



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: 2022/0698/D5

Drew St'Clair

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Inner Temple

Disciplinary Tribunal

Drew St'Clair

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 19 October 2023, I sat as Chairman of a Disciplinary Tribunal on 7 November 2023 to hear and determine seven charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Drew St Clair, barrister of the Honourable Society of Middle Temple.
2. The Panel reached a decision as to sanction on 7 November 2023 and this was communicated orally to the parties that same day. Reasons were provided, with written reasons to follow.

Panel Members

3. The other members of the Tribunal were:

Lakshmi Ramakrishan (Lay Member)

Yusuf Solley (Barrister Member)

Naomi Ryan (Barrister Member)

The Bar Tribunals & Adjudication Service

9 Gray's Inn Square,
London
WC1R 5JD
T: 020 3432 7350
E: info@tbtas.org.uk

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Registered Office:
9 Gray's Inn Square, London WC1R 5JD

4. Though initially composed as a panel of five, the Tribunal was reconstituted as a panel of four as set out above.

Charges

5. The following charges were admitted on 30 October 2023:

Charge 1

Professional misconduct, contrary to Core Duty [CD] 5 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

Drew St'Clair, a barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession, in that, on or about 10 November 2021, Mr St'Clair abused his position by using relevant personal contact information he had been given whilst prosecuting a case on behalf of the CPS on 10 November 2021 at the Willesden Magistrates Court in order to pursue his romantic interest in Person A, the defendant in those proceedings, whom he had met at court in his professional role as a prosecutor and whom he knew to be or was likely to be vulnerable as a victim of domestic abuse.

Charge 2

Professional misconduct, contrary to rule C8 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

Drew St'Clair, a barrister, behaved in a way which could reasonably be seen by the public to undermine his integrity, in that, on or about 10 November 2021, Mr St'Clair abused his position by using relevant personal contact information he had been given whilst

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prosecuting a case on behalf of the CPS on 10 November 2021 at the Willesden Magistrates Court in order to pursue his romantic interest in Person A, the defendant in those proceedings, whom he had met at court in his professional role as a prosecutor and whom he knew to be or was likely to be vulnerable as a victim of domestic abuse.

Charge 3

Professional misconduct, contrary to Core Duty [CD] 5 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

Drew St'Clair, a barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession (CD5), in that, on or about 10 November 2021, Mr St'Clair abused his position by using the personal contact information he had been given whilst prosecuting a case on behalf of the CPS, on 10 November 2021 at the Willesden Magistrates Court, in order to pursue his romantic interest in Person A whom he had met at court in his professional role as a prosecutor, and whom he knew to be or was likely to be vulnerable as a victim of domestic abuse. The efforts he made to contact Person A on 10 and 11 November 2021 involved unwanted conduct, amounting to harassment, that related to a protected characteristic (sex), with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Person A.

Charge 4

Professional misconduct, contrary to rule C8 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

Drew St'Clair, a barrister, behaved in a way which could reasonably be seen by the public to undermine his integrity, in that, on or about 10 November 2021, Mr St'Clair abused his position by using the personal contact information he had been given whilst prosecuting a case on behalf of the CPS, on 10 November 2021 at the Willesden Magistrates Court, in

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order to pursue his romantic interest in Person A whom he had met at court in his professional role as a prosecutor, and whom he knew to be or was likely to be vulnerable as a victim of domestic abuse. The efforts he made to contact Person A on 10 and 11 November 2021 involved unwanted conduct, amounting to harassment, that related to a protected characteristic (sex), with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Person A.

Charge 5

Professional misconduct, contrary to rule C12 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

Drew St'Clair, a barrister, unlawfully discriminated and harassed a person on grounds of a protected characteristic, namely sex, in that, on or about 10 November 2021, Mr St'Clair abused his position by using the personal contact information he had been given whilst prosecuting a case on behalf of the CPS, on 10 November 2021 at the Willesden Magistrates Court, in order to pursue his romantic interest in Person A whom he had met at court in his professional role as a prosecutor, and whom he knew to be or was likely to be vulnerable as a victim of domestic abuse. The efforts he made to contact Person A on 10 and 11 November 2021 involved unwanted conduct, amounting to harassment, that related to a protected characteristic (sex), with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Person A.

