Mr Green. He says:

> "8. Clearly the date on the notice had been changed. I was absolutely flabbergasted to see this type of dishonest and deceitful act committed by a professional. I immediately rang Mr Rehman and, after examining the documents, Mr Rehman alongside with myself also noticed a similarity in the handwriting of dates which were written on the counterclaim signed by a Mr Green.
>
> ….
>
> 10. I also discussed this matter with my neighbour Mr Yaqoub Ditta who also claims to have had a similar experience of dishonesty with the Defendant's solicitors in the past whilst involved in a tenancy dispute.
>
> …
>
> 12. I would like to stress that the court instructs the Defendant's solicitors to be investigated by their governing body and brought to justice accordingly.
>
> 13. These type of cheating crooks operating under the cloak of the law are making innocent people suffer financially and mentally."

He goes on to refer, again, to "cheating solicitor"; and expresses the view that the letting agents were also dishonest. Mr Khan also later obtained a statement from a Mohammed Yaqub, the landlord of an unrelated property, to the effect that he had had experience of Stachiw Bashir Green acting for a tenant, during which (Mr Yaqub said) they had fabricated a statement.

38. Mr Rehman and Mr Khan discussed the matter. They each considered that there were similarities in the handwriting on the Defence and Counterclaim (i.e. that of Mr Green) and the date of the Section 21 Notice attached to that pleading (see paragraph 5 of Mr Khan's unsigned statement dated February 2014; and paragraph 11 of Mr Rehman's statement dated 8 December 2011, and paragraph 7 of his statement dated 30 April 2014). Mr Rehman said that he "could not fail to notice that the [two] had been written by the same person".

39. Mr Rehman then telephoned Mr Green on 14 November 2011.

40. Mr Green's recollection of that telephone conversation is set out in his witness statement dated 2 May 2013. In that, he confirms that he oversaw Mr Stachiw's work whilst he was absent from the office on holiday. Whilst he was in the office on 14 November 2011 and without any notice, he received a call from Mr Rehman who said he was instructed by Mr Khan. Mr Green continues:

> "5. … He accused me of forgery and specifically accused me of tampering with a section 21 notice which had been served by Khalid Khan on Nosheen Sadik prior to him commencing possession proceedings against her. A copy of that notice is now produced to me… I was shocked and taken aback by this allegation, and from recollection asked him to repeat it and to confirm exactly who he was. He said he intended to prove it and rang off. The allegation is totally untrue. I have done no such thing. I made a contemporaneous file note of my conversation with him, and a copy of that file note is now produced to me….
>
> 6. Thereafter I had again no further involvement in the case.
>
> …
>
> 8. In all my years as a solicitor, I don't believe I have ever come across a situation where a solicitor has been accused of such a serious matter without there being any evidence to support the accusation. At the time Mr Rehman made the accusation against me, he did not have any evidence, expert or otherwise, to support the accusation. He had just formed the view that there were similarities between the dates on the two documents. To make such an allegation against a fellow member of the legal profession in those circumstances in my view beggars belief."

41. The file note – which, as I have indicated, Mr Green says was made at the time – was consistent with that account. Importantly, it says that Mr Rehman told Mr Green that he believed that:

> "… [Mr Green] had altered the notice which had been served and that he (Mr Rehman) was going to go and get a handwriting expert to show that [Mr Green] had done so because [Mr Green's] signature and date on the Defence and Counterclaim matched the alteration to the Notice."

42. Mr Rehman appears to accept that he did consider that the date on the Section 21 Notice had been changed by Mr Green. In his undated response to the BSB's letter of 1 November 2012, he made clear that he considered the November 2011 date in the Section 21 Notice was in Mr Green's writing ("What is Mr Green's handwriting doing on the purported original document which Mr Stachiw claims was served on his client by Mr Khan on my instructions…. [W]hat is Mr Green's handwriting doing on that document…"); and, he says in that letter:

> "It is respectfully submitted that counsel acted in accordance with the Code of Conduct and believed that there was sufficient evidence to allege fraud in this case."

43. However, despite that belief, in his evidence, he denied that he had made that allegation to Mr Green in their telephone conversation of 14 November 2011. In his statement of 30 April 2014, Mr Rehman denied the truth of Mr Green's statement (and the accompanying attendance memo), and said this:

> "10. ... What I said to Mr Green, and I do recall the conversation reasonably well, was along the lines of my expressing concern that the date on the Notice had been changed (as above I can clearly recall dating the Notice myself 7 July 2011 before it was posted) and the similarity of the date on the statement of truth and the date on the Notice attached to the Defence and Counterclaim. I accept that I did mention that I would be instructing a handwriting expert to look at this.
>
> 11. What it is important to note is that, given the terms of count 1, I did not accuse Mr Green of forgery. In other words, I did not say that he 'had forged the date' on the Notice as count 1 alleges. As above, I merely raised my concerns about it but did not accuse him of anything. If I was going to do that I would not have thought it necessary to have a report commissioned.
>
> 12. I was informed by Mr Green that Mr Stachiw had conduct of this case during my conversation with him so I thought it would be prudent if I was to speak to Mr Stachiw and explain to him my concerns regarding the document. As explained in my statement of 8 December 2011 I said to Mr Stachiw that I suspected someone from his office had tampered with the Notice of Possession and had changed the date, and he asked me to come to his office to discuss this. The details of that meeting are described in my statement of 8 December 2011. I will require Mr Stachiw to attend the Tribunal so that I can obtain confirmation of the fact that I did not accuse Mr Green of having tampered with the document which is the subject matter of this case against me and goes to the heart of the matter of which the Tribunal has to adjudicate upon.
>
> 13. I can confirm that Mr Stachiw made no reference during our [later] meeting that I had accused Mr Green of forgery or fraud (as above I had certainly not done that) and I note that in paragraph 4 and 5 of Mr Stachiw's statement (served in the possession proceedings) dated 15 November 2011 that Mr Stachiw does not say that during his call to me or his meeting with me that I had allegedly made that accusation to Mr Green."

44. Mr Khan's statement for the panel hearing seems to have been prepared in February 2014 – which is the month identified in the header – but not signed until August, and not sent to the BSB until September 2014. In it, Mr Khan said that he remembered the 14 November 2011 telephone call, which Mr Rehman made from his car with Mr Khan present and the speaker-phone on. Mr Khan said:

> "8. I can recall that Mr Rehman expressed his concern to Mr Green regarding the fact that the Section 21 Notice had been tampered with. To the best of my recollection he said words to the effect 'somebody has tampered with the notice'. However, at no point did Mr Rehman directly accuse Mr Green himself of tempering with this document. Had such an accusation been made I am sure I would have remembered it. I recall Mr Rehman discussing with me the possibility of hiring a handwriting expert. He advised me that before such a serious allegation was made we would need to have a solid foundation.
>
> 9. I believe this was the main essence of the conversation."

45. At that time, Mr Rehman did not have any expert handwriting evidence. Later, he obtained a report dated 12 December 2011 from a forensic document and handwriting specialist (Maureen Ward-Gandy) who, having examined the two versions of the Section 21 Notice against the writing in the Defence and Counterclaim, said that the "07.07.2011" date was comparable with the handwritten date "28/10/2011" on the Defence and Counterclaim; but the 7 July 2011 date on the other version of the Section 21 Notice was in a different writing style.

46. On 12 December 2011, there was a hearing of the possession proceedings at Bradford County Court, before District Judge Dodd. A transcript of those proceedings is available. Mr Rehman represented Mr Khan. Mr Stachiw appeared for Mrs Sadik. The court had the benefit of Ms Ward-Gandy's report; and the court clearly understood that it was being alleged by Mr Rehman on behalf of Mr Khan that Mr Green had forged the date on the Section 21 Notice (see, e.g., page 7F of the transcript. In those circumstances, understandably, the judge adjourned the claim, assigned it to the multi-track, gave Mr Rehman leave to file a Reply to plead that it was a forgery (transcript, page 9B-C), and gave further directions. There is no evidence before me as to precisely what happened later in those proceedings; but I understand no possession order was ever made.

