Neutral Citation Number: [2016] EWHC 1199 (Admin)

Case Nos CO/1860/2015, CO/2454/2015,
CO/983/2016 & CO/1398/2016

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25/05/16

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 (as listed in Appendices A and B)

Defendants

- -
- -

The Appellant/Claimant did not appear and was not represented.

James Counsell (instructed by **The Bar Standards Board**
in respect of Claim No CO/1860/2015)

Alison Padfield and **Lucinda Harris** (instructed by **The Bar Standards Board**
in respect of Claim No CO/2454/2015)

The other parties did not appear and were not represented.

Hearing dates: 22 April and 10 May 2016

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Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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MR JUSTICE HICKINBOTTOM

Mr Justice Hickinbottom :

Introduction

1. Tariq Rehman ("Mr Rehman") was called to the Bar by Lincoln's Inn on 9 March 2000.

2. Since 2010, his professional conduct has been the subject of a number of complaints. Some of these have been investigated by the Legal Ombudsman ("the LeO"), to which I shall return in due course. Others have been investigated by the Bar Standards Board ("the BSB") and then prosecuted by them before panels of the Disciplinary Tribunal of the Council of the Inns of Court ("the Disciplinary Tribunal"). In each prosecution, he has been found guilty of at least some of the charges brought.

3. By section 24 of the Crime and Courts Act 2013, there is a statutory appeal, as of right, from the Disciplinary Tribunal to this court; and Mr Rehman has instigated four such appeals against convictions by the Disciplinary Tribunal, which I have recently been case managing. The four appeals are as follows.

Claim No CO/4920/2014

4. This is an appeal against the decision of a Disciplinary Tribunal panel (His Honour Michael Baker QC chairing) on 3 October 2014. The tribunal found Mr Rehman guilty of one count of professional misconduct, namely that, contrary to paragraphs 301(a)(3) and 901.7 of the Code of Conduct of the Bar of England and Wales ("the Bar Code of Conduct"), he alleged that a solicitor had forged a date on a notice under section 21 of the Housing Act without reasonably credible material that prima facie established fraud. In terms of sentence, the tribunal imposed a two-month suspension from practice; but that suspension has itself been suspended pending the outcome of the appeal.

5. The appeal was set down for hearing on 18 April 2016 – when Mr Rehman attended – but I adjourned the hearing that day because a transcript of the proceedings before the tribunal 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. The adjourned hearing has been set down before me on 27 July 2016.

Claim No CO/1860/2015

6. This is an appeal against the decision of a Disciplinary Tribunal panel (David Hunt QC chairing) on 14 April 2014. The panel found the Appellant guilty of three charges, each in the same form, namely that, contrary to paragraph 406.1 and 901.5 of the Bar Code of Conduct, he received monies for work done by another barrister and failed to pay that money to the barrister forthwith. The tribunal imposed a sanction of two months' suspension in respect of each breach to run concurrently with each other, but consecutive to the suspension imposed earlier. However, that sanction was again suspended pending the outcome of the appeal against conviction.

7. The appeal was set down for hearing on 22 April 2016. Mr Rehman made an application to adjourn it at the hearing on 18 April, to which I have already referred, which I refused. I also refused to accede to a request, made late on the afternoon of 21 April, that the court adjourn the hearing of its own motion on the grounds of Mr Rehman's ill-health, giving a separate judgment on 22 April as to my reasons for doing so ([2016] EWHC 1229 (Admin)). I need not repeat those reasons here.

8. The appeal hearing on 22 April thus went ahead. However, on 18 April, I indicated I would not give judgment in respect of the appeal at that hearing because Mr Rehman submitted that, although not expressly raised as grounds of appeal, the grounds of challenge in the judicial review brought under Claim No CO/1398/2016, if successful, would undermine the integrity of all the disciplinary convictions found against him. Therefore, on 22 April, having heard submissions on behalf of the BSB, I reserved judgment until I had dealt with at least the application for permission to proceed with the judicial review, which was set down for hearing on 10 May 2016.

Claim No CO/2454/2015

9. This is an appeal against the determination of a Disciplinary Tribunal panel (Her Honour Suzanne Coates chairing) in May 2015. The tribunal found Mr Rehman guilty of eleven charges of misconduct, the particulars of which varied but which all concerned the administration of Kings Court Chambers, Birmingham, of which he was then joint head. The tribunal has not yet dealt with sanction in relation to those breaches. It has adjourned consideration of sanction pending the determination of Mr Rehman's appeals in respect of the earlier tribunal decisions.

10. The appeal against conviction was set down for hearing before me on 10 May 2016, together with Mr Rehman's applications to proceed in the two judicial reviews, referred to below. On the afternoon before the hearing, Mr Rehman sent an email requesting that the court adjourn the hearing of its own motion on the same grounds of his ill-health, and upon the same evidence as that upon which he relied to adjourn the 22 April hearing. I again refused to adjourn the hearing, and again gave a separate judgment on 10 May with my reasons for doing so ([2016] EWHC 1228 (Admin)).

Claim No CO/1262/2016

11. This is an appeal against the decision of Disciplinary Tribunal panel (His Honour Philip Curl presiding) on 25 February 2016. The Panel found two charges against the Appellant proved.

12. On 27 April, I gave directions intended to ensure that the appeal will be ready for hearing before the end of this term. It too has now been set down for hearing before me on 27 July 2016.

Claim Nos CO/983/2016 and CO/1398/2016

13. In these two claims, Mr Rehman seeks judicial review against a substantial number of defendants and interested parties, in respect of a large number of decisions, on wide and overlapping grounds.

14. Claim No CO/983/2016 is focused upon the LeO in respect of a number of decisions made in relation to complaints made to him about Mr Rehman, but also involving 15 other Defendants and five Interested Parties (listed in Appendix A to this judgment).

15. In Claim No CO/1398/2016, Mr Rehman makes claims against the BSB and Disciplinary Tribunal, but also 33 other Defendants and seven Interested Parties (listed in Appendix B). Mr Rehman identifies 73 discrete decisions which he challenges, almost all on the basis that the various defendants have acted under the dictation of, or in collusion with, other defendants abusively to investigate and prosecute disciplinary proceedings against him. The decisions identified are, in effect, mere examples; because he asserts that there are systemic failures, which mean that any and all decisions of the tribunal – and, certainly, any and all decisions that relate to his professional conduct – are inevitably tainted and unlawful.

16. As there is substantial overlap between the assertions made in this judicial review claim and the grounds of appeal in Claim No CO/2454/2015, on 18 April I directed that the application for permission to proceed be set down for oral hearing at the same time as the hearing in that appeal, on 10 May 2016. As I have described, Mr Rehman sought to adjourn that hearing, but I proceeded with it. In the event, although some of the Defendants had lodged summary grounds of opposition, none of the Defendants or Interested Parties attended the hearing of Mr Rehman's application for permission to proceed. That, of course, is not unusual: parties other than the judicial review applicant have no right to be heard at such a hearing, which is primarily a matter as between the applicant and the court.

17. Therefore, on 22 April, I heard Mr Rehman's appeal against his conviction in Claim No CO/1860/2015; and, on 10 May, I heard his appeal in Claim No CO/2454/2015, and his applications for permission to proceed in Claim Nos CO/983/2016 and CO/1398/2016, all in his absence. This is the reserved judgment from those hearings.

The Regulatory Scheme

18. The history of the regulation of barristers, as relevant to the matters now before me, was helpfully set out by Jackson LJ in R (Mehey) v Visitors to the Inns of Court [2014] EWCA Civ 1360 at [11]-[18].

> "11. From the thirteenth century onwards the judges of the King's courts determined who was entitled to appear before them as advocates. At an early date it became the normal practice of the judges to grant rights of audience to persons who had been called to the Bar by one of the Inns of Court. By the mid-seventeenth century that practice had become invariable. Every person called to the Bar by one of the Inns of Court was entitled to practise in the courts. Accordingly it was the function of the Masters of the Bench ('benchers') of each Inn to determine (a) who was fit to be called to the Bar and (b) who should be disbarred, alternatively temporarily suspended from practising, by reason of misconduct. The benchers of each Inn exercised these powers on behalf of and with the consent of the judges….

12. These arrangements remained in place following the enactment of the Judicature Acts 1873 to 1875, which established the Court of Appeal and the divisions of the High Court. In 1966, each of the Inns of Court passed a resolution creating a new body, the Senate of the Four Inns of Court ('the Senate'). By those resolutions the Inns transferred to the Senate their former function of disciplining barristers. At the same time, the judges of the three divisions of the High Court passed a resolution confirming that the Senate should exercise disciplinary powers over barristers. In this way all the powers to discipline barristers, which historically had been exercised first by judges and then by benchers, devolved upon the Senate. The Senate established a Disciplinary Committee to consider allegations of misconduct and to determine the appropriate punishment for any misconduct which was proved. The only residual role of the benchers of each Inn was to promulgate and give effect to any punishments which the Senate's Committee may impose upon errant members of that Inn.

13. In 1986/7 there was another upheaval. The Senate was dissolved and a new body, the Council of the Inns of Court ('COIC') was created. [Jackson LJ then set out various provisions of COIC's constitution.]