6. The following charges were admitted by the Respondent at the hearing:

Charge 6

Professional misconduct, contrary to Core Duty [CD] 2 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

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Drew St'Clair, a barrister, failed to act in the best interests of his client, in that, on 10 November 2021, Mr St'Clair applied for an adjournment of a hearing involving Person A at the Willesden Magistrates Court and, when the application to adjourn was refused by the magistrates, offered no evidence, when he did not have instructions to apply for an adjournment or to offer no evidence and he failed to take any or any sufficient steps to obtain instructions from his client, the Crown Prosecution Service (CPS), prior to taking those steps.

Charge 7

Professional misconduct, contrary to Core Duty [CD] 5 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook - Version 4.5).

Particulars of Offence

Drew St'Clair, a barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession, in that, on 10 November 2021, Mr St'Clair applied for an adjournment of a hearing involving Person A at the Willesden Magistrates Court and, when the application to adjourn was refused by the magistrates, offered no evidence, when he did not have instructions to apply for an adjournment or to offer no evidence and he failed to take any or any sufficient steps to obtain instructions from his client, the Crown Prosecution Service (CPS), prior to taking those steps.

Parties Present and Representation

7. The Respondent was present and was represented by Miss Anne Crossfield. The Bar Standards Board ("the BSB") was represented by Mr David Welch.

Preliminary Matters.

8. This Tribunal was initially composed of five persons in accordance with rE139. However, after the Convening Order was issued, one of the lay members became unable to act. At all times, the Tribunal remained constituted as set out in rE149 in that I, as Chair, in addition to one lay member and one barrister member of at least seven years call, were

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still able to act and were present throughout the hearing. The parties had been advised in advance of the hearing that there were no longer five members. Neither party raised any objections either in advance of the hearing or at the hearing.

9. At the opening of the hearing, each of the seven Charges, but not the particulars of the offences, were read out and put to the Respondent individually. I took the view that since the Respondent had been in possession of the Charges for several months, had provided a detailed response and had accepted five of the seven Charges, reading out the entirety of the particulars was unnecessary. Mr Welch for the BSB queried whether the particulars of the Charges needed to be read out in full in case of an appeal. Miss Crossfield was invited to respond and she confirmed that she did not take issue with the manner in which the Charges had been put. The Tribunal was unanimously of the view that it was appropriate to deal with it in this way and that there was no prejudice to the Respondent.

Evidence

10. The Panel was presented with a bundle of evidence each from the Respondent and the BSB. The bundles included documents and correspondence from the Crown Prosecution Service ("the CPS") and correspondence from the Respondent. In particular, the Tribunal had a copy of the CPS Agents' Pack which is a reference tool for agents instructed by the CPS to prosecute in the Magistrates' Court. During the course of the hearing, the Tribunal were presented with further evidence from the BSB (relating to past conduct) and from the Respondent (two character references).
11. The Panel heard live evidence from Respondent. The Respondent was questioned by Miss Crossfield, and then briefly cross-examined by Mr Welch. The Respondent also answered questions from the Tribunal.

Findings

12. The Tribunal today has been concerned with Mr Drew St' Clair, barrister of Middle Temple, called in 2001.

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13. The Tribunal is concerned with a total of seven charges, all of them arising from the same matter, which was the conduct of the Respondent at an appearance at the Willesden Magistrates Court on 10 Nov 2021.
14. The case on which the Respondent was instructed was a straightforward road traffic offence. Person A was a female defendant who had been charged with failing to provide information as the driver of a vehicle registered in her name at the time of the commission of a speeding offence. The first five Charges all concerned the use by the Respondent of personal information, namely a mobile telephone number that he had obtained from Person A, a litigant in person, at that hearing. The Respondent admitted those first five offences in July 2023 in a written response to the Charges. He accepted that each of them constituted a breach of the Code of Conduct by reason of using personal information obtained by him from Person A, a vulnerable person, for the purpose of pursuing a romantic interest.
15. Charges 6 and 7 concerned the Respondent's decision to offer no evidence in the case against Person A. In correspondence with the CPS after they had raised a complaint against him, the Respondent appeared to admit responsibility for his decision to offer no evidence and for his failure to comply with the CPS Code of Conduct. However, until today, his case was that his decision to offer no evidence without seeking instructions from the CPS did not constitute a breach of the Bar Code of Conduct. Today, the Respondent has admitted Charges 6 and 7.
16. In his written response to the charges, the Respondent provided a detailed account of what happened at the Magistrates' Court on 10 November 2021. The evidence given by the Respondent today has clarified a number of points about events on that day. In fairness to the Respondent, the Tribunal accepts that given a gap in time of some two years almost to the day, it is understandable that his memory was not entirely reliable.
17. He told us that he had been instructed on 10 November 2021 to deal with four road traffic cases. All the cases were listed in the afternoon, and all defendants were acting in person.