47. As a result of various complaints made by Mr Stachiw, the BSB investigated and brought three charges against Mr Rehman, but only the charge set out above (paragraph 28) is relevant to this appeal: the BSB did not proceed with one of the other charges, and the third was found by the panel not to have been proved.

48. The proceedings leading up to the substantive hearing – which, as we shall see, are relevant to the grounds of appeal – were not as straightforward as they might have been.

49. A convening order was sent out on 18 March 2014, setting down the hearing for 15-16 May 2014. Mr Stachiw had moved abroad; and, on 10 July 2013, the Disciplinary Tribunal not having any powers of summons, Vos J (as he then was) directed that he

should attend the substantive hearing, "if available" and if Mr Rehman would like him to be called. Mr Rehman (then being represented by solicitors) did want Mr Stachiw called; but was told, no later than 20 March 2014, that Mr Stachiw would not be available, although Mr Green would be available, to give evidence.

50. The May 2014 hearing was, however, adjourned at Mr Rehman's request on health grounds; and, on 14 May, Ms Hillson of the Bar Tribunal and Adjudication Service (the administrative arm of the Disciplinary Tribunal) sent an email to the BSB and Mr Rehman, asking for dates in September and October 2014. Mr Rehman indicated by email on 22 May 2014, "will speak with my Counsel". In any event, that day, Ms Hillson wrote to both again saying that 2-3 October 2014 were the first convenient hearing dates; and, on 2 June 2014, those hearing dates were confirmed to the parties by email. Mr Rehman responded to say that Courtenay Griffiths QC was now representing him; and he was waiting for his availability. Nothing further was heard from Mr Rehman on that front. A further convening order for a hearing on 2-3 October 2014 was sent out to the parties on 4 July, which, according to the track and trace service, was delivered to Mr Rehman on 8 July.

51. However, on 24 September 2014, Mr Rehman emailed Ms Hillson, to ask for "any news about any dates for the reconvened hearing", adding:

> "My representative Courtney [sic] Griffiths QC is anxious to know when the case is likely to be heard so that he can furnish you with his availability."

Ms Hillson emailed back that day, saying that it was listed on 2-3 October, as per the convening order which had been sent to Mr Rehman on 4 July and received by him on 8 July 2014.

52. Mr Rehman responded in brusque fashion, saying that he had been given no opportunity to have a representative available, and Mr Griffiths could not be available on those dates "as he is overseas". Mr Rehman said that he would not be attending without his representative; and he asked for a copy of the convening order, which Ms Hillson sent him immediately. Mr Rehman came back to say that he did not want to instruct anyone else to represent him, and asking what he should do. Ms Hillson said that the presiding chair was abroad, and was not contactable; and she advised Mr Rehman to attend on 2 October to address the panel and request an adjournment.

53. All of those emails passed on 24 September 2014. The next afternoon, Mr Rehman sent the following email to Ms Hillson:

> "Courtney [sic] Griffiths QC is in the middle of a trial in Exeter and he will be unable to attend due to his client giving evidence on the 2nd and 3rd October. The 3rd of October is also an Islamic Religious Festival of Haj so I should not be placed in a situation where I have to sacrifice being with my family. I appreciate what you are saying about the chairman but I am afraid he will have to be contacted as I can't attend on the 2nd and 3rd October."

54. Mr Rehman also emailed the BSB asking if they objected to an adjournment, which they did. They said that the hearing had been set for several months, and the BSB had Mr Green as a witness, travelling down from Bradford. They wanted the hearing to proceed.

55. So far as Mr Khan is concerned, as I have explained, his statement was not completed until August or served until September 2014. In email exchanges that I do not have – but to which reference is made in the transcript of the panel hearing – it seems that he too said he would not attend on 3 October because of the religious festival that day; and, on 1 October, the panel raised the possibility of him giving evidence on the first day of the hearing, 2 October. However, Mr Rehman responded by email on the morning of 2 October, to say that that was not something which could practically be accommodated by Mr Khan, because of work commitments and the difficulties in travelling down to London from Bradford at short notice.

56. In his email of 24 September, Mr Rehman had indicated that he would not attend the hearing on 2 October 2014 without his counsel; and, in fact, he did not attend. The panel treated Mr Rehman's emails as a request to adjourn, on the basis of three grounds, namely (i) his representative Mr Griffiths was unable to attend; (ii) Mr Rehman was unable to attend on 3 October 2014 due to religious reasons and (iii) Mr Rehman's witness Mr Khan was also unable to attend on either day of the hearing. Mr Mullins, appearing before the panel on behalf of the BSB, submitted that the hearing should proceed.

57. The panel refused the request for an adjournment, for reasons set out in the transcript and eventually set out in paragraphs 10-13 of the Chair's Report, to which I shall return when considering Grounds 1-4 of Mr Rehman's grounds of appeal (see paragraphs 64 and following below).

58. In respect of the charge with which we are concerned, the panel were required to address two main issues, namely (i) whether they were satisfied that, in the conversation of 14 November 2011, Mr Rehman did allege that Mr Green had altered (i.e. forged) the date on the Section 21 Notice, and (ii) if so, did he have sufficient evidence to make such an allegation?

59. They therefore proceeded with the hearing. They heard evidence from Mr Green, and submissions from Mr Mullins. Having done so, the panel found the charge quoted in paragraph 28 above proved; but a further charge (of failing to respond to a letter and telephone calls from a solicitor with whom he was engaged in litigation, i.e. Mr Stachiw) not proved. It is of course the conviction in respect of the proved charge against which Mr Rehman now appeals.

60. This statutory appeal was set down for hearing on 18 April 2016 – when Mr Rehman attended – and I adjourned the hearing that day because a transcript of the proceedings before the panel was not available. Cranston J had previously directed that the transcript be requisitioned at public expense as he considered that, without it, the appeal could not be determined fairly and justly. That transcript is now available, and was supplied to both parties some time ago.

Grounds of Challenge: Introduction

61. Mr Rehman relies upon eight grounds of challenge, which can be conveniently split into two groups. He submits, first, that the panel erred in failing to adjourn the hearing (Grounds 1-4); and, second, if the decision to proceed was lawful, that the panel's conclusion that the charge was proved was invalidated by several procedural errors (Grounds 5-8).

62. In respect of the failure to adjourn, Mr Rehman relied upon the following four, interrelated grounds.

Ground 1: The panel failed to approach the question of the adjournment correctly, neither referring to nor applying the criteria set out in R v Jones (Anthony) [2002] UKHL 5 ("Jones"), in particular not recognising that their discretion to proceed in Mr Rehman's absence was severely constrained and not proceeding with the required "utmost care and caution". If they had proceeded correctly, it is submitted they would have granted an adjournment, in the light of the fact that Mr Rehman would be without his legal representative (Mr Griffiths), and 3 October 2014 was the day of Arafat, a day of religious significance and fasting for both Mr Rehman and Mr Khan.

Ground 2: The refusal of the panel to allow Mr Rehman to use the counsel of his choice breached his rights under article 6 of the European Convention on Human Rights ("the ECHR") (right to a fair trial).

Ground 3: The panel breached Mr Rehman's rights under article 9 of the ECHR (freedom of thought, conscience and religion), by seeking to require him to attend the panel hearing on the day of Arafat.

Ground 4: The panel breached Mr Rehman's rights under article 6 of the ECHR by seeking to require his witness Mr Khan to attend on the day of Arafat, which essentially robbed Mr Rehman of the oral evidence of a crucial witness and thus denied him a fair trial.