14. During 1986, the four Inns of Court passed resolutions transferring the disciplinary powers of the Senate to COIC. On 26 November 1986, the Lord Chancellor and the three heads of divisions of the High Court (on behalf of all High Court judges) signed a resolution confirming the transfer of disciplinary powers to COIC.

15. I turn now to clause 1(f) of COIC's constitution. It will be necessary to trace the history of that provision. Clause 1(f) (as originally drafted) stated that one of COIC's functions was 'to appoint Disciplinary Tribunals in accordance with the provisions of Schedule A hereto'. Clause 1 of Schedule A provided that the Professional Conduct Committee of the Bar Council should have the duty of preferring charges of misconduct against barristers. Clause 4 (a) of Schedule A provided that a Disciplinary Tribunal should consist of a judge as chairman, a lay representative 'from a panel appointed by the Lord Chancellor' and three barristers….

16. In 2000, COIC resolved that Schedule A should be replaced by the Disciplinary Tribunals Regulations 2000 ('the 2000 Regulations'). Clause 1(f) of COIC's constitution was duly amended to refer to the 2000 Regulations, which became an annexe to the Bar's Code of Conduct. Regulation 2 of the 2000 Regulations required a Disciplinary Tribunal to consist of a judge or retired judge, two barristers and two lay representatives. The requirement that the lay representatives be

> drawn from a panel appointed by the Lord Chancellor was dropped. A new requirement was added, namely that retired judges were only eligible for nomination if they were on a panel of retired judges appointed by the President.
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> 17. The [2000 Regulations] were amended on a number of occasions over the years. An amendment made in 2005 removed the requirement that any retired judge had to be drawn from a panel appointed by the President. The version of the Disciplinary Regulations which is most relevant for present purposes is the Disciplinary Tribunals Regulations 2009….
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> 18. The [BSB] was established under the 2007 Act. The BSB has replaced the Bar Council as the body which prosecutes cases of alleged misconduct by barristers before Disciplinary Tribunals. The BSB has entrusted some of its functions in that regard to the Professional Conduct Committee of the BSB."

19. The BSB and the Professional Conduct Committee ("the PCC") have regulatory functions delegated to them by the Bar Council, which is an approved regulator under the Legal Services Act 2007 (see paragraph 1 of Part 1 of Schedule 4 to the 2007 Act). Prior to 2010, disciplinary powers over barristers were exercised mainly by the BSB in investigating complaints and bringing prosecutions (under the Complaints Rules), and by COIC which made arrangements for the Disciplinary Tribunals to sit and determine charges (under the Disciplinary Tribunals Regulations). From 1 January 2010, these arrangements were treated as having been approved by the Legal Services Board (paragraph 2(1) of Part 1 of Schedule 4 to the 2007 Legal Services Act 2007).

20. In July 2013, the Legal Services Board approved an application by the BSB for an alteration in its regulatory arrangements, by the replacement of the Bar Code of Conduct with a BSB Handbook as from January 2014. The Complaints Regulations 2014 and the Disciplinary Tribunals Regulations 2014 comprise Sections A and B respectively of Part 5 of the Handbook. In this judgment, I shall refer to the Disciplinary Tribunals Regulations 2014 as simply "the 2014 Regulations". Transitional provisions in the Handbook provide that, where a matter was being dealt with under the previous Complaints Regulations or Disciplinary Tribunal Regulations, Part 5 of the Handbook (including the 2014 Regulations) shall now apply (paragraph rI14). Broadly, the membership, powers and procedures of the PCC are set out in Complaints Regulations; whilst those for the Disciplinary Tribunal are set out in the 2014 Regulations.

21. Thus it is explained why, with effective Parliamentary authority, when a complaint of misconduct is made against a barrister, it is investigated and (if appropriate) prosecuted by the BSB, before a COIC Disciplinary Tribunal; and why, in respect of the disciplinary proceedings from which the appeals in Claim Nos CO/1620/2015 and CO/2454/2015 are made, those proceedings were brought under the 2014 Regulations.

22. Section 24 of the Crime and Courts Act 2013 abolished the jurisdiction of judges of the High Court sitting as Visitors to the Inns of Court to review decisions of a COIC Disciplinary Tribunal. However, it provided that the General Council of the Bar, an

Inn of Court, or two or more Inns of Court acting collectively in any manner, may confer a right of appeal to the High Court in respect of a matter relating to the regulation of barristers (section 24(2)(a)). Paragraph rE183 of the 2014 Regulations provides that, where one or more charges of professional misconduct have been proved, an appeal may be lodged with the High Court in accordance with the Civil Procedure Rules by the defendant against conviction and/or sentence. Except where the decision appealed is one to disbar, the decision of the High Court on such an appeal is final (section 24(4) and (5)).

23. CPR Part 52 governs a statutory appeal under section 24 and rule rE183. CPR rule 52.11(1) restricts an appeal to a "review" of the tribunal decision; but, by rule 52.11(3)(a), the High Court as the appeal court will allow an appeal where the decision of the Disciplinary Tribunal is (a) wrong or (b) unjust because of a serious procedural or other irregularity in the tribunal's proceedings. The role of this court therefore goes beyond a simple review of the decision on public law grounds – it is possible to challenge factual findings as well as the law – but neither is it a full re-hearing. Because of the important public interest in the finality in litigation, the starting point is that the decision below is correct unless and until the contrary is shown. Laws LJ put it thus in Subesh v Secretary of State for the Home Department [2004] EWCA Civ 56 at [44]:

> "The burden so assumed [by the appellant] is not the burden of proof normally carried by a claimant in first instance proceedings where there are factual disputes. As appellant, if he is to succeed, he must persuade the appeal court or tribunal not merely that a different view of the facts from that taken below is reasonable and possible, but that there are objective grounds upon which the court ought to conclude that a different view is the right one. The divide between these positions is not caught by the difference between a perceived error and a disagreement. In either case the appeal court *disagrees* with the court below, and, indeed, may express itself in such terms. The true distinction is between the case where an appeal court might *prefer* a different view (perhaps on marginal grounds) and one where it concludes that the process of reasoning, and the application of the relevant law, *require* it to adopt a different view. The burden which an appellant assumes is to show that the case falls within this latter category." (emphasis in the original).

24. However, even if to that extent the court has to engage in the merits of the case, the court is required to give due deference to the tribunal below, because (i) with the authority of the elected legislature, the tribunal has been assigned the task of determining the relevant issues; (ii) it is a specialist tribunal, selected for its experience, expertise and training in the task; and (iii) it has the advantage of having heard oral evidence.

25. Of course, the extent of the deference to be given will depend upon the nature of the issue involved, and the circumstances of the case; but the deference is likely to be great where the issue is one of disputed primary fact which is dependent upon the assessment of oral testimony, or where the issue concerns inferences the court is

asked to draw, or where the issue involves an evaluative judgment on the basis of the primary facts, involving a number of different factors that have to be weighed together, which involve balance and degree, in respect of which different tribunals could legitimately come to different conclusions.

The BSB's Application to Dismiss the Appeals as Out-of-Time

26. The BSB submitted that, in respect of each of the two appeals, the appellant's notice was not lodged within 21 days of the tribunal conviction determination sought to be challenged. They were therefore out-of-time; and should each be dismissed as such, without consideration of the merits. Mr Rehman contends that each is in time.

27. BSB's submission – made in similar terms by Mr Counsell and Ms Padfield in respect of each of the statutory appeals before me – ran as follows.

28. By paragraph rE157 of the 2014 Regulations, at the end of a hearing, a Disciplinary Tribunal panel is required to record in writing its findings on each charge or application, and its reasons; and the chair of the panel must then announce the findings. By paragraph rE181, as a separate obligation, as soon as practicable after the end of the proceedings, the chair must prepare a report in writing of the findings and the reasons for those findings and any sentence, copies of which must be sent to the defendant, the BSB and the Treasurer of the defendant's Inn of Court.

29. In each of the proceedings which are the subject of appeal before me, the panel decision, findings, sentence and reasons were delivered orally, in public, at the end of the relevant hearing, e.g. in respect of the proceedings which have resulted in Claim No CO/1860/2015 on 30 March 2015. As a separate exercise, a report was produced and published, in that case on 14 April 2015.

30. CPR rule 52.4(2)(b) provides that, where the lower court or tribunal does not make any direction as to the appeal period – which neither tribunal panel did in these cases – then the dissatisfied party must file an appellant's notice at the relevant appeal court "within… 21 days after the date of the decision of the lower court that the appellant wishes to appeal". Relying on cases such as Sayers v Clark Walker [2002] EWCA Civ 645, Mr Counsell and Ms Padfield submitted that time for an appeal starts to run from when the decision sought to be challenged is made and announced. In a Disciplinary Tribunal hearing, that is when it is announced to the parties, in public; not when the later report is published. Therefore, in Claim No CO/1860/2015, time began to run from 30 March 2015, expiring on 20 April 2015. The appeal was in fact lodged on 22 April 2015, i.e. out of time. The material timings in Claim No CO/2454/2015 are the same in effect.