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Three of the defendants were male. The only female defendant was the woman to whom we have referred as Person A. He did not have any papers in Person A's case and he was informed by Person A that she did not have any papers either. He said that he asked the Police Liaison Officer ("the PLO") if he had any papers or any information about the case, but the PLO had no papers and was unable to assist. He did not mention in the hearing record sheet any conversation with the PLO. He said that pressure of time made it very difficult to complete the hearing record sheet. He said he managed to get Person A's case called on quite soon, after having explained to the court clerk that it could be dealt with quickly as an application to adjourn. The case was called on, the application to adjourn was made, but was refused, at which point the Respondent offered no evidence.

18. The Respondent accepts that, under the CPS Code of Conduct, before offering no evidence he should have at least attempted to contact the reviewing lawyer or the local District Crown Prosecutor because he needed instructions to offer no evidence. Of course, if he had obtained instructions, those instructions might have been to discontinue or to withdraw the case. Offering no evidence ended the case.

19. Very shortly after the hearing, Person A wrote a letter of complaint about her experience at the Magistrates' Court. She described the events of the day as follows. She had arrived at around 13.45. She was anxious to get on as she had childcare commitments later that afternoon. She was concerned to learn that the court was running late and that some people had been waiting several hours for their cases to be heard. She was approached by the Respondent who introduced himself as the prosecutor for the CPS and who took some details from her. She explained to him that she knew nothing about the prosecution and had received no papers. She trusted the Respondent because he was the Prosecutor and he seemed to know what he was doing. At his request, she gave him her mobile telephone number and email address. She told him that she was not guilty of the alleged offence and she explained that she had been in an abusive relationship with her ex-partner whom she could not trust. Her ex-partner would take her cars and would vandalise them. The Respondent managed to get the case on.

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20. Following the short hearing, Person A left the Court building. She received a phone call later in the afternoon. She did not recognise the number. She answered the call, and it was the Respondent who invited her out to dinner. She was taken aback, fearful and distressed. She stalled for time on the phone, saying that she had her children in the car and it was difficult to talk. Later that day the Respondent sent her a Whats App message and she blocked his number. The next day he tried to contact her again by telephone.
21. The Respondent told us that he obtained Person A's details in order to pass them onto the Court. He said he did not enter the details on the hearing record sheet because there was no need to do so because the case had ended. This was not a convincing explanation given that he entered the details on his mobile phone. He said the reason for his phone call to Person A after the hearing was to ensure that that she had understood what happened at Court and to check that she was able to collect her children. We do not accept that explanation. We find that his reason for contacting person A was to pursue a romantic relationship.
22. Person A said she was anxious, nervous and fearful, having been approached by the Respondent in this way. She wanted nothing to do with him. She felt very uncomfortable and distressed. We do not know how long she felt like this; it was possibly a short period of time. The most serious of the first 5 charges are Charges 3,4, and 5 which are concerned with unwanted conduct amounting to harassment that related to a protected characteristic (sex).
23. We accept the Respondent's evidence that he did not intend to produce this result, but nevertheless that is the effect that was produced.

Sanction and Reasons on Charges 1 to 5.

24. Much time today was spent hearing the rival submissions as to the appropriate Category of Misconduct for Charges 1-5. We were invited to consider a number of components of the Sanctions Guidance, Version 6, dated 1 January 2022 (hereafter "the Guidance"). In addition, Mr Welch referred to the purpose and principles of sanctioning.