63. There is obvious overlap between these grounds, particularly as the rights under articles 6 and 9 of the ECHR are not absolute, and Ground 1 is in some ways an overarching ground. However, I propose to deal with them individually; although, for convenience, in a slightly different order from that of Mr Rehman. I shall deal with the discrete human rights grounds (Grounds 2-4) first, and then with Ground 1. I shall then proceed to deal with what Mr Rehman calls "the general grounds" (Grounds 5-8).

Ground 2: Article 6 (Counsel of Choice)

64. Mr Rehman submits that the panel "refused him to be represented by counsel of his choice who had been assisting him for nearly 10 months and was unfortunately stuck in a trial in Exeter Crown Court and could not be present at the Tribunal…"; and thus denied him a fair hearing.

65. Article 6 of the ECHR, like the right to a fair trial at common law, requires an individual who is the subject of professional disciplinary charges to have a fair and proper opportunity to put his defence to those charges. However, it does not mean that a hearing is unfair simply because the professional is not represented by his counsel of first-choice. It can involve no more than giving that person a reasonable

opportunity to obtain legal advice and assistance, including (where appropriate) an advocate.

66. In this case, the panel (rightly) found that it was Mr Rehman's responsibility to identify counsel who could attend the substantive hearing, for which considerable notice was given. I have set out the relevant chronology. The dates of 2-3 October 2014 were canvassed with Mr Rehman before the hearing was convened on 4 July 2014. It seems that Mr Rehman never positively confirmed those dates as being convenient; but, as the panel indicated, he was given every opportunity to check the dates with any counsel he wished to use. There is no evidence that he checked those dates with Mr Griffiths, his first-choice of counsel, at the time. In any event, he did not suggest to the Disciplinary Tribunal that the dates fixed might be inconvenient until 24 September 2014, about a week before the hearing was due to start. There was no explanation given for the change of account from Mr Griffiths being abroad to being part heard in Exeter; nor was there any evidence as to when Mr Rehman sought to book Mr Griffiths for the panel hearing and whether the hearing in Exeter was a prior commitment. Even if Mr Griffiths was unavailable as a result of a prior professional commitment, the panel found – as they were entitled to do – that Mr Rehman had had more than an adequate opportunity to obtain representation for the hearing. On the evidence, it was Mr Rehman who did not take advantage of the opportunities he was afforded. Furthermore, the panel were entitled to take into account the fact that Mr Rehman was himself a barrister, and could be expected to attend the hearing and conduct at least aspects of the hearing himself.

67. Given the opportunities afforded to Mr Rehman to obtain representation, the panel did not arguably err in finding that there was no breach of article 6 in this respect.

Ground 3 (Article 9: The Day of Arafat)

68. Mr Rehman submits that the panel failed to consider "[his] article 9 rights in failing to acknowledge the fact that [he] would not be able to attend the hearing on 3 October as it was the day of Arafat the biggest day in the Islamic calendar". Article 9 of the ECHR, of course, recognises the right to enjoy and exercise freedom of religion and belief.

69. For the purposes of this appeal, the BSB accept that Mr Rehman was and is a practising Muslim; that it is a tenet of his belief that the day of Arafat is the most important day in the Islamic calendar; that the precise date of the day of Arafat is dependent upon the lunar calendar, and so cannot be precisely identified in advance; and that Mr Rehman is under a religious obligation to fast from sunrise to sundown on the day of Arafat.

70. The panel did not ignore these religious beliefs. They clearly had them well in mind. They noted that the first day of the hearing (2 October 2014) was not a religious festival, and Mr Rehman did not suggest that his beliefs affected his ability or willingness to attend that day (see paragraph 10(a) of the Chair's Report); but also there was no evidence before them that Mr Rehman was unable to attend the hearing on 3 October due to religious observance (paragraph 12). They noted that, when the issue of 3 October being a festival day was first raised by Mr Rehman, he did not suggest he could not attend the hearing because of religious observance, but rather that he wished to be with his family that day (again, paragraph 12).

71. Although he does not appear to have made this submission to the panel, Mr Rehman now suggests that, if he had been required to attend the hearing on 3 October 2014, as a result of the requirement to fast, he would have been "severely compromised…, not being able to concentrate fully"; but courts and tribunals are well-used to accommodating such religious observances, and I do not accept that, by fasting, Mr Rehman would have been "severely disadvantaged" – or, indeed, disadvantaged at all. If fasting had had any adverse effect upon Mr Rehman's ability to concentrate, the panel could (and, no doubt, would) have been able to address and ameliorate that by simple adjustments in terms of (e.g.) breaks and the length of the sitting day.

72. All of this has to be seen in the context of paragraph 905 of the Bar Code of Conduct, which generally required Mr Rehman to cooperate with disciplinary proceedings, and in particular "attend before any tribunal panel… when so required…"; and in the context of the public interest in ensuring that disciplinary proceedings are determined reasonably promptly. If, contrary to my view, requiring Mr Rehman to attend a disciplinary hearing on 3 October 2014 adversely impacted on his right to express his religion, then that impact was fortunately relatively minor and there were clearly other strong factors in play that would justify such interference.

73. In refusing an adjournment, the panel did not arguably breach Mr Rehman's article 9 rights.

Ground 4 (Article 6: Availability of Witness)

74. Mr Rehman submitted that Mr Khan too could not attend the panel hearing on 3 October – the day he was due to give his evidence – and, given that his evidence was potentially important, in refusing an adjournment to allow Mr Khan to give that evidence, the panel breached Mr Rehman's article 6 right to a fair trial.

75. Mr Mullins properly conceded that the evidence of Mr Khan was potentially important to the issues with which the panel had to grapple; and the panel too accepted that potential importance. On 1 October, it was suggested that Mr Khan could come on 2 October to give his evidence, but that was declined (see paragraph 55 above). The panel were not persuaded that Mr Khan's absence was a good reason to adjourn on the first day of the hearing, but, they said, they would keep the position under review as they heard the evidence that was available, namely that of Mr Green.

76. There was no arguable breach of article 6 here. On 2 October 2014, Mr Rehman absented himself from the hearing. There was no evidence that he had made reasonable efforts to get Mr Khan to the hearing on 2 or 3 October 2014. Even if it was difficult for Mr Khan to attend on 2 October as a result of business commitments, there was no evidence before the panel as to when Mr Rehman put Mr Khan on notice of the hearing (although it seems likely that that was not before 24 September 2014); nor any evidence that Mr Khan was unable to attend the hearing on 3 October as a result of religious observance; nor any evidence of any efforts Mr Rehman had taken to ensure Mr Khan did attend. That is, perhaps, not surprising, given that Mr Rehman had apparently forgotten that the hearing had been fixed for 2-3 October 2014 and, when on 24 September he was reminded, he had taken the decision that he was not himself going to participate at that hearing on either day. There is no evidence that the panel did not keep the matter of Mr Khan in mind as the case progressed, as they said they would.

77. In short, Mr Rehman had every reasonable opportunity to ensure Mr Khan gave oral evidence. He again failed to take that opportunity. In the circumstances, the panel were entitled to proceed with caution, as they expressly did; taking into account Mr Khan's written evidence, as it appeared in his statements.

78. In all of the circumstances, Mr Rehman has no legitimate complaint that he did not receive a fair trial on this ground.

Ground 1 (The Exercise of Discretion: Norton)

79. Regulation rE149 of the Disciplinary Tribunals Regulations 2014 provides that, if a panel is satisfied that the relevant procedure has been complied with, and the barrister has been duly served with the relevant documents but has not attended at the time and place appointed by the hearing, it may nevertheless proceed to hear and determine the charges relating to that barrister "if it considers it just to do so".