31. It is submitted on behalf of BSB that this court should consider lateness in the light of the now well-established principles derived from Mitchell v News Group Limited [2013] EWCA Civ 1537 and Denton v T H White Limited [2014] EWCA Civ 906), namely that, if there is no good reason for a significant breach of the rules, then an extension of time should be refused without consideration of any possible merits. No application for an extension of time has been made in either appeal. No explanation for the delay has been proffered. In the circumstances, it is submitted that the court should simply refuse an extension of time, thus ending the appeals, without any consideration of merits.

32. Mr Rehman contends that time does not start to run until the defendant has been served with the written report, so that his notices of appeal were in time.

33. Whilst I see the force in the submissions made by BSB, it is unnecessary for me to rule on the specific hard-edged issue in these appeals; and, in my view, inappropriate. I decline to do so. Leaving aside issues as to the seriousness and significance of any breach in this case – even on the BSB's case, the delay was short – the BSB contend that the appeals brought by Mr Rehman are totally without merit. It will therefore be necessary for me to engage with the merits of the appeals before me, in any event. Furthermore, there is some overlap between the grounds relied upon by Mr Rehman in the appeals, and those in the judicial reviews which are not subject to the same time constraint.

34. For those reasons, as indicated at each hearing, I propose to consider the merits of the appeals, as well as those of the claims for judicial review.

35. I will deal, first, with Claim No CO/1860/2015 (in respect of which the grounds are relatively discrete), before turning to Claim Nos CO/1398/2016 and CO/2454/2015 (where there is considerable overlap of grounds), and concluding with consideration of Claim No CO/983/2016 (which is focused on the LeO rather than proceedings brought by the BSB before the Disciplinary Tribunal).

Claim No CO/1860/2015

36. As I have already described (see paragraph 6 above), Mr Rehman appeals against the decision of a panel of the Disciplinary Tribunal on 14 April 2015, which found him guilty of three charges of receiving money for work done by another barrister and not paying that money to the barrister forthwith.

37. The facts underlying those charges are as follows.

38. On 15 August 2011, Mr Rehman appeared for a man called Ishraz Iqbal at the Aylesbury Crown Court on a Plea and Case Management Hearing ("PCMH"). Mr Iqbal was charged with fraud. This was the first hearing of the matter and, by virtue of that appearance, Mr Rehman became "the Instructed Advocate" in the case for the purposes of the Graduated Fee Payment Scheme.

39. That requires some explanation. The Graduated Fee Payment Scheme is governed by the Criminal Defence Service (Funding) Order 2007 (SI 2007 No 1174), and the Graduated Fee Payment Protocol made under that Order. Under the Scheme, one advocate is the "Instructed Advocate", who is normally the first advocate who appears. He is the person who contracts with the Legal Services Commission ("the LSC") for advocacy services. Where another advocate appears later (i.e. as a "substitute"), he acts as a sub-contractor.

40. Paragraph 11 of the Protocol requires the Instructed Advocate to prepare a claim form in a specific format (Form AF1), including the fees of any substitutes who have appeared, which has to be submitted promptly to the court for payment. The scheme requires the Form AF1 to be signed and submitted by the Instructed Advocate. By paragraph 12, the court makes a total payment to the Instructed Advocate and, by virtue of paragraph 21(3) of Schedule 1 to the Order and paragraph 14 of the Protocol,

the Instructed Advocate is responsible for arranging payment of fees to any substitute advocate who (by virtue of paragraph 15.1 of the Protocol) is required to invoice, not the LSC, but the Instructed Advocate. By paragraph 22.2 of the Protocol, Instructed Advocates are responsible both for making a claim on behalf of all advocates, and for fee payment to other advocates.

41. At the PCMH at which the Appellant appeared, Mr Iqbal indicated that he would plead not guilty. The Appellant did not appear for Mr Iqbal again. The trial was fixed for 29 September 2011. That day, Mr Iqbal was represented by Edward McKiernan of Farringdon Chambers; and Mr Iqbal pleaded guilty. Sentence was adjourned, to 27 October 2011. Then, he was represented by Timothy Bass of Counsel. Finally, at a Proceeds of Crime Act hearing on 16 December 2011, he was represented by Alex Dunn of Counsel. Mr Bass and Mr Dunn, like Mr McKiernan, were members of Farringdon Chambers. Robert Minns was the clerk in those chambers responsible for the collection of fees.

42. On 15 February 2012, a claim in Form AF1 was submitted to the LSC under the scheme for Counsel's fees. Mr Minns appears to have accepted before the tribunal that (i) his chambers submitted the form, for the fees for all four barristers including Mr Rehman (see paragraph 34 of the tribunal's report) and (ii) none of the substitute barristers sent invoices to Mr Rehman as, under the scheme, they ought to have done (paragraph 36). Before the tribunal, it was – in my view, rightly – not contended on behalf of Mr Rehman that he was relieved of the obligation (imposed by paragraph 406.1 of the Bar Code of Conduct) to pay the substitute barristers upon receipt of the money claimed on their behalf by the fact that the Form AF1 had been completed by Farringdon Chambers and not Mr Rehman himself (paragraph 43).

43. In any event, Mr Rehman received payment from the LSC on 12 April 2012 in the sum of £2,540.66 including VAT. Of that sum, only £231.84 was due to Mr Rehman himself for his attendance on the PCMH. Of the balance, £2,007.62 was due to Mr McKiernan, £136.80 was due to Mr Bass and £164.40 was due to Mr Dunn.

44. Mr Minns chased Mr Rehman for payment, by phone, email and letter. Mr Minns accepted that some of the telephone calls were misdirected – he appears to have transposed two of the digits – and at least one email appears to have been sent to the wrong address. Nevertheless, Mr Minns was persistent; and the tribunal found that Mr Rehman knew by mid-April 2012 that he had received the £2,540.66, and he ought to have known shortly thereafter that he had been paid this sum for Mr Iqbal's case. Had he made appropriate enquiries, he would have known by mid-May 2012 that he owed amounts to the three other barristers who later appeared for Mr Iqbal; and he would have made payment by the end of May 2012 (paragraph 43). In any event, as the tribunal found, Mr Minns sent an email to Mr Rehman on 17 September 2012, and a letter on 27 September (which Mr Rehman accepted he received on 4 October 2012), from which Mr Rehman was made clearly aware that he had received the money and it was due to the three other barristers. However, Mr Rehman made no payment until 12 December 2012 (when he paid £1,000 to Mr McKiernan on account), and did not make full payment until 8 March 2013 (when he paid the three barristers the balance) (paragraph 44). The panel was unimpressed by the submission that Mr Rehman's own shortage of funds was in any way an excuse at law for non-payment (paragraph 44).

45. The failure to make the payments was a serious breach of the Bar Code of Conduct in itself; but (said the tribunal) it was compounded by the fact that Mr Rehman had prevaricated about making payment even after September 2012 – when, on his own evidence, he knew the full facts – payment not being made for some months thereafter (paragraph 47).

46. The tribunal sentenced Mr Rehman to a suspension of two months on each matter, to run concurrently.

47. Mr Rehman relies upon 13 grounds of appeal, 12 in respect of the convictions and one in respect of sentence. I will deal with them in turn; but several are based upon the propositions that, contrary to the requirements of the scheme, the substitute barristers did not invoice him and Mr Minns sent in the Form AF1 to the LSC.

48. Mr Minns, in essence, accepted those propositions. However, the tribunal considered them irrelevant to the charges Mr Rehman faced; because those charges were based upon the premise that he received money from the LSC that was not his, and he did not pay it over to the barristers to whom it belonged "forthwith", which (the tribunal held) meant reasonably promptly in all the circumstances, as he was required to do by paragraph 406.1 of the Bar Code of Conduct.

49. In my view, the tribunal were quite correct in the stance they took. The charges focused on what happened to the money when Mr Rehman received it, in respect of which the precise mechanics of the claim for the money were immaterial. There was no suggestion that the amount claimed was incorrect, or that Mr Minns completed the form in a way other than showing that Mr Rehman was the Instructed Advocate with all of his details (which, the tribunal found, must have come from Mr Rehman's chambers). The issue as to who signed the Form AF1, about which Mr Rehman and his legal representatives were particularly exercised, was a red herring; and recognised as such by the tribunal, who were, properly, not to be deflected from their task.

50. Dealing with the grounds in respect of conviction (i.e. Grounds 1-12) in turn:

    Ground 1: It is submitted that the charges were an abuse of process because they were based upon "a false and perjured case against the Appellant and a forged document". However, (i) the tribunal, who heard Mr Minns give his evidence, had "no hesitation in concluding that he was an entirely honest witness and that he was doing his best to assist the tribunal" (paragraph 29 of the report), which they felt unable to say about Mr Rehman himself (paragraphs 30-1); and (ii) in any event, as I have indicated, how the money was claimed was irrelevant to the charges brought.