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25. The BSB contends that the misconduct falls into “Category B: Misconduct of a Sexual Nature” of the Guidance. This was unwanted behaviour of sexual nature that violated dignity.
26. For the Respondent, Miss Crossfield does not accept that this is a Category B case. She says it fits more neatly into “Category I: Behaviour Towards Others”. She says correctly that the Guidance does not contain exhaustive lists of types of behaviour under each Category. She stresses that there was no sexual language, no threats, no assault, no bullying. She adds that the behaviour, which was limited to 3 attempts at contact over the course of 24 hours, cannot be described as persistent. In short, Miss Crossfield submits that the behaviour could not reasonably be described as sexual.
27. We reject Miss Crossfield’s submission as to categorisation. Although we accept that the behaviour was not persistent, and that there was no sexual language, and no bullying, we are satisfied that this was unwanted behaviour of a sexual nature. The fact that sexual language was not used is irrelevant. This was a woman he was pursuing because of his own romantic intention. The fact that the behaviour was not persistent does not, of itself, mean that the behaviour was no sexual. Moreover, Charges 3, 4, and 5, which the Respondent has admitted, set out that the unwanted conduct amounting to harassment related to a protected characteristic (sex).
28. We then turn to consider seriousness under Category B. All of these Charges 1-5 satisfy the following criteria under culpability:
- a. The events took place in a professional context.
 - b. The Respondent used his position of power and authority as Prosecutor to pursue a romantic relationship with Person A, who was in a vulnerable situation.
 - c. Person A was very vulnerable. Not only was she a defendant in a criminal case, but she was a victim of domestic abuse. The matters complained of caused her fear, anxiety, confusion and injury to feelings. We are not satisfied that humiliation is

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made out. We find that there would have had some impact on her psychological wellbeing, although in the absence of further evidence either from Person A herself or in the form of medical evidence, we attach limited weight to this point.

29. We are unanimous in concluding that it falls in the middle range of seriousness in that there is moderate culpability and moderate harm. As far as aggravating factors are concerned, none of those specified under Category B apply. As to mitigation, Category B itself does provide any specific mitigating factors.
30. We turn to Annex 2 of the Guidance which deals with general culpability and harm and the general aggravating and mitigating factors. We find that the misconduct was intentional. Both the BSB and the Respondent argued it was reckless. We disagree. The Respondent acted intentionally when he obtained Person A's phone number, when he entered the details on his own phone, when he phoned her, and when he sent her a What's App message.
31. The next relevant culpability factor is that the Respondent acted in breach of a position of power or authority. He was the prosecuting barrister and Person A was a litigant in person, unfamiliar with all that was happening and anxious to get out of Court. We are aware of the need to avoid double counting as this factor is already taken into consideration to a large extent above.
32. As to harm, we find that the likely impact on the public confidence is significant. A prosecutor obtaining and then using very personal information from a defendant in order to advance his own romantic interest in that individual is likely to diminish significantly public confidence in the profession.
33. Other aggravating features include:
 - a. Previous disciplinary findings. We bear in mind that these were of a completely different type and took place many years ago and accordingly we attach no

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importance to them. However, we register our surprise upon learning that there were previous disciplinary matters recorded against the Respondent given that, in his written submissions back on 15 July 2023 the Respondent said:

'Throughout my career, I have maintained a good record of professional conduct. The charges brought against me are uncharacteristic of my behaviour and should be seen as an isolated incident rather than a pattern of misconduct.'

This is not true. There had been professional findings against him. The earlier findings are not an aggravating feature, but we do note a distinct unwillingness to admit them.

- b. We find there was a lack of awareness of and insight into professional boundaries. The Respondent has been a practising barrister for many years, and even in the course of his evidence there emerged a suggestion that if Person A had said she was not interested he would not have pursued it. What should have been apparent to him is that it was totally inappropriate for a barrister to ask a defendant out for dinner.
- c. We find there was a failure to self-report. The incident happened in November 2021. One referee said that the Respondent told her in the latter part of 2021 (the date of 2020 in the reference is an error) that he had made a mistake professionally in relation to a "witness". He should have been telling the BSB. The CPS raised the issue in January 2022, and to his credit the Respondent was very apologetic. But what he did not do was report this to the BSB. That was left to the CPS to do.
- d. The final aggravating feature is the level of professional experience, the Respondent having been called in 2001.

34. In terms of mitigating factors in respect of Charges 1 to 5, the Respondent admitted to the CPS at an early opportunity, demonstrated genuine remorse, co-operated with the

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investigation and voluntarily took steps to remedy his breach (by undertaking an online course). We were somewhat concerned that the approach of his Chambers was to say that he was better suited to family work, which we found inexplicable given his behaviour towards a vulnerable woman. But there we are.