80. However, of course, that is not an open discretion. The exercise of a disciplinary tribunal's discretion to continue to deal with charges in the absence of the professional charged has recently and helpfully been considered by a Divisional Court in Norton v Bar Standards Board [2014] EWHC 2681 (Admin) ("Norton") and the Court of Appeal (Civil Division) in General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 162 ("Adeogba").

81. In Norton, Fulford LJ said that the starting point for disciplinary tribunals in these circumstances is Jones which concerned the discretion to commence and proceed with a criminal trial in the absence of a defendant. In Jones at [13], Lord Bingham emphasised that the discretion should be exercised "with the utmost care and caution"; and he approved a checklist of factors identified by the Court of Appeal in that case ([2001] EWCA Crim 168 at [22]) to which the court must, in particular, have regard. In Norton, Fulford LJ at [55] considered that a disciplinary tribunal, in these circumstances, "must apply those parts of the criteria that are relevant". The relevant criteria are as follows:

    i) the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it; and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;

    ii) whether an adjournment might result in the defendant attending;

    iii) the likely length of any adjournment;

    iv) whether the defendant, though absent, wishes to be legally represented; or whether he has, by his conduct, waived his right to representation;

    v) whether the absent defendant's legal representative is able to receive instructions, and present his case;

    vi) the extent of the disadvantage to the defendant in not being able to give his account of events;

    vii) the risk of drawing an improper conclusion about the defendant's absence;

viii) the seriousness of the offence;

ix) the general public interest, and the interest of victims and witnesses, that proceedings should take place within a reasonable time of the events to which they relate; and

x) the effect of delay on the memories of witnesses.

82. Adeogba concerned disciplinary proceedings of doctors before the General Medical Council; but the principles enunciated apply equally to disciplinary proceedings brought against barristers by the BSB before a panel of the Disciplinary Tribunal. The President of the Queen's Bench Division, Sir Brian Leveson, confirmed (at [17]) that the principles in Jones "provide a useful starting point"; but, in the following paragraphs, he identified some significant differences between a criminal trial and disciplinary proceedings. In the latter, the decision has to be guided by the main statutory objective of the regulator, in the case of the General Medical Council the purpose set out in section 1(1A) of the Medical Act 1983, namely the protection, promotion and maintenance of the health and safety of the public, in respect of which (the President said, again in [17]) "the fair, economical, expeditious and efficient disposal of allegations made against medical practitioners is of very real importance". The fair, economical, expeditious and efficient disposal of allegations made against barristers is also a matter of particular public interest, and of no less importance. The President emphasised (at [18]-[20]) that, although fairness to the affected professional who is subject to the charge is "of prime importance", other relevant factors include:

i) fairness to the prosecuting body (including their witnesses);

ii) the absence of any power to require the attendance of a professional the subject of disciplinary proceedings;

iii) the burden on professionals who are subject to a regulatory regime to engage with the regulator, in respect of both the investigation and the ultimate resolution of any charges: it is to be noted that there was a particular provision of the Bar Code of Conduct requiring barristers to cooperate with disciplinary proceedings and in particular "attend before any tribunal panel… when so required…" (see paragraph 72 above);

iv) the cost and delay involved in an adjournment; and

v) the public interest in ensuring that professional standards are maintained and enforced.

83. Mr Rehman submits that regulation rE148, looked at through the prism of these authorities, required the panel when considering his request for an adjournment to focus, with utmost care and caution, on the question of fairness to him, as defendant in the disciplinary proceedings. In respect of the relevant circumstances, he submits that the following ought to have weighed heavily with the panel.

i) Faced with the difficulties in securing his legal representative's attendance and the difficulties arising from observance of "exceptionally important religious duties", there could be no suggestion that he had acted unreasonably. Nor

could there be any suggestion that he had voluntarily withdrawn from the process or waived his rights to attend or be legally represented.

ii) Mr Rehman's legal representative did not agree to have the hearing listed on 2-3 October 2014, and was overseas when the dates were fixed.

iii) Due to the fact that neither his legal representative nor he could attend the substantive hearing, he was denied the chance to give evidence or test the evidence of Mr Green or otherwise properly put his defence. As Mr Khan was unable to attend, Mr Rehman was also denied the opportunity to rely upon the oral evidence of an important witness who supported his case.

iv) Mr Rehman was denied the opportunity to apply to strike out the charge due to procedural irregularities, such as the lateness in obtaining a statement from Mr Green and the absence of Mr Stachiw ("a crucial witness", he says).

v) There would have been no identifiable prejudice to the BSB in granting an adjournment.

Mr Rehman submits that, had the panel approached the issue correctly, with these factors in mind, they would have adjourned the hearing. They erred in law in not doing so.

84. These submissions, set out particularly in Mr Rehman's skeleton argument, were sensibly and moderately put; but I am unpersuaded by them, for the following reasons.

i) Whilst it would be usual and better for a Disciplinary Tribunal panel to refer to Jones when considering an adjournment of a final hearing – because that would easily evidence that the panel had the relevant principles and criteria in mind – it is not an error of law not to do so. The question is one of substance, not form: in considering the request to adjourn, have the panel proceeded with "utmost care and caution" taking into account the relevant circumstances including those set out in the non-exhaustive Jones list and those to which reference is made in Adeogba?

ii) In considering the request, the panel were required to ensure the proceedings were fair to Mr Rehman – a factor of prime importance – but also fair to the BSB and its witness (Mr Green) and conducted in the public interest, which requires disciplinary proceedings to proceed to a conclusion where there is no good reason to adjourn.

iii) They were also required to take into account the burden on barristers to engage with their regulator in relation to the ultimate resolution of allegations against them, including the specific obligation to attend disciplinary hearings when required to do so.

iv) The panel noted that there had in the past been concern about Mr Rehman's mental state, but there was no evidence of any recent or current mental ill health.

v) It was open to the panel to find – as they did – that Mr Rehman voluntary absented himself from the first day of the hearing. Indeed, on the evidence, there was simply no good reason for Mr Rehman not to attend and participate in the hearing on 2 October 2014. It was not a day of religious festival. The only explanation given for his absence that day was a desire to have his own counsel present. But, as the panel said (paragraph 11 of the Chair's Report) and as I have discussed in relation to Ground 2, Mr Rehman had had "a very significant period of time to obtain representation"; and the panel were clearly entitled to reject Mr Rehman's submission that he had not had a proper opportunity to make representations about the hearing date or select another counsel if his first-choice counsel was unavailable. Indeed, in my view, on the evidence, that conclusion was inevitable. In considering whether to adjourn, the panel also properly noted that it was material that Mr Rehman himself was a practising barrister.

vi) In respect of the religious festival on 3 October, I have already considered that in the context of Ground 3. The panel considered that (i) that could not explain why Mr Rehman could not attend on 2 October, and (ii) on the limited evidence provided, it was in any event insufficient to justify an adjournment. For the reasons set out above in respect of Ground 3, those were conclusions to which the panel were entitled to come.

vii) The panel bore in mind that there was an issue between the parties about the contents of a particular conversation, which would depend upon the testimony of witnesses who were involved. Where there is a direct dispute over evidence, they noted that it is best (if practicable) to hear the case when all relevant witnesses are in attendance and can give oral evidence.

viii) The panel noted the article 6 right of Mr Rehman to call witnesses and to be represented by counsel of his choice, whilst also noting that "those rights are not decisive or absolute". They noted that the BSB had a witness present who had travelled from Bradford, i.e. Mr Green.

ix) The panel dealt, *seriatim*, with each of the three reasons for the adjournment put forward by Mr Rehman, as described above in my discussion of Grounds 2-4.

x) There is nothing in the point that, by refusing an adjournment, the panel robbed Mr Rehman of the opportunity of striking out the charge. Mr Green's written evidence was on its face capable of belief; and, if the panel believed it, it was open to them to find the charge proved. A strike out application would have had no chance of success.

xi) It is clear from the emails that, by 24 September 2014, Mr Rehman had simply made his mind up that he was not going to participate in the hearing that had been fixed for 2-3 October 2014. It is noteworthy that he also voluntarily absented himself from the hearing of the panel that made the finding which he is appealing in Claim No CO/1262/2016 (see paragraphs 123 and 130 below); and, indeed, has voluntarily absented himself from the substantive hearings of the appeals and applications for judicial reviews which he has brought before this court.