    Grounds 2 and 3: The tribunal erred in not striking out the charges. A strike out application was made on the first day of the tribunal hearing, primarily on the basis that the charges were founded upon the Form AF1 which was (it was said on Mr Rehman's behalf) "tantamount to a forgery", and that Mr Minns had made "woefully inadequate attempts to contact Mr Rehman using incorrect details". I have already sufficiently dealt with the Form AF1. With regard to the incorrect telephone and email details, the tribunal found that there had been plenty of attempts to contact Mr Rehman using the correct details, and, even after September 2012 (when, he accepted,

he was aware of the full facts), he still took several months to pay the other three barristers.

Ground 4: The tribunal erred in not allowing Mr Rehman's Counsel to cross-examine Mr Minns as to who had signed the Form AF1. For the reasons I have given, the tribunal did not err in that regard.

Ground 5: The tribunal erred in that the chair (David Hunt QC) failed to recuse himself, although he was Vice-Treasurer of Gray's Inn elect. However, no informed objective observer could sensibly have perceived Mr Hunt to be anything but impartial simply because, as impending Vice-Treasurer of a Gray's Inn – to which Mr Rehman did not belong – he might in certain circumstances be called upon formally to pronounce a tribunal determination on behalf of his Inn. The tribunal gave full and adequate reasons for his non-recusal. They did not arguably err in the manner they proceeded.

Ground 6: In pursuing Mr Rehman, the BSB was motivated by malice. There is no evidence whatsoever that the BSB was acting on the basis of improper motive. The fact that it pursued Mr Rehman in a number of investigations and disciplinary hearings is a product of the complaints that they received, and is obviously not in itself evidence of malice, as Mr Rehman suggests.

Ground 7: It is said that there were "numerous Article 6 violations". However, no particulars are given as to what those violations might have been.

Grounds 8 and 12: It is said that the tribunal could not properly have accepted the charges, given that Mr Minns accepted that he had misdirected some telephone calls and emails to Mr Rehman. I have already dealt with that point: he correctly directed some and sufficient.

Grounds 9 and 10: It is suggested, again, that the tribunal could not have found the charges proved given that the Form AF1 had not been signed and submitted by Mr Rehman. I have already dealt with that sufficiently.

Ground 11: It is suggested that the tribunal could not have found the charges proved given that the three substitute barristers had not submitted invoices to Mr Rehman. For the reasons I have given, that too was a red herring so far as the charges were concerned.

51. For those reasons, none of those grounds is arguable. The truth is that this was a very straightforward case. Mr Rehman accepted that he had received money from the LSC that did not belong to him. He accepted that there came a point when he knew he had it, and knew it belonged to other barristers. In fact, the tribunal found – as, on the evidence, they were quite entitled to find – that he ought to have been aware of those matters earlier than he accepted he was in fact aware of them. He did not pay over the money to the other barristers promptly. In those circumstances, the charges were proved. In finding them proved, the tribunal did not arguably err in any way; nor is it arguable that their findings were wrong.

52. In relation to sanction (Ground 13), Mr Rehman submits that the tribunal ignored the relevant sentencing guidelines, which (he submits) restricted the sanction to a

financial penalty. However, there is no such restriction. The tribunal was entitled to consider the breaches "serious" for the reasons it gave. It considered all relevant matters, including the seriousness of the breaches and previous findings against Mr Rehman, and properly ignored those determinations that were the subject of appeal. Sentencing is essentially a matter of judgment for the tribunal. As a three-man tribunal, it could not disbar – but otherwise the sanction was open. It cannot be said that it erred in imposing the suspension that it did impose, or that the sanction imposed was arguably wrong.

53. For those reasons, this appeal is dismissed.

Miss Anal Sheikh and Red River

54. Before I turn to the grounds in Claim Nos CO/1398/2016 and CO/2454/2015, it would be helpful to deal with one further background matter. It concerns Miss Anal Sheikh, who appears to have played a number of (no doubt, related) roles in this litigation.

55. First, on 18 January 2016, Mr Rehman wrote to the court confirming that a Miss Sheikh had his authority to represent him in all High Court proceedings in which he was engaged, including expressly all of the then-current appeals against Disciplinary Tribunal determinations. Miss Sheikh, prior to that date, clearly had a major role in drafting and lodging documents relating to the litigation on Mr Rehman's behalf: some of the documents were lodged from her email address, and the style and content of the documents are in any event distinctive.

56. Second, Miss Sheikh has sought to intervene in the statutory appeals and judicial review claims brought by Mr Rehman, on the basis that the prosecution of the professional charges against Mr Rehman are inextricably linked to various asserted frauds with which she is concerned. These are set out in numerous places in the voluminous documents, perhaps most conveniently in the document entitled "Composite Appeal and Judicial Review Grounds and Skeleton Argument" but in greater detail on pages 130 and following of a document labelled "EC-UN Core".

57. These frauds are as follows:

    i) The Red River Conveyancing and Mortgage Fraud ("the Red River Fraud"): I deal with this below.

    ii) The Bar Mutual Fraud ("the Bar Fraud"): The nature of this fraud is anything but clear; but it appears to focus on the assertion that the victims of such frauds as the Red River Fraud are obstructed by the legal system, including the Bar Mutual and the judiciary.

    iii) The SRA's Bank Scam, Compensation Fund Fraud Etc ("the Solicitors' Fraud")": The nature of this fraud is again not clear; but it is apparently asserted that the Solicitors' Regulation Agency ("the SRA") has, unlawfully and criminally, intervened in solicitors' practices to defraud the Crown of tens of millions of pounds (paragraph 6). However, the asserted fraud is very wide, and the number of participants very large and wide in scope.

58. The Red River Fraud was recently considered in Anal Sheikh v Marc Beaumont; Anal Sheikh & Rabia Sheikh v Hugo Page and Nigel Meares [2015] EWHC 1923 (QB), in which Patterson J helpfully distilled and set out the relevant background, for which I am very grateful. The applications before the court on that occasion were to extend general civil restraint orders ("CROs") made by Spencer J in 2013, when he extended an order made originally by Burnett J (as he then was) in 2009 as itself extended by Tugendhat J in 2011. Because Spencer J found that there were grounds for believing that Miss Sheikh was using her mother to circumvent the earlier CRO, he also made a CRO against Mrs Sheikh, which Patterson J also duly extended. Mr Rehman appeared for Mrs Sheikh in those proceedings.

59. So as not to overburden the body of this judgment, I set out the pertinent parts of Patterson J's judgment in Appendix C below. From her findings – including the findings made by other courts, which she recites – the following can be said.

i) Miss Sheikh was a solicitor.

ii) Following an unsuccessful commercial venture involving Red River (UK) Limited, Miss Sheikh considered that she had been defrauded of a great deal of money. Litigation ensued. At trial, it was found that there was no credible evidence to support any of her allegations of fraud. Furthermore, during the course of that case, Miss Sheikh and her mother made twelve applications that were declared to be totally without merit.

iii) Following those proceedings, she pursued, first, a barrister who had acted for her in the Red Rivers litigation, Marc Beaumont. That claim was struck out as having no real prospect of success. In the course of that action, Miss Sheikh made four applications that were declared to be totally without merit.

iv) She then commenced several further actions, largely against lawyers who had acted for her or against her in the Red River litigation including (indeed, on more than one further occasion) Mr Beaumont. The proceedings were all stayed or struck out as an abuse of process and/or because they stood no real prospect of success.

v) In 2009, Miss Sheikh was struck off the Solicitors' Roll. The relevant tribunal found that she had acted dishonestly.

vi) As part of one set of proceedings against solicitors who had acted for her, she claimed that the Law Society had committed banking fraud, had used its powers illegally and had relied upon false and perjured evidence; and that the judiciary (including the Court of Appeal) was part of the conspiracy against her. Later, she contended that the intervention of the SRA into her practice was a hate crime; and that the Law Society was involved in the unlawful intervention into solicitors' firms and the theft of their clients' money and data.

vii) Miss Sheikh attempted to intervene in a case involving Mr Beaumont, in which she asserted that the Red River Fraud, and the Bar and Solicitors' Frauds, were relevant.

viii) The claims brought by Miss Sheikh have been ever increasing in scope, with an ever wider target. Her pursuit of the frauds has consistently been found to have been vexatious.

ix) Miss Sheikh has been willing to use others to circumvent the effect of the CRO imposed upon her and further pursue her claims involving wide conspiracies, namely her elderly mother.

60. Given that background, it is unsurprising that attempts by Miss Sheikh to intervene in Mr Rehman's disciplinary proceedings (in which she appears to have no possible legitimate locus or status), on the basis that they are inextricably linked to the frauds she has been intent on pursuing, have been rejected. Furthermore, on 22 January 2016, Cranston J directed that Miss Sheikh should not be allowed to represent Mr Rehman or assist him as a McKenzie Friend at the hearing in any of the three matters before him. On 18 April 2016, I extended that order to all of the claims involving Mr Rehman in this court.