35. We took at face value the two character references – one unsigned but dated, and the other signed but undated. However, since the misconduct was of a sexual nature, we attach very little weight to the references, though this is not to denigrate the referees.
36. We have read and considered with care the detail of the Respondent’s personal circumstances back in November 2021. They raise very sensitive matters and, for that reason, we asked Miss Crossfield not to address us on them in mitigation. Given the nature of the misconduct, the weight we attach to these personal matters is very limited.
37. Turning to the sanction on Charges 1 to 5, it is our unanimous view that the aggravating and mitigating factors balance each other out.
38. The indicative sanction is over 24 months to disbarment. We remind ourselves of the need to consider totality and proportionality. We are unanimous in our decision to impose a sanction of suspension of 26 months on each of the Charges 1-5 to run concurrently.

Sanction and Reasons on Charges 6 and 7.

39. We then turn to Charges 6 and 7.
40. There is no dispute that they come into “Category K: Formal Obligations to Clients” of the Guidance. The BSB said this was incompetence. We do not accept that. Our view is that this amounts to wilfully ignoring the basic principles of the client-barrister relationship. The client was the CPS. The Respondent wilfully and deliberately ignored the requirements of the CPS as set out in the Agents’ Pack which provides that, if an application to adjourn is refused by the Magistrates, then an offer of no evidence may be

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made, but authority to offer no evidence needs to be obtained either from the reviewing lawyer or from the local District Crown Prosecutor whose telephone numbers are provided. If the agent instructed by the CPS agent is unable to contact the relevant person from the CPS, they may offer no evidence if there is no realistic prospect of a conviction, but, in such circumstances, the agent must provide details of all attempts to obtain instructions. The Respondent was candid in saying that he made no attempt to obtain instructions. He said it would have been futile to do so. To be fair, the CPS do say that it is preferable to offer no evidence rather than to continue with a hopeless case. But, had the Respondent tried to obtain instructions and had he succeeded in doing so, he might have been instructed to seek discontinuance or withdrawal of the claim. We were unimpressed by the Respondent's evidence which sought to put the blame on the CPS. He complained that they had not prepared the case properly. His criticism of the CPS may be justified, but it remained his duty to seek instructions.

41. Where does this fall within the category of seriousness? None of the specific culpability factors of Category K applies. We are mindful that it was an RTA matter which is not the most serious case.
42. The aggravating features are the level of professional experience, and the failure to self-report. The mitigation features previously mentioned above apply. Today, the Respondent has appeared remorseful, and he has co-operated with the investigation. We conclude that the impact on public confidence is relevant, as is it on Charges 1 to 5.
43. Both advocates say this is within the lower range, i.e. low culpability and limited or no harm. We agree. The indicative sanction is advice as to future conduct/remand to low level fine. We are cognisant of the principle of proportionality and of the need to consider totality. Given the Respondent's seniority and reluctance prior to today to take responsibility for his actions, we are unanimous in concluding that a low level fine is the appropriate sanction.

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44. Having heard submissions from Miss Crossfield as to the Respondent's means, we are unanimous in our decision to impose a £500 fine for each of Charges 6 and 7, making a total of £1,000.

45. An application for costs in the sum of £2670 was made. The application was unopposed.

Sanction

46. Having regard to the above, we find:

- a. On Charges 1 to 5, the Respondent is to be suspended for a period of 26 months.
- b. On Charges 6 and 7, the Respondent is to pay a fine of £1,000 in total (£500 per charge) by 4pm on 19 December 2023.
- c. Pursuant to rE226, we invited submissions from the BSB and the Respondent on whether we should act under rE227 to require the Respondent to suspend practice immediately and the BSB to suspend the Respondent's practising certificate with immediate effect. Having heard those submissions, we order pursuant to rE227 that the Respondent immediately cease to practise and that the BSB must suspend his practising certificate with immediate effect.
- d. Costs – the Respondent to pay the BSB's costs of £2,670 by 4pm on 19 December 2023.

47. The Treasurer of the Honourable Society of Inner Temple is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

Dated: 29 January 2024

HHJ Waddicor

Chairman of the Tribunal

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