85. Having considered all of the relevant circumstances, including the relevant circumstances as in fact listed in Jones, the panel concluded that it would be "just to proceed and hear and determine the charges in the absence of [Mr Rehman]" (see paragraph 9 of the Chair's Report).

86. I have read not only the panel's formal reasons, but also the transcript of the hearing on 2 October 2014. It simply cannot be said that they did not approach the issue of the adjournment with anything less than "utmost care and caution". Indeed, in my view, they clearly approach it with an appropriate level of care and caution, substantially taking into account all relevant factors including those listed in Jones and Norton. Having done so, their conclusion – that justice required the matter to proceed, not to be adjourned – is unimpeachable.

87. This ground therefore fails.

Grounds 1-4: Conclusion

88. Having considered all of the submissions made by Mr Rehman, I have firmly concluded that the panel did not in any respect err in law in their approach to the adjournment request; and their conclusion that they should not accede to that request – but, rather, proceed with the hearing in Mr Rehman's absence – was lawful.

89. I refuse the appeal on Grounds 1-4.

Grounds 5-8: The General Grounds

90. Mr Rehman submitted that, if the panel did not err in proceeding on 2 October 2014, they nevertheless fell into procedural error thereafter, in four respects.

91. First, as Ground 5, he submits that the charge ought to have been dismissed because Mr Stichiw (the original complainant to the BSB) had moved abroad, and did not attend the hearing despite Mr Rehman's requests that he do so.

92. However, this ground is unarguable.

    i) Although Mr Stichiw was the original complainant, Mr Green was the relevant (and, certainly, primary) witness of fact in respect of the factual issue that the panel had to determine: it was he who had the alleged conversation with Mr Rehman on 14 November 2011, in which the latter said that Mr Green had forged the date on the Section 21 Notice. Mr Green was available.

    ii) The Disciplinary Tribunal had no power to summons Mr Stichiw. In his directions of 10 July 2013, Vos J directed the attendance of Mr Stichiw, but only "if available" (see paragraph 48 above). From 20 March 2014, Mr Rehman knew that he was not available, and would not be called to give oral evidence.

    iii) In all the circumstances, the panel were able to consider – and entitled to accept – Mr Green's evidence as to the content of the telephone conversation on 14 November 2011.

93. Second, as Grounds 6 and 7, Mr Rehman submits that there was a "serious irregularity" in the investigation and prosecution in that Mr Green did not make his statement until 18 months after the event (and after the decision to charge Mr Rehman had been made on 20 March 2013), and there was no reference to the file note he relied upon until then.

94. However, the date of that statement does not, in itself, evidence any irregularity. The panel were aware of the date of the statement, and heard oral evidence from Mr Green. Mr Mullins submitted, with force, that there was no foundation whatsoever for an allegation that Mr Green a practising solicitor, falsified his evidence or perjured himself. Certainly, as I have indicated, the panel were aware of the date of the statement, and were entitled to accept his evidence. These grounds too fail.

95. Finally, as Ground 8, Mr Rehman submitted that the panel erred in not considering the evidence of Mr Khan.

96. However, they did. Mr Khan's statement was included in a supplementary bundle of documents provided to the panel at the hearing; and, the panel's reasons as set out in the Chair's report refer to that statement and confirm that it was considered by them (paragraph 16).

Conclusion

97. For those reasons, none of the grounds of appeal is made good.

98. The panel imposed a sentence of two months' suspension from practice. For the sake of completeness, I should say that, in his Appellant's Notice, Mr Rehman states that he appeals against that sentence. However, no grounds of appeal against sentence are relied upon. In the circumstances, I need say nothing more than this: I do not see anything inappropriate, or arguably wrong, with the sentence imposed, which appears well within the appropriate range for a professional offence such as the one found proved.

99. Finally, before I leave this claim, I should say that, in the light of Mr Rehman's broader contentions that there is a conspiracy against him involving (amongst others) the BSB and the Disciplinary Tribunal, it is noteworthy that, even in Mr Rehman's absence, at the panel hearing, the BSB withdrew one charge (because, on reflection, they did not consider there was enough evidence to sustain it) and the panel found a further charge not to have been proved.

Claim No CO/1262/2016

Introduction

100. The panel found Mr Rehman guilty of two charges – but the second comprising three limbs that were found to have been proved. All relate to the failure of KCC to pay or repay sums to clients that were due them, the professional misconduct of Mr Rehman arising from the fact that he was head of those chambers. I can deal with the relevant facts briefly, as the grounds of appeal do not concern the detail of the facts in each of the cases. I shall use the charge numbers from the original charge sheet.

Charge 3: Mariann Szatmari

101. The particulars of this offence were as follows:

> "Tariq Rehman, as Head of Chambers at Kings Court Chambers, failed to take all reasonable steps to ensure that his chambers were administered competently and efficiently and were properly staffed in that a payment of £1,100 due to Mariann Szatmari as a refund of fees was delayed from March 2012 to August 2012 by reason of administrative incompetence or inefficiency of Tariq Rehman or staff employed by him, and the failure to comply with paragraph 404.2(a) of the Code of Conduct was serious by reason of paragraph 901.5(2)(c) and (d) of the Code of Conduct."

102. Paragraph 404.2(a) (read with paragraph 404.1(a)) provides, so far as relevant to the charge:

> "… any barrister who is Head of Chambers… must take all reasonable steps to ensure that… his chambers are administered competently and efficiently and are properly staffed."

Paragraph 901.5(1) provides that any "serious failure" to comply with paragraph 404 shall constitute professional misconduct; and paragraph 901.5(2) provides that a failure may be "serious":

> "(c) because the failure in question is combined with a failure to comply with any other provision of the Code…; or
>
> (d) if the barrister has previously failed to comply with the same or any other provision of the Code…"

103. On 21 February 2012, Ms Szatmari paid KCC £1,430 on account for advice and assistance in relation to her boyfriend, who was in prison and subject to a deportation order. He had apparently agreed to being removed. Later that same day, having spoken to her boyfriend who confirmed that he was willing to leave the United Kingdom, she contacted KCC again, and told them that events had moved on, it was too late to do anything about an application, and she asked for her money back. She raised a complaint with KCC that day, or the next day. On 5 March 2012, Ms Szatmari said that KCC agreed to refund her £1,100; and, on 24 June 2012, she confirmed her bank details. However, despite complaints, no money was returned to her.

104. Ms Szatmari complained to the LeO who, on 19 July 2012, notified Mr Rehman that they were investigating the complaint. As a result of the LeO intervention, KCC paid Ms Szatmari £1,450 on 10 August 2012.

105. Having considered the evidence, the panel concluded that it was satisfied to the requisite standard that Ms Szatmari had asked for her money back within a day or two of paying KCC, and had been promised a refund of £1,100 on 5 March 2012. No monies were paid to her during the following five months; and were only forthcoming

after the LeO intervened on her behalf. Whatever misunderstandings or mistakes there may or may not have been as to whether payment had been made, the panel found the charge of professional misconduct proved.