61. Nevertheless, those orders have not prevented Miss Sheikh's continued involvement. For example, on 18 February 2016, in response to Cranston J's direction that Mr Rehman file a skeleton argument in Claim No CO/4920/2015, Miss Sheikh submitted the document. It is not well-focused – and is certainly not well-focused on the issues raised in that particular claim – but, in relation to the Disciplinary Tribunal panel determinations which found the appeals in Claim Nos CO/1860/2015 and CO/2454/2015, it is said that "one or more of Members of the Panels were involved in the Red River Conveyancing and Mortgage Fraud, the SRA's Bank Scam, Compensation Fraud Etc" (paragraph 37(1)), and that the disciplinary proceedings had an ulterior motive that was fraudulent (paragraph 37(11) and (12)). A document entitled "Composite Appeal and Judicial Review Grounds and Skeleton Argument", lodged by Miss Sheikh for Mr Rehman in respect of Claim No CO/2454/2015 (and presumably, given its title, also in the judicial review proceedings against BSB), is largely devoted to her proposed intervention which is based (it is said) on "certain frauds", namely the three frauds I have already described.

62. Other documents relied upon by Mr Rehman in the claims before me appear to be in similar form and style; and are replete with references to the three frauds earlier asserted by Miss Sheikh.

Claim No CO/1398/2016

63. The grounds relied upon in the appeal, Claim No CO/2454/2015, are very similar to those relied upon in the judicial review, Claim No CO/1398/2015. Mr Rehman contends that this judicial review is overarching, in the sense that, if found to be good, that would undermine every finding and determination against him by the Disciplinary Tribunal. It is therefore appropriate to deal with this claim next.

64. The claim was issued on 8 March 2016, with 33 Defendants and several Interested Parties. In addition to those identified in the Claim Form, the supporting document which is labelled "UK60A" and which purports to set out the grounds ("the claim document"), lists "a class of barristers" and "a class of solicitors" as Interested Parties. Ominously, that claim document has sections entitled "Why Anal Sheikh v The Law Society [2005] EWHC 1409 (Ch) can dismantle the entire regulatory system

for 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".

65. The range of Defendants is wide. The Bar Council and the BSB are named as the Second and Third Defendants respectively. COIC is the Fourth Defendant, and the Disciplinary Tribunal is the First Defendant (although, in fact, it does not have any legal personality separate from COIC). The Law Society and the SRA are Fifth and Sixth Defendants, and the Bar Mutual is the Twenty Fourth Defendant. The Legal Ombudsman is Seventh Defendant, and its General Counsel named as Seventeenth Defendant. Most of the other Defendants are individuals who have been involved as members of tribunal panels, or of COIC, have been members of staff of the tribunal, or have acted as legal representatives for or against Mr Rehman or Miss Sheikh. Mr Beaumont is the Twenty Second Defendant.

66. The claim and its supporting documents are prolix in the extreme, and contain a plethora of assertions and claims for relief. For example, Patterson J is joined as the Twentieth Defendant on the basis that the CRO she made was "fraudulent" and should be declared void. There is no evidence that that order was in any way irregular; but, in any event, it is made against Miss Sheikh, not the Claimant Mr Rehman, and Miss Sheikh is well aware that such orders can be appealed. She appealed the CRO made against her by Burnett J, Richards LJ finding the appeal to be totally without merit.

67. It is unnecessary to rehearse every such assertion, only to dismiss it as unfounded. This is a public law action, and the focus must be on the specific decisions of public bodies that are challenged. In the context of this judicial review, I can also pass over challenges to specific determinations of a Disciplinary Tribunal (which form much of the claim documents), because, in respect of those, there is an alternative remedy in the form of an appeal to this court (a remedy which is being pursued in each case by Mr Rehman). Similarly, insofar as this claim seeks to raise issues concerning the Red River Fraud, or the Bar or Solicitors' Frauds, I need not consider them further: other courts have determined, on more than ample evidence, that the pursuit of those claims is vexatious, and I have before me no significant evidence that was not before those courts. I should note, however, that those issues form the majority of the composite document to which I refer above; and the content and language used is immoderate and florid. For example, it suggests that there are links between certain barristers' chambers and certain types of economic fraud and that the SRA have paid barristers millions of pounds in bribes. It suggests that there may be "criminal implications" for the former chair of the BSB. It calls for the immediate suspension of, amongst others, Her Honour Suzanne Coates, who chairs one of the Disciplinary Tribunal panels that considered charges against Mr Rehman. These allegations, with which this document is rife, are without any evidential basis whatsoever, and some are clearly scurrilous.

68. The core of this claim, such as it remains, is set out in Section 2 of the claim document. The objective of the claim, and the relief sought, is nothing if not bold: it is to have an order of the court setting aside every adverse finding and determination made by the Disciplinary Tribunal, against any barrister; and to have every barrister who has ever been debarred or suspended duly restored and paid compensation (page 18). It is submitted that such relief should be granted because the procedure adopted by the BSB is fundamentally flawed, breaching (amongst other things) the principles relating to delegated powers and the separation of powers. The Disciplinary Tribunal

(it is said) "acts under the dictation and in collusion with the… BSB", and it blatantly disregards the 2014 Regulations.

69. This claim is legally hopeless.

70. First, the specific points that are made – e.g. that members of the Investigation and Hearing Team unlawfully attend PCC meetings, and that some of the panels "had no constitutive jurisdiction" because the chair was a retired judge – are simply bad points in law. The means by which the BSB identify cases to pursue to a Disciplinary Tribunal is quintessentially a matter for it; and, as I explained in my judgment on 22 April, a "retired judge" is a "judge" who can chair a panel under the Disciplinary Regulations.

71. Second, it does not focus or challenge any specific decisions: it simply asserts that the scheme, as a whole, is bad, and every decision or determination that is made is consequently bad. The decisions listed are simply by way of example, without any particular demerit being alleged. Mr Rehman seeks some form of public enquiry into the disciplinary scheme applicable to barristers (and, it seems, other professions: see Section VIIB), which is not the function of this court. Insofar as it seeks to challenge decisions on a case specific basis, it can do so by way of statutory appeal.

72. Third, there is simply no evidential basis for the primary assertion made. As I have described, the PCC and the BSB are arms of the Bar Council, with the roles and powers granted by the Bar Council in the Complaints Regulations and 2014 Regulations.

73. Fourth, there is similarly no evidential basis for the proposition that the system is inherently riven with procedural error such that there is systemic corruption or malfunctioning. Particularly, there is no evidence that the Disciplinary Tribunal "acts under the dictation of and in collusion with the BSB". Simply because the tribunal finds charges brought by the BSB against a barrister to have been made good, is not, in itself, evidence that the tribunal is anything less than scrupulous in performing its judicial functions. If in a particular case it is not, then a defendant has a right of appeal to this court.

74. For those reasons, I do not consider this claim is arguable.

75. Further, apart from the composite document to which I have referred, some parts of the claim are legally scurrilous, e.g. the assertion that, in making perfectly straightforward and unobjectionable standard directions in a disciplinary case against Mr Rehman, Flaux J was acting under the dictation of or in collusion with the BSB in making such directions (pages 173-4 of the claim document); or that various barristers who represented Mr Rehman "colluded with the [BSB] so that they would lose their cases" (page 173); or that Richards LJ, in dismissing Miss Sheikh's appeal against her CRO, was acting improperly to protect the interests of Mr Beaumont (page 141); or that there is or might be a public perception that Lord Judge CJ "was behind the Red River Conveyancing and Mortgage Fraud" (page 141). There is no evidential basis for any of those assertions, to which I refer by way of example only.

76. Furthermore, although of course I have not heard from Miss Sheikh, it seems tolerably clear that Miss Sheikh is seeking to use Mr Rehman's claim to further her

own claim that she was a victim of fraud in the Red River matter, which is introduced in the claim document on the basis that her case and that of Mr Rehman "bore similar features" (pages 208-209). In particular, she overtly prepared the composite skeleton argument to which I have referred. I do not have to decide whether Miss Sheikh is breaching her CRO by using a device through Mr Rehman – and, given I have not heard from her, it would be inappropriate to do so. However, it seems to me that either she is using this claim in that way, or alternatively Mr Rehman seeks to adopt the same assertions in this claim as were found to be vexatious in the hands of Miss Sheikh some time ago.

77. In any event, I am satisfied that this claim for judicial review is not only unarguable, at its highest, it is clear that no judge could properly conclude that this claim might succeed. It is totally without merit.

78. For those reasons, I refuse permission to proceed, and declare the claim to be totally without merit.

Claim No CO/2454/2015

79. Having dealt with Claim No CO/1398/2016, I can deal with the appeal in Claim No CO/2454/2015 relatively shortly – because there is a considerable overlap in the grounds of challenge.

80. The charges arose as follows. In 2011, Mr Rehman set up Kings Court Chambers, Birmingham. From April to June 2012, he and Ian Macdonald QC were jointly head of chambers. Twelve charges of misconduct were brought against Mr Rehman, and six against Mr Macdonald, arising out of what might be broadly described as chambers' administration and client management/care.