Charge 4

106. The charge was one of professional misconduct contrary to Core Duty 10 ("CD10") and rule rC89 of the Conduct Rules section of the BSB Handbook. The particulars of the offence were as follows:

> "Tariq Rehman, as Head of Chambers at Kings Court Chambers, and the person responsible for the management of Chambers, failed to take all reasonable steps to ensure that his chambers were administered competently and efficiently in that payments of money due to public access clients by way of refund of fees or compensation recommended by the Legal Ombudsman, or agreed, were delayed by administrative incompetence or inefficiency of Tariq Rehman or staff managed by him, namely:
>
> (i) It was agreed in November 2013 that £900 was due to Pinkey Ramatula, but payment was not made until May 2014.
>
> (ii) £450 due to Alexey Vorobyev was delayed from June 2014 to September 2014.
>
> (iii) …
>
> (iv) £2,900 due to Volodymyr Lomaka was delayed from about May 2014 until the present day."

107. Charges 4(iii), with charges 1 and 2, which each concerned similar subject matter (i.e. an allegation that monies were not paid or repaid promptly to clients), was not found proved.

108. CD10 of the BSB Handbook provides, in respect of any barrister:

> "You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulator obligations."

109. Paragraph rC89 of the Conduct Rules provides, so far as relevant:

> "Taking into account the provisions of Rule C90, you must take reasonable steps to ensure that:
>
> .1 your Chambers is administered competently and efficiently;
>
> …

> .6 all non-authorised persons working in your chambers (irrespective of the identity of their employer):
>
> .a are competent to carry out their duties;
>
> .b carry out their duties in a correct and efficient manner…".

110. Paragraph rC90 provides that:

> "For the purposes of Rule C89 the steps which it is reasonable for you to take will depend on all the circumstances, which include, but are not limited to:
>
> .1 the arrangements in place in your Chambers for the management of Chambers;
>
> .2 any role which you play in those arrangements; and
>
> .3 the independence of individual members of chambers from one another…".

Charge 4(i): Pinkey Ramatula

111. In mid- or late October 2013, Ms Ramatula paid KCC £1,500 on account for advice and assistance in respect of her daughter's immigration detention. Her daughter was deported on 23 October 2013, and Ms Ramatula requested a refund from KCC, as work had not been done as promised. In late October or November 2013, KCC agreed to repay Ms Ramatula £900, by 7 February 2014, which Ms Ramatula reluctantly agreed to accept; but no money paid by that date. On 3 March 2014, KCC sent an email to Ms Ramatula stating that the money had been paid; but they had not.

112. Ms Ramatula complained to the LeO, to which KCC responded that Ms Ramatula had provided incorrect bank details to them. They said they would make payment by 28 March 2014; but, again, that payment was not made. Ms Ramatula said that she wished to have an additional £50 because of the delay in payment. KCC then said that they had problems with their on-line banking, but payment of £950 would be made by 11 April 2014; but, again, no monies were received by that date. KCC advised Ms Ramatula that they could not send her a cheque. Payment of £950 was in fact made in May 2014.

113. When first contacted by the BSB, Mr Rehman's response was that KCC had had problems with their bank account at the relevant time, which meant they were receiving less revenue, and they had no alternative but to delay payment.

114. The panel concluded that Ms Ramatula was not repaid monies between November 2013 and May 2014 – approximately six months – despite the agreement that she would be repaid £900. Notwithstanding any difficulties which KCC may or may not have had with their own bank account, the panel concluded that, in all of the circumstances, the charge of professional misconduct as alleged was proved. Monies had been repaid to Ms Ramatula only after (i) a six-month delay, (ii) she had invoked

the assistance of the LeO, and (iii) two dates for payment agreed with the LeO had passed. The charge was thus proved.

Charge 4(ii): Alexey Vorobyev

115. Mr Vorobyev instructed KCC in October 2013, and paid them £350 on account for advice and assistance in relation to an immigration matter. He also incurred currency conversion and bank charges of £26.25.

116. In November 2013, he complained to KCC about the service he had received, which went unheeded. He complained to the LeO. During the LeO investigation, KCC offered a refund of £350; which Mr Vorobyev did not accept. On 30 April 2014, the LeO wrote to Mr Rehman informing him of the decision that he should pay £450 to Mr Vorobyev within 14 days of Mr Vorobyev signifying his acceptance of that sum. Mr Vorobyev agreed to accept the sum on 12 May 2014, and the LeO gave KCC until 30 May 2014 for the money to be paid. Under the LeO scheme, KCC were bound to pay that sum; but no money was paid, despite extensions of time for payment being granted by the LeO to 12 June 2014.

117. On 5 November 2014, KCC told the BSB that they had had problems with their bank account and, due to reduced revenue, there was no alternative but to delay payment. The £450 was paid to Mr Vorobyev in or around September 2014.

118. The panel found the complaints to KCC went unheeded, so it was necessary for Mr Vorobyev to involve the LeO. Prior to 7 April 2014, KCC had offered to pay £350. Mr Vorobyev considered that to be inadequate, but in fact none of it was in any event paid. After the LeO's decision that KCC should pay £450, two deadlines for payment were not met. Payment of the £450 was only received in September 2014. The panel did not consider that any of the alleged difficulties experienced by KCC with their bank account justified the delay in paying Mr Vorobyev that money.

119. In the circumstances, the panel found that the charge had been proved.

Charge 4(iv): Volodymyr Lomaka

120. On 8 May 2014, Mr Lomaka paid Mr Rehman £3,250 in advance to act for him on an immigration matter. He cancelled the instructions on either 9 or 10 May, and confirmed the cancellation by email on 13 May 2014. He requested a full refund. Later that month, KCC agreed to refund £2,900. Mr Lomaka did not agree to the deduction of £350; but, in any event, no monies were in fact sent by KCC back to him.

121. Mr Lomaka contacted the LeO in August 2014. On 28 September 2014, KCC said that they would deal with the refund, which was not disputed. In October 2014, the LeO contacted KCC to enquire if they were willing to refund the £3,250; and, if not, why not. However, at the time of the panel hearing in January 2016, the monies had still to be paid.

122. The panel concluded that, from May 2014 at the latest, KCC agreed to refund Mr Lomaka £2,900; but, in the intervening period of 21 months, no monies had been repaid, notwithstanding the intervention of the LeO.

123. The panel concluded that this allegation had been proved.

Procedural Matters

124. At the substantive panel hearing on 22 January 2016, Ms Mallison appeared for the BSB. Mr Rehman did not attend the hearing: he was appearing in Wolverhampton Crown Court, and declined to attend the panel hearing. Ms Sheikh, however, did attend, and applied to the panel to appear for and speak on behalf of Mr Rehman.

125. After considerable debate lasting most of the first morning of the hearing, the panel refused her application to do so; and refused to allow her to play any part in the hearing. Their reasons are set out in paragraphs 16-21 of the Chair's Report. They noted from the judgment of Patterson J in 2015 that Ms Sheikh had been a solicitor, but was struck off on 5 May 2009; and there was no evidence that she had been reinstated. Indeed, she had described herself as a "struck-off solicitor". She had no practicing certificate, and no professional indemnity insurance. She was also the subject of a CRO, and had been restrained from taking any part in Mr Rehman's proceedings in the Administrative Court, by order of Cranston J. The panel noted the difference in the nature of the proceedings before them; but found that, in all the circumstances she should not be allowed to represent Mr Rehman as an advocate (paragraph 19).

126. The panel went on to address the question as to whether Ms Sheikh could assist in any other way. However, they said that, in the submissions she had made on the question of her status before the panel, she had demonstrated a preoccupation with conspiracy theories and "a clear inability to focus on the relevant charges" (paragraph 21). They concluded that it would not assist the cause of justice to allow her to continue; and, indeed, it "would only serve to introduce irrelevant matters, confuse the issues and greatly lengthen the proceedings unnecessarily"; and it was "unlikely that it would be in Mr Rehman's best interests for her to assist in any way" (again, paragraph 21).

127. The panel therefore refused to allow her to act as an advocate, McKenzie Friend or informal adviser addressing the panel. She could remain in attendance, but play no part.

128. The panel then proceeded to consider whether to continue in Mr Rehman's absence, and decided that it was fair, proportionate and in the interests of justice to do so (paragraphs 23-24).

Grounds of Appeal

129. Unlike the appeal in Claim No CO/4920/2014 (which was made a couple of years earlier), the grounds of appeal in this case are extremely lengthy, poorly formulated, generally inchoate and difficult to understand.

130. Mr Rehman incorporates into this appeal those grounds of claim relied upon in Claim No CO/1398/2016, which are dealt with in paragraphs 63 and following in the judgment of 25 May 2016. The main document, wrongly referred to as labelled "UK60A" in paragraph 64 of that judgment, is in fact labelled "UK61". For the reasons set out in that earlier judgment, to which it is unnecessary to add, the general claims made in that document are meritless.

131. In her skeleton argument, for which I am grateful, Ms Mallison sets out decisions made by the panel in this case which are specifically referred to and challenged in that document. Using the decision numbering from UK61, they are as follows.

Decisions 21, 22 and 23: Mr Rehman complains that the panel refused to hear submissions from Ms Sheikh (or adjourn to enable Mr Rehman himself to make submissions) on whether the panel had "constitutive jurisdiction", and/or the panel proceeded knowing that it was not properly constituted. It seems that Mr Rehman asserts that the constitution of the panel was unlawful on two bases. First, the chair was a retired judge: that ground is meritless for the reasons I gave in my judgment of 22 April 2016 ([2016] EWHC 1229 (Admin)) at paragraph 54. Second, it is suggested that the constitution of the panel was unlawful because the clerk at the hearing was different from the clerk who had issued the convening order. No sensible basis for that proposition has, however, been put forward.

Decisions 25 and 26: Mr Rehman challenges the "purported decisions" of the panel that Ms Sheikh was (i) a struck off solicitor and (ii) the subject of a CRO. However, the earlier judgment of Patterson J indicated that Ms Sheikh had been struck off, and there was no later evidence to the contrary; Ms Sheikh had referred to herself as being struck off; and it is uncontroversial that she was at the relevant time (and still is) the subject of a CRO.

Decisions 27 and 28: It is said that the panel failed to make a decision on whether to adjourn the hearing on the ground that Mr Rehman was occupied appearing in Wolverhampton Crown Court, or alternatively the panel erred in deciding to proceed in his absence. However, Mr Rehman had been well aware of the panel hearing for some time and, in the absence of any evidence as to steps he had taken to attend and/or to extricate himself from the Crown Court, the panel were entitled to consider that he had voluntarily absented himself from the hearing.

Decisions 29, 30 and 31: Mr Rehman criticises the panel for not consolidating these disciplinary proceedings with other such proceedings before different panels, or court proceedings in which he was involved. However, it is difficult to understand how proceedings before a Disciplinary Tribunal panel could be consolidated with court proceedings; and, further, as Ms Mallison submitted, there is no evidence (or even suggestion) that Mr Rehman was prejudiced by these disciplinary proceedings being dealt with on their own.

Decisions 32-44: The panel is criticised for failing to make various decisions; but there is no explanation as to how it is said they acted unlawfully in any regard.

Decisions 45-54: These concern Ms Sheikh. It is said that she was allowed to represent Mr Rehman in the morning, but not in the afternoon. The so-called "decisions" are, in essence, speculation on Mr Rehman's part as to why that was so. However, the premise upon which all this is constructed is false. The panel did not allow Ms Sheikh to represent Mr Rehman at all: they allowed her to make submissions on her status before the panel, ruling (for the reasons I have described) that she should not be allowed to represent Mr Rehman as an advocate or in any other capacity. That took the morning of the first day.

Decisions 55 and 56: These were dealt with in the judgment of 25 May 2016 (see, particularly, paragraph 70).

Decisions 57 and 59-66: These concern alleged procedural irregularities, which were either simple case management decisions or matters upon which the panel properly ruled, e.g. concerning service of the convening order. None of these decisions is arguably unreasonable or unlawful.

Decision 58: The allegation that the LeO's decisions were unlawful was dealt with in the context of the judicial reviews in the judgment of 25 May 2016.

Decision 67: It is suggested that an email from Mr Rehman, sent during the luncheon adjournment, was "withheld" from the panel. However, it was not. It was read by the panel Chair.

Decision 70: Mr Rehman states that Ms Mallison failed or refused to advise the panel on points of law. Ms Mallison's response is that she was not asked to deal with any matters of law; and Ms Sheikh's request in this regard after the hearing (set out in paragraph 136 of UK61) was based upon the false premise that Patterson J's judgment was "void, unlawful and fraudulent".

Decision 75: This focuses upon delivery of the Chair's Report, alleging that it is "a false instrument" because it does not reflect "the true events". It does not add anything to the other grounds.

132. The only other specific grounds that appear to be relied upon are two.

i) Mr Rehman takes issue with Ms Mallison alleging fraud by him, i.e. the allegation that he fraudulently withheld money from those to whom it was due: but Ms Mallison was clear that she did not ever, either overtly or implicitly, allege fraud as a reason for the delay in payment. It was the BSB's case that it was as a result of incompetence.

ii) Mr Rehman asserts that the BSB advanced "a false and perjured case", and withheld documents. This appears to be a reflection of the general conspiracy theory held by Mr Rehman and Ms Sheikh. There is no evidence to support any part of it.

133. In my judgment, that deals with the major arguments deployed by Mr Rehman in this appeal. However, I have considered all of the documents he has put forward, and can say with confidence that, insofar as Mr Rehman relies upon any other points, none has any greater force than those with which I have specifically dealt.

Conclusion

134. For those reasons, there is no substance in any of the grounds of appeal relied upon. Indeed, the grounds strongly reflect the grounds relied upon in Claim Nos CO/2454/2015 and CO/1398/2016 which, in the judgment of 25 May 2016, I found to be totally without merit. These grounds are of no better merit: the order should be marked that Mr Rehman's appeal in this claim too is totally without merit.

135. Finally, it is again worthy of note that, despite Mr Rehman's absence from the hearing, the panel found three charges (Charges 1, 2 and 4(iii)) not proved. That does not fit well with his overarching proposition that there is a conspiracy against him which includes, amongst many others, the Disciplinary Tribunal and its panel members.

Civil Restraint Order

136. In my judgments of 25 May 2016 and today, I have found that four claims issued and pursued by Mr Rehman to have been totally without merit, i.e. Claim Nos CO/2454/2015, CO/983/2016, CO/1262/2016 and CO/1398/2016, two appeals and two judicial reviews. In addition:

    i) An application dated 20 May 2015 in Claim No CO/4920/2014 was declared be totally without merit by Cranston J on 22 January 2016. The application sought to remove the case from the warned list and relisted for directions before the Lord Chief Justice and Heads of Division; and for relief from asserted violations of article 3 of the ECHR and article 1 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

    ii) The application to stay the appeals which I have determined today was refused by Richards LJ as totally without merit (see paragraph 15 above).

    iii) I have found two applications issued by Mr Rehman on 14 June 2016 to have been totally without merit (see paragraphs 12-25 above).

137. Where a claim, appeal or application is dismissed and is totally without merit, the court is bound to consider making a CRO against the litigant who has issued and pursued that claim, appeal or application (CPR rules 3.3(7), 3.4(6), 23.12 and 52.10(6), and CPR PD 3C paragraph 1). The BSB and the LeO submit that, in the circumstances of these claims, I should make a CRO against Mr Rehman.