81. The precise charges are not material to the grounds of challenge, but, essentially, it was alleged that Mr Rehman:

i) engaged in discreditable conduct by agreeing to the use of scripts by employees of Global Immigration Consultants Limited ("Global") in telephone conversations with prospective lay clients which included a representation that a barrister or barristers of his chambers would work with the prospective client in return for a stated fee whereas the sum included, in addition to the card handling fee, an additional sum of £100 retained by Global;

ii) failed to take all reasonable steps to ensure that his chambers were administered competently and efficiently in relation to cases under the public access rules, including accepting cases in circumstances in which no member of chambers had taken any steps to ascertain whether it would be in the best interests of the client or in the interests of justice to instruct a solicitor;

iii) failed to take all reasonable steps to ensure that his chambers were administered competently and efficiently in relation to the handling of four complaints regarding legal services purportedly provided by unidentified members of his chambers;

iv) failed to comply with the public access rules by supplying legal services to two lay clients without informing them in writing of the fees he proposed to charge or the basis on which the fees would be calculated;

v) failed to comply with the public access rules by supplying legal services to a lay client without informing the client in writing of the work he agreed to perform; and

vi) failed to comply with the Bar Code of Conduct in respect of his handling of a complaint by a lay client in respect of work undertaken by himself and another member of chambers.

82. Mr Rehman denied all of the charges.

83. On 13 May 2015, a panel of the tribunal (Her Honour Suzanne Coates chairing) found proved all but one charge (i.e. the alleged failure to take any steps to ascertain whether it would be in the best interests of the client or in the interests of justice to instruct a solicitor). It was found that, at times, Mr Rehman had been inconsistent and evasive, and on occasions had tried to mislead the tribunal. The tribunal adjourned sanction until Mr Rehman's appeals of earlier tribunal findings had run their course. It proceeded to consider the question of sanction in respect of Mr Macdonald (who had denied but was found guilty of six charges), and concluded that no sanction should be ordered.

84. Mr Rehman's grounds of challenge are found in the composite document to which I have already referred. They are three in number.

85. First, it is submitted that the Disciplinary Tribunal is not an impartial and independent tribunal, because it is infected by the widespread impropriety and corruption that Miss Sheikh alleges against lawyers, in the form of the "frauds" to which I have already alluded. Those assertions include members of the panel accepting bribes.

86. These are the assertions that founded the judicial review claim in Claim No CO/1398/2016, dealt with above. Ms Padfield described the assertions as "utterly fanciful". Certainly, they have no scintilla of evidential foundation.

87. Second, it is contended that Mr Rehman did not have a fair hearing, because the Bar Mutual Indemnity Fund provided legal representation for Mr Macdonald but not for him.

88. Mr Rehman represented himself at the tribunal hearing. Mr Macdonald was represented by Counsel (including Leading Counsel at the March 2015 hearing). There is no evidence as to the funding arrangements Mr Macdonald had in place; but, in any event, this alleged inequality of arms was not raised by Mr Rehman at the tribunal hearing; he is a barrister, and therefore should be competent to conduct such a hearing in person; and there is no evidence that, as a result of him not being legally represented, he suffered any unfairness whatsoever. The tribunal, acting judicially, were bound to ensure that he did not suffer as a result of any possible "inequality of arms"; and there is no evidence that they did not do so. There was no arguable breach of article 6 of the European Convention on Human Rights – or that, in some way, Mr Rehman has been the victim of racial discrimination – as asserted.

89. Third and finally, Mr Rehman challenges the refusal of the tribunal panel to stay the proceedings. The ground is not clear: it seems that it is submitted that the proceedings ought to have been stayed pending a judicial review in which a stay might have been granted. However, no such relief has been granted in any judicial review. As Ms Padfield submitted, there is no appeal against a refusal of a stay. This ground is consequently empty.

90. For those reasons, none of the grounds put forward is arguable. Indeed, as Ms Padfield submitted, I am of the firm view that this claim too is totally without merit. It is very much focused on the same grounds as the judicial review in Claim No CO/1398/2016; and the additional grounds add no weight or merit to the claim as a whole.

91. For those reasons, I dismiss this appeal, and declare the appeal to be totally without merit.

Claim No CO/983/2016

92. Finally, I turn to the second judicial review.

93. The claim was lodged on 23 February 2016, and it names 16 Defendants and five Interested Parties. The claim and supporting documents are in the region of 1500 pages.

94. However, the claim is not as complex as those figures suggest. The decisions to be judicially reviewed are set out in a document labelled "UK48 Appendix III". That confirms that the focus of this claim is the LeO: it lists ten categories of decision, all made by the LeO, which Mr Rehman seeks to challenge. The only other decisions challenged are said to be "BSB directions", and "SRA's failure to prosecute". Those are clearly peripheral to the claim against the LeO.

95. Mr Rehman has been the subject of a number of complaints to the LeO in respect of his service as a barrister. He says that these have involved literally hundreds of "decisions", of which he complains – but most of these are not final and binding decisions, and, as such, are not amenable to judicial review. The decisions that are susceptible to judicial review are set out in Section 3 of the Claim Form, but unfortunately with many other decisions which are not. The relevant decisions are most conveniently set out in the LeO's Summary Grounds from paragraph 64 onwards. Those grounds also set out, succinctly and conclusively, why none of the challenges made is arguable.

96. Briefly:

Decision 1: The decision challenged is the LeO's decision to enforce through the county court his final decision of 19 January 2015, on a complaint by a Mr Iqbal Saif Bagus, that Mr Rehman refund Mr Bagus the fee of £3,000 he paid together with a payment of £200 for inconvenience etc as a result of the poor service he received from Mr Rehman. Mr Rehman, however, has not disputed the final decision; there do not appear to be any grounds upon which he could do so; and, if there were a good reason to oppose the enforcement, that is a matter which he can take up with the county court in the debt recovery proceedings.

Decisions 2 and 6: Mr Rehman seeks to challenge the recommendation of the LeO to take jurisdiction in respect of a complaint made by a Mr Davis. However, such a recommendation is not binding: it is open to Mr Rehman to object to the recommendation, and request the LeO to make a determination, which would be final and binding, and would then be susceptible to judicial review.

Decisions 3, 4 and 5: Mr Rehman seeks to challenge the decision of the LeO to refer him to the BSB for investigation by them, given the evidence of systemic failings in his practice. The LeO was empowered and entitled to make such a reference. In the meantime, Mr Rehman seeks to challenge the decision not to suspend enforcement action; but, again, he does not seek to challenge the underlying determination on the specific complaint, that he pay back the complainant (a Mr David) £3,000 fees and £500 compensation. This challenge is bad for the same reasons as the challenge to Decision 1.

Decision 7: This is another challenge to an enforcement decision. It is bad for the same reason: but, in addition, the statutory demand of which particular complaint was made has now been withdrawn.

Decisions 40 and 41: Mr Rehman challenges the decision to accept complaints that are excluded under the statutory provisions. No such decision has been made.

Decision 50: This is another enforcement case. The challenge is bad for the same reasons.

97. As can be seen, the majority of the challenged decisions are in respect of enforcement of determinations made by the LeO, which have not themselves been challenged. Such challenges as are made are unarguable. It is difficult not to conclude that these challenges have been made with a view simply to avoiding payment to individuals who have been successful in making a complaint, and who have been awarded the return of their fees and modest compensation for inconvenience in a LeO determination. Those determinations are final, and binding on Mr Rehman. They are properly enforceable by the LeO, who has not arguably acted unlawfully in seeking to enforce them.

98. In respect of other parties, I need say little. First, a complaint is made that the Law Society has published details of the LeO's determinations against Mr Rehman, but it has not made any such publication, which has been made by the LeO himself. Second, a mandatory order is sought to require the SRA to investigate and prosecute a number of individuals, including the General Counsel of the LeO. However, decisions to investigate and pursue disciplinary proceedings are quintessentially a matter for the relevant authorities – and there is no evidence that they have made decisions irrationally or unlawfully in any other way.

99. For those reasons, this claim is not arguable, as against any Defendant; indeed, I do not consider any element of it to have any merit. I declare the claim to be totally without merit.

Conclusion and Order

100. As I have indicated, Mr Rehman (and Miss Sheikh on his behalf) have lodged a prodigious amount of material in support of these appeals and application to proceed with judicial review. I have dealt with the main planks of each matter, in terms of issues raised by Mr Rehman. For the reasons I have given, I do not consider any issue raised to be arguable, and the vast majority to be totally without merit. I should make clear that I have considered all of the material Mr Rehman lodged prior to the respective hearings. Having done so, I can say with confidence that he raises no other issue of any greater merit than those I have specifically dealt with in this judgment.

101. For the sake of completion, I would add two things.

102. First, this week (i.e. well after the 10 May hearing), I have received, direct to my clerk, emails from several people seeking to intervene in the judicial review Claim Nos CO/983/2016 and CO/1398/2016. None has made a formal application to intervene; indeed, there is no evidence that any has notified any of the parties that they wish to intervene. Some have expressed a wish to remain anonymous. Not all have given any reasons as to why they wish to intervene. Those who have given reasons appear to have been involved in litigation which has not had the outcome they would have wished, and about which they are aggrieved. Given my views on the merits of the substantive judicial review claims made by Mr Rehman, it is unnecessary for me to say anything further about these emails, which, in the circumstances, require no further action by the court. A copy of this judgment will be sent to each of those who have sought to intervene in this way.

103. Second, in responding to these appeals and claims, the BSB has raised a significant number of procedural points, mainly relating to procedural failures by Mr Rehman in the appeals and judicial reviews. It has been unnecessary to engage with many of those, because I have taken a firm view on the merits of these claims. However, that should not be taken as an indication that none of the procedural points had merit. It seems to me that Mr Rehman has, in a number of ways, failed properly to engage in the appeals and claims he has launched.

104. I shall order as follows:

i) Claim No CO/1860/2015: The appeal be dismissed.

ii) Claim No CO/2454/2015: The appeal be dismissed, as totally without merit.

iii) Claim No CO/983/2016: Permission to proceed be refused, the claim being totally without merit.

iv) Claim No CO/1398/2016: Permission to proceed be refused, the claim being totally without merit.

105. So far as costs are concerned, I have received written submissions following circulation of the draft judgment. The BSB does not seek any order for costs in respect of the statutory appeals. In respect of those, there will simply be no order as to costs. The BSB was very late in lodging grounds of opposition in the judicial reviews; and, as a result, I did not consider them and the BSB should not recover any relevant costs. The Legal Ombudsman, Freda Sharkey, the Law Society and the Solicitors' Regulatory Authority seek their costs of filing an Acknowledgment of

Service and preparing summary grounds of opposition. Their respective interests are different; and they are entitled to recover those costs. Their statements of costs are proportionate and reasonable in amount, both in respect of the aggregate amounts and individual items claimed. I shall order Mr Rehman to pay the costs of the claim of each of them, which I shall summarily assess in the sums sought.

106. In his written submissions, Mr Rehman has applied for permission to appeal to the Court of Appeal (Civil Division) and also, by way of leap-frog, to the Supreme Court. The application is refused.

i) There is no appeal against the judgment of this court on the statutory appeals (see [22] above).

ii) Any application for permission to appeal against the refusal of permission to proceed with the judicial reviews must be made to the Court of Appeal (see CPR rule 52.15(1)).

iii) In any event, Mr Rehman does not put forward any grounds of challenge, save that no action taken by the BSB and no decision of the Disciplinary Tribunal is valid as a result of several asserted conspiracies involving both sides of the profession, the judiciary and many others. For the reasons set out in this judgment, there is no evidential foundation for such assertions; and there is no real possibility that an appeal court would conclude otherwise.

APPENDIX A

The following are named by Mr Rehman as parties in Claim No CO/983/2016.

Defendants

(1) The Legal Ombudsman
(2) The Bar Council
(3) The Bar Standards Board
(4) The Disciplinary Tribunal of the Inns of Court
(5) The Law Society of England and Wales
(6) The Solicitors' Regulation Authority
(7) Robert Burns
(8) Michael Carter
(9) Paul Pretty
(10) Freda Sharkey
(11) Ian MacDonald
(12) Nigel Wray
(13) Melanie Winter Flood
(14) Christina Gordon Henderson
(15) Louise Santemara
(16) The Minister of Justice

Interested Parties

(1) The Minister of Justice
(2) The Legal Services Board
(3) The Council of the Inns of Court
(4) Equality and Human Rights Commission

APPENDIX B

The following are named by Mr Rehman as parties in Claim No CO/1398/2016.

(1) The Disciplinary Tribunal of the Inns of Court
(2) The Bar Council
(3) The Bar Standards Board
(4) The Council of the Inns of Court
(5) The Law Society of England and Wales
(6) Solicitors' Regulation Authority
(7) The Legal Ombudsman's Service
(8) Phillip Curl
(9) Rosemary Gillespie
(10) Howard Freeman
(11) Mark West
(12) Godwin Busuttil
(13) Andy Russell
(14) Margaret Hilson

(15) Robert Burns (a barrister)
(16) Paul Pretty (a barrister)
(17) Freda Sharkey (a solicitor)
(18) Kate Mallison
(19) Richard Gold
(20) Frances Patterson
(21) Julian Flaux
(22) Marc Beaumont
(23) Anthony Speight
(24) The Bar Mutual Indemnity Fund
(25) Timothy Dutton
(26) Patricia Robertson
(27) Ruth Deech
(28) Nicholas Phillips
(29) Ian MacDonald
(30) Andrew Mitchell
(31) Carla Revere
(32) Jeff Chapman
(33) Christopher Pitchford

Interested Parties

(1) The Minister of Justice
(2) The Legal Services Board
(3) The Council of the Inns of Court
(4) Equality and Human Rights Commission
(5) Yash Mehey
(6) Shavron Bethel
(7) Andrew Veen

APPENDIX C

Extract from Anal Sheikh v Marc Beaumont; Anal Sheikh & Rabia Sheikh v Hugo Page & Nigel Meares [2015] EWHC 1923 (QB) at [7]-[37] (Patterson J)

7. Miss Sheikh was a conveyancing solicitor. For many years she was the principal of a high street practice in Wembley.

8. Disciplinary proceedings were brought against her by the Law Society. On 1 May 2009 the Solicitors Disciplinary Tribunal found charges against Miss Sheikh to be proved. The main charges were that she had made improper transfers out of her client account and that she delivered a bill without any honest belief that it represented a proper fee. The tribunal found that, in those respects, she had acted dishonestly. She was struck off the Solicitors List on 5 May 2009.

9. Prior to then one of Miss Sheikh's clients, a Mr Dogan, set up a company known as Red River (UK) Limited to buy a former petrol station which had development potential. Miss Sheikh and her mother loaned money to Mr Dogan and his company to assist in the completion of property development in the Stoke Newington Road,

London N16. Mrs Sheikh provided money to her daughter with which to make the loan. By way of security, restrictions in favour of both mother and daughter were placed on the title of the land at HM Land Registry.

10. Disputes arose between the Sheikhs and Mr Dogan and litigation ensued. The disputes were resolved and a settlement agreement was entered into. However, that broke down and, in 2007, proceedings were commenced in the Chancery Division by Red River (UK) Limited and Mr Dogan against Miss Sheikh and Mrs Sheikh. There were numerous contested interlocutory applications in the litigation; on twelve occasions Henderson J ruled that applications brought by the Sheikhs were totally without merit. The case ultimately came to trial before Henderson J who in April 2010 gave judgment at [2010] EWHC 961 (Ch). Almost all points on liability were decided against the Sheikhs.

11. The settlement agreement had provided for a payment to the Sheikhs of some £1.2 million. It was envisaged that that payment would be financed by a fresh loan raised on the security of the property. That could not be done without the release of the existing restrictions in favour of the Sheikhs. Many of the interlocutory hearings in the Chancery Division were concerned with working out how that mortgage could be accomplished.

12. On 2 October 2007 a hearing took place before Briggs J (as he then was). Miss Sheikh contends that the order that was made on that occasion was part of a conspiracy to defraud her. At the ultimate trial Henderson J found that there was no credible evidence to support any allegation of fraud. He found also that Miss Sheikh had intentionally and with her eyes open undermined the refinancing in such a way as to make it impossible to perform. The unfortunate outcome was that the Sheikhs received nothing from the settlement at all.

13. Miss Sheikh then began proceedings against Marc Beaumont, a barrister who had acted for her at one stage in the Red River saga, and alleged professional negligence on his part. She obtained judgment in default of defence but that was set aside. She then applied for summary judgment and for an interim payment. Mr Beaumont applied for the claim to be dismissed in its entirety on the grounds that it had no prospect of success. Those claims were heard by Simon J who gave judgment at [2009] EWHC 1619 (QB) in which he found against Miss Sheikh. He considered the twelve bases of claim advanced against Mr Beaumont and decided that none had any real prospect of success. He ruled that four applications brought by Miss Sheikh were totally without merit.

14. Miss Sheikh then issued proceedings in Willesden County Court against five more lawyers who had acted against her in the Beaumont case. Those claims were stayed on grounds that the case was an abuse of process, or alternatively, that it disclosed no reasonable grounds to bring the claim.

15. On 6 July 2009 two actions were commenced in the Chancery Division by Miss Sheikh and her mother as claimants against a total of 16 defendants. The defendants included three individual solicitors, two barristers who acted for the Dogans and Red River and Marc Beaumont and Mr Beaumont's wife. On 17 and 18 February 2010 Norris J struck out both actions against all professionals as disclosing no reasonable cause of action.