138. A CRO does not prevent a person having access to a court. However, it requires that person to apply for and obtain the permission of the court before making any claim or application. Such orders are made to prevent abuse of the court by parties who make claims etc lacking merit. Of course, where a claim, appeal or application has some merit, then permission, if required, will be granted.

139. The circumstances in which the court may make such an order are set out in CPR PD 3C. A CRO involves a two-stage process. First, the court must consider whether it has jurisdiction to make the order it is considering. The court may make a Limited CRO where a party has made two or more applications which are totally without merit. Such an order prevents that party making any application in particular proceedings, without first obtaining the permission of the court. The court may make an Extended CRO where a party has "persistently" issued claims or applications that are totally without merit. Such an order prevents that party from issuing any claim or application in a particular court or courts without permission. "Persistence" for these purposes requires there to have been more than two applications or claims that were totally without merit (see Courtman v Ludlam [2009] EWHC 2067 (Ch), and Society of Lloyd's v Noel [2015] EWHC 734 (Admin) at [35]). As I have described, Mr

Rehman satisfies this condition with some ease, having been found by three different judges to have issued meritless claims, appeals and applications against (amongst others) the BSB, the LeO and a wide variety of members of the legal profession and judges in relation to disciplinary proceedings he has faced.

140. However, even if the court has jurisdiction to make an order as it does here, there is a second stage: the court must exercise its discretion as to whether to make an order or not.

141. In considering whether a CRO should be made against Mr Rehman, I approach the task with something of a heavy heart, given that Mr Rehman is a member of the Bar. However, as Mr Mullins rightly submitted, in this context, members of the Bar do not have a privileged position: indeed, they, more than members of the general public who have no legal training and no professional responsibilities towards the courts, should be sensitively aware of the need to restrain litigants from wasting the increasingly precious time and resources of the justice system, as well as the time and resources of the other parties to the meritless litigation they commence and pursue.

142. In considering whether to exercise the power of the court to make a CRO, the court is primarily concerned with the future risk of the litigant continuing to issue and pursue meritless claims, appeals and applications, to the detriment of (primarily) the justice system, but also prospective opponents. A CRO should only be made if it is a proportionate response to that risk.

143. Having considered the relevant factors in this case, I have concluded that, unless restrained, there is a very high risk – amounting to almost certainty – that Mr Rehman will continue to issue and pursue meritless claims, appeals and applications relating to disciplinary proceedings in which he has been, is and in the future may be, involved. In coming to that conclusion, I have particularly taken into account the following.

    i) The number of claims (two), statutory appeals (two) and applications (four) that have been found to be totally without merit; and their nature. It is noteworthy that the first two appeals in time were not found to have been such; but, as time has passed, the assertions made by Mr Rehman have become more extreme, and the basis upon which he has sought to contest the litigation less coherent. By way of example, I have already referred to the nature of the application made on 14 June 2016 (see paragraphs 18-24 above).

    ii) Mr Rehman has adopted – and persistently repeated – allegations made by Ms Sheikh in relation to the "frauds" which led to her being the subject of successive CROs. Ms Sheikh has purported to represent Mr Rehman or act as his adviser and/or McKenzie Friend before Disciplinary Tribunal panels and this court which have recently been consistently and steadfastly refused. Conversely, Mr Rehman acted for Ms Sheikh's mother before Patterson J. Patterson J extended the CRO to which Ms Sheikh had been subject to cover her elderly mother, on the basis that Ms Sheikh was using her to get round the restrictions in the previous order made against her. It seems likely that Ms Sheikh is seeking to continue her battle through Mr Rehman; but, whether or not that is the case, Mr Rehman himself has been persistent and his own enthusiasm for this meritless litigation shows no signs of waning. In the judgment of 25 May 2016, I described his assertions against regulators, legal

professionals and others to have been, "without any evidential basis whatsoever" and some "clearly legally scurrilous", put in language that was "immoderate and florid" (see [67] and [75]). As I have described, since then, Mr Rehman has continued to conduct the litigation in such a manner and in such language. As the BSB submit, that suggests that, unless restrained, Mr Rehman will continue to adopt and repeat the allegations made by Ms Sheikh in relation to those frauds in a similar manner.

iii) The claims have involved many parties, including individual regulator staff, panel members, members of the Bar who have appeared for Ms Sheikh and against both her and Mr Rehman himself, and judges. The parties are numbered in tens, and appear to be ever-widening in scope. Many are public servants. Some have a statutory obligation to regulate the barristers' profession, which Mr Rehman seeks to restrain them from performing.

iv) In addition, Mr Rehman has sought to challenge almost every order of the court, including simple orders for directions, which cannot sensibly have been challengeable or even controversial. Mr Rehman has indicated that he currently has seven appeals pending in the Court of Appeal (Civil Division), as well as applications in the Supreme Court, arising out of these claims.

v) On 26 July 2016, Mr Rehman sent draft proceedings to the Bar Council in respect of an intended new claim, in which he proposes to sue the Bar Council, the LeO, the Ministry of Justice and named individuals for damages (including special damages of £2.3m, as well as aggravated and exemplary damages) on the basis of nine causes of action including fraud, abuse of process, misconduct in public office, harassment and abuses of his human rights, seeking an injunction restraining the regulator from performing its statutory duty, the courts from taking any further step against Mr Rehman, and anyone publishing (e.g.) panel determinations and court judgments adverse to him. I have seen an index to the claim, which gives a flavour of what it contains. I have not seen the Particulars of Claim, but they exceed 200 pages. This is highly indicative of a desire on Mr Rehman's part to continue with the course of litigation he has recently been pursuing.

vi) In addition to the court proceedings, Mr Rehman has been the subject of considerable numbers of complaints to the LeO; and he has persistently challenged the LeO's findings and recommendations. The LeO was a party to both judicial reviews with which I dealt in May 2016 – as was its legal counsel – and it is one of the proposed defendants in the new claim to which I have referred.

144. In all of the circumstances, I am satisfied that, unless restrained by an appropriate CRO, Mr Rehman will continue to issue and pursue totally without merit claims, appeals and applications, to the detriment of the justice system and other parties.

145. I shall therefore make an Extended CRO. I shall hear submissions on its precise form. However, I propose an order under which, for a period of two years, Mr Rehman will be forbidden from issuing any new proceedings against the BSB, the LeO or any other party to Claim Nos CO/1860/2015, CO/2454/2015, CO/983/2016, CO/1262/2016 and CO/1398/2016, or arising out of or in connection with professional disciplinary

proceedings in which he is involved (including the various frauds and conspiracies he has asserted within those proceedings), or from issuing any application, appeal, or other process in these actions or in any other action in the High Court or any County Court concerning any of those matters, without first obtaining permission of a Master of the Administrative Court or, on appeal from him or her, a Judge of this Court. It will be a contempt of court for Mr Rehman to issue any claim, appeal or application falling within the scope of the order; and, if any such is issued without that permission, it will be automatically dismissed.

146. I stress that this order will not prevent Mr Rehman making any claim or application in relation to any proceedings – including, of course, appeals against the findings of Disciplinary Tribunal panels – that have any merit. It will, however, prevent him frustrating the rights, statutory duties and interests of the parties he has persistently pursued, and the interests of justice, by making claims and applications of no merit.

Order

147. Consequently, subject to any submissions on the form of the Order (including the precise terms of the CRO), I propose to order as follows:

i) Both applications issued by Mr Rehman on 14 June 2016 shall be dismissed, as totally without merit.

ii) The statutory appeal in Claim No CO/4920/2014 shall be dismissed.

iii) The statutory appeal in Claim No CO/1262/2016 shall be dismissed, as totally without merit.

iv) An Extended CRO shall be imposed upon Mr Rehman in broadly the terms I have indicated.

v) A transcript of this judgment shall be requisitioned at public expense.