16. On 18 June 2009 Withers, solicitors acting on behalf of Marc Beaumont, had issued an application for a civil restraint order against Miss Sheikh. Having been adjourned for want of time on 25 June 2009 it came on as an effective hearing on 16 July. On that occasion Burnett J (as he then was) in a judgment at [2009] EWHC 2332 (QB) made a general restraint order to last for two years. In the course of his judgment Burnett J said:

> "20. The way in which Miss Sheikh has behaved in respect of her litigation with Mr. Beaumont demonstrates in my view that she has been vexatious. It is clear that Miss Sheikh is using her legal knowledge acquired over years as a solicitor to harass not only Mr. Beaumont but also his wife and now his legal advisers. Whilst I understand the depth of her feelings about the way in which she says she has been treated her actions demonstrate an all too common feature of vexatious litigation. There is an underlying dispute that mushrooms out of control; disappointments in the courts are visited with further applications, appeals and fresh actions. The involvement of lawyers on the other side as defendants in due course is also a very common feature, so too is increasingly intemperate language to describe the conduct and actions of judges who have disappointed the litigant in the course of his/her travels through these courts. But it is clear from the conclusions reached by Henderson J last year in the *Red River* litigation, that this behaviour is not an altogether isolated incident. Miss Sheikh has taken a lot of time today to impress upon me that her underlying complaint about the Red River property transaction amounts to fraud, in respect of which she alleges many people were involved. She considers that in due course she will be vindicated in those proceedings. Nonetheless, it troubles me that she should have started fresh proceedings in the Chancery Division on 7th July. At the heart of it is a complaint against one of the claimants in the Red River litigation, and the hallmarks of vexation are, I am afraid, present in the very long list of defendants that one sees there."

He concluded that a general civil restraint order was proportionate. An extended restraint order would not be sufficient or appropriate in the case having regard to the history of unmeritorious applications made in other proceedings and the additional claims and applications that Miss Sheikh had flagged up in front of him on that day.

17. Miss Sheikh sought permission to appeal. Richards LJ, in orders dated 21 December 2009, found that her proposed appeals against the judgments of Burnett J and Simon J were totally without merit.

2010 to 2013

18. On 16 March 2010 proceedings were issued in the Queen's Bench Division in the name of Mrs Sheikh against Hugo Page QC and Nigel Meares claiming damages in the amount of £1.5 million. Both Mr Page and Mr Meares had acted for Miss Sheikh at different stages of the Red River litigation. Allegations were made in the

particulars of claim that both had been negligent, acted in breach of their duties to Mrs Sheikh, acted in breach of contract and had conspired to defraud. In addition, the particulars of claim asked the court to make a number of declarations, amongst which was a claim that Simon J erred in his decision in the Marc Beaumont proceedings (to which Mrs Sheikh was not a party), that Marc Beaumont was negligent, that Norris J erred when he struck out the Sheikhs' claim against Mr Tom Smith, that Burnett J erred when he granted the civil restraint order and that Richards LJ erred in the Court of Appeal in his finding that Miss Sheikh's appeals in the proceedings against Marc Beaumont were totally without merit.

19. A hearing was held on 30 June 2010 before Deputy Master Hoffman which Miss Sheikh attended with her mother. The Deputy Master refused to allow Miss Sheikh to represent her mother and recorded his findings in relation to Mrs Sheikh's capacity and Miss Sheikh's involvement. In the transcript he said:

> "Mother does not understand what is going on is being used by the daughter who has got a general restraint order against her, for her own ends and it is not something that the court is going to contemplate, so I am staying it."

He stayed the proceedings and ordered that no further application could be made without permission of a Queen's Bench Master.

20. In February 2011 Miss Sheikh applied to a High Court Judge for permission to issue a claim form against two other lawyers who had acted for her, namely, Gregory Treverton-Jones QC and Nigel West of RadcliffesLeBrasseur. Her proposed particulars of claim also alleged that the Law Society had committed banking fraud, used its powers illegally and relied on false and perjured evidence. She alleged that the Court of Appeal was part of a conspiracy against her. CRO1 required her to give notice to proposed defendants but she sought to issue the proceedings without giving such notice.

21. On 12 July 2011 Tugendhat J made an order extending for a further two years the general civil restraint order which had been made by Burnett J. In late 2012 Miss Sheikh began sending communications to senior members of government and the judiciary. She made a further complaint against Anesta Weekes QC who had acted for her at one stage in the Solicitors Disciplinary Tribunal proceedings.

22. Miss Sheikh then sought a default judgment on behalf of her mother in the action against Mr Page and Mr Meares. The application came on before Deputy Master Bard. He refused the application. Miss Sheikh contends that is evidence of the Deputy Master being part of a conspiracy against her.

23. Mr Page and Mr Meares were concerned that Miss Sheikh would commence fresh proceedings of some kind against them, if she was able to do so, but also that if the civil restraint order was not extended to include her mother she would use her mother's name to bring proceedings. As a result they sought a civil restraint order in respect of Mrs Sheikh at the same time as seeking an extension of Burnett J's order.

24. The most convenient vehicle in which to bring those applications was in the actions stayed by Deputy Master Hoffman. Permission was sought and granted by Master

Eastman on 25 June 2013 to make an application to join Miss Sheikh in those proceedings.

2013 up to 2015

25. The substantive applications for civil restraint orders came before Spencer J on 12 July 2013. He extended the general civil restraint order in respect of Miss Sheikh for a further two years and made a similar civil restraint order in respect of Mrs Sheikh.

26. There was then a period of quietude but, on 2 January 2014, Miss Sheikh sent an email entitled 'Urgent Application to the Right Honourable Lord Justice Neuberger for Interim Relief in the UK Claim or in the Case of Anal Sheikh v The Law Society [2005] EWHC 1409'. She contended that the intervention by the Solicitors Regulation Authority was a hate crime.

27. The following month, on 26 February 2014, Miss Sheikh emailed Patricia Robertson QC saying that she was applying to the Supreme Court to join her as a respondent in her application.

28. In an email dated 4 March 2015 she sent an email to significant numbers of barristers involved in the Global Law Summit 2015 entitled "The Law Society's bank scam, fraud on the compensation fund, theft of solicitors' billed costs, theft of residual balances, theft of bona vacantia, theft of client deposits, theft of client data and its unlawful interventions into solicitors firms."

29. On 23 April 2015 Miss Sheikh emailed Ouseley J and Baroness Deech and copied in members of the board of the Council of the Inns of Court (COIC) giving notice of her intention to intervene in the case of Marc Beaumont v Bar Standards Board. She said that her description and history was set out in a document entitled UK37. She said:

> "Mr Beaumont has also let me down very badly in what I call the SRA's bank scam, compensation fund fraud etc in which he acted. He has also behaved unconscionably in the Red River conveyancing and mortgage (also as defined) in which he purported to act. Finally, Mr Beaumont and Bar Mutual have embarked upon what I refer to as the Bar Mutual fraud."

30. On 30 April 2015 Miss Sheikh sought to intervene in a judicial review brought by Marc Beaumont against the Bar Standards Board which was listed for hearing before Ouseley J. During the course of those proceedings she was asked if she was wanting to be joined as an interested party. She replied:

> "My Lord, firstly I seek to respond to Mr Hendy's comments. Put in a nutshell there is no civil restraint order but that obviously can't be in dispute."

She was asked then what she was seeking. She replied:

> "What I seek my Lord, in broad terms is this I seek a remedy from the state for loss I have suffered because of … I will put it in these terms … an act of corruption by a public official. In

> narrative, I seek to be joined in these proceedings to ventilate issues concerning the role of barrister in these times of [several inaudible words] but that does need some explanation my Lord so I wonder if I can take a few minutes of your time."

31. On 6 May 2015 Miss Sheikh sought to intervene in the case of Rehman v Bar Standards Board before Lang J. Lang J recused herself but allowed Miss Sheikh ten minutes to address the court. During the course of that address she alleged that Hugo Page QC was a thief and that the civil restraint orders against her were fraudulent.

32. On 20 May 2015 Miss Sheikh contacted the Bar Tribunals and Adjudication Service seeking to intervene in the interim suspension of Tariq Rehman. Her email was copied to Howard Kennedy, solicitors acting for Mr Beaumont. In turn they wrote to the Bar Tribunals and Adjudication Service saying that although they appreciated that the general civil restraint order concerned litigation only their client was concerned that Miss Sheikh should not be allowed to intervene in or influence disciplinary proceedings.

33. On 1 June Miss Sheikh responded with a further email to which were attached applications to:

    i) Commit Mr Leigh (partner at Howard Kennedy) and Mr Beaumont to prison for contempt of court;

    ii) An application made under section 50 of the Solicitors Act 1974 to strike off Mr Leigh from the roll of solicitors.

34. On 20 May 2015 an application notice was issued in CO/4920/2014 between Tariq Rehman and the Bar Standards Board which referred to Miss Sheikh as the third appellant and the tenth intervener.

35. On 3 June 2015 Miss Sheikh emailed the president and members of the COIC about their consideration of the case of Marc Beaumont, the SRA's bank scam, the compensation fund fraud etc, the Red River conveyancing and mortgage fraud, the Bar Mutual fraud, the theft of Margaret Gomm's house and 3.5 acres of land and other frauds.

36. On 4 June 2015 Miss Sheikh emailed Mr Coffin, the partner at Withers, with conduct of the current application before the court. In that she said:

> "If you proceed with this fraudulent application I will apply under section 50 of the Solicitors Act 1974 to have you removed from the roll. Please let me know the name of any barrister whom you propose to instruct in advance of any hearing as I am applying for interim suspensions for everyone connected with the Red River fraud."

37. On 5 June 2015 the Bar Mutual Indemnity Fund received an email from Tariq Rehman entitled 'Rabia Sheikh v Hugo Page and Nigel Meares' referring to his client's issued breach of duty claim.