



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case Reference: 2020/0232/D5

Mr John McLanachan

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Gray's Inn

Disciplinary Tribunal

Mr John McLanachan

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 11 December 2024, I, HH Janet Waddicor, sat as Chair of a Disciplinary Tribunal on 9 January 2025 to hear and determine 7 charges (reduced from 9 charges) of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr John McLanachan, barrister of the Honourable Society of Gray's Inn. The hearing took place online on Zoom.

Panel Members

2. The other members of the Tribunal were:

Clara Cheetham (Lay Member);

Stephanie McIntosh (Lay Member)

Scott McDonnell (Barrister Member);

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Aaminah Khan (Barrister Member);

Charges

3. The following charges were admitted.

Charge 1

Statement of Offence

Professional misconduct, contrary to Conduct Rules rC3.3 and/or Core Duty 1, Core Duty 5 and Core Duty 7 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan failed to take reasonable steps to avoid wasting the court's time, when he appeared on behalf of a direct access client before Judge Canavan in the Upper Tribunal (Immigration and Asylum Chamber) on 24 April 2019 in case JR6679/2018 and

(a) placed reliance on an unarguable Ground for Judicial Review (paras. 2.1 and 6 to 17 of the written Grounds) and/or

(b) attempted to rely on a submission that was not founded in the Grounds for Judicial Review or other pleadings in the proceedings in question (relating to Ahsan v SSHD [2017] EWCA Civ 2009), and without making an application to amend the Grounds.

Charge 2

Statement of Offence

Professional misconduct, contrary to Conduct Rule rC3.4 and/or Core Duty 1, Core Duty 5 and/or Code Duty 7 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan failed to take reasonable steps to ensure the court had before it all relevant decisions and legislative provisions when he appeared on behalf of a direct access client before Judge Canavan in the Upper Tribunal (Immigration and Asylum Chamber) on

24 April 2019 in case JR6679/2018 and handed up to the Tribunal a partial and selective extract of the authority on which he relied (*Ahsan v SSHD* [2017] EWCA Civ 2009).

Charge 3

Statement of Offence

Professional misconduct, contrary to rC3.1 and/or Core Duty 1, Core Duty 3 and/or Core Duty 5 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan recklessly misled or attempted to mislead the court when he appeared on behalf of a direct access client before Judge Canavan in the Upper Tribunal (Immigration and Asylum Chamber) on 24 April 2019 in case JR6679/2018 and stated that that he had only '*had the case for a week*' when in fact the client had been introduced to him in early October 2018.

Charge 4

Statement of Offence

Professional misconduct, contrary to rC3.1 and/or Core Duty 1, Core Duty 3 and/or Core Duty 5 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan recklessly misled or attempted to mislead the court when he appeared on behalf of a direct access client before Judge Canavan in the Upper Tribunal (Immigration and Asylum Chamber) on 24 April 2019 in case JR6679/2018 and stated that that he assumed that the original Grounds for Judicial Review were drafted by previously instructed solicitors when in fact he was aware that Salem Hosein, a person connected with his Chambers, had drafted the grounds, and he only qualified his first statement on close questioning by Judge Canavan.

Charge 6

Statement of Offence

Professional misconduct, contrary to rC3.1, Core Duty 1, Core Duty 3 and/or Core Duty 5 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan recklessly misled or attempted to mislead the court when he appeared on behalf of a direct access client before Judge Canavan J in the Upper Tribunal (Immigration and Asylum Chamber) on 24 April 2019 in case JR6679/2018 and stated that Salem Hosein was formerly a member of the Bar, when he knew or ought to have known that this statement was untrue.

Charge 7

Statement of Offence

Professional misconduct, contrary to Core Duty 1, Core Duty 5, and/or Core Duty 7 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan failed to observe his duty to the court in the administration of justice, behaved in a way which was likely to diminish the trust and confidence the public placed in him or the profession and/or did not provide a competent standard of work to each and every client when he appeared on behalf of a direct access client before Judge Canavan in the Upper Tribunal (Immigration and Asylum Chamber) on 29 August 2019 in case JR/2388/2019 and relied on grounds which were incoherent and failed to particularise any arguable public law errors in the decision of which judicial review was sought.

Charge 9

Statement of Offence

Professional misconduct, contrary to rC3.1 and/or Core Duty 1, Core Duty 3 and/or Core Duty 5 of the Bar Standards Board Handbook (8th Edition).

Particulars of Offence

John McLanachan recklessly misled or attempted to mislead the court, having appeared on behalf of a direct access client before Judge O’Callaghan in case JR/2949/2019 in the Upper Tribunal (Immigration and Asylum Chamber) on 24 September 2019 in case JR6679/2018 and having been asked by the Judge to provide a note concerning the history of his client’s representation (a point which was relevant to the issue of who caused the client to be responsible for the costs of the adjourned hearing), he wrote a letter dated 3 October 2019 to Judge O’Callaghan J which failed to provide all of the information available to him which was relevant, in that it failed to say that, or explain why, Cadogan Chambers had signed a detailed representations document for the client on 24 October 2018 (ref: CAD/SAL/0101/AYNA) and had remained on the record regarding the client so that the Home Office sent its decision concerning the client to Cadogan Chambers on 11 April 2019.

Parties Present and Representation

4. The Respondent was not present but was represented by Rory Dunlop KC. The Bar Standards Board (“BSB”) was represented by Mr Philip Stott.

Preliminary Matters: Proceeding in the Absence of the Respondent

5. The Tribunal noted that, by a handwritten letter dated 7 January 2025, the Respondent had admitted certain charges and had agreed for the hearing to proceed in his absence. Mr Stott and Mr Dunlop confirmed that the documents had been properly served on the Respondent. The Tribunal confirmed that it was satisfied that there had been compliance with rE234 and that under rE183 the hearing should proceed in the absence of the Respondent. The Tribunal was satisfied that all the charges had been proved.

Pleas

6. The clerk read out the charges. The Respondent had admitted the charges in his letter dated 7 January 2025.

Evidence

7. The BSB relied on evidence in the Charges Bundle and in the Additional Evidence Bundle.
8. The Respondent relied on evidence in the Respondent's Bundle, which included a witness statement from the Respondent dated 28 August 2024. The Respondent's bundle contained medical evidence including a detailed report dated 12 May 2024 by a jointly instructed medical expert.
9. There was no oral evidence. The hearing proceeded on the basis of submissions.

BSB's Opening

10. By reference to his skeleton argument dated 8 January 2025, Mr Stott opened the case for the BSB. Mr Stott went through the three incidents that led to the charges, and then made submissions on sanction.

Respondent's Submissions

11. By reference to his skeleton argument dated 7 January 2025, Mr Dunlop explained the basis on which the Respondent's admissions were made and emphasised that there were no allegations of dishonesty against the Respondent. Mr Dunlop made submissions on sanction and noted that the Respondent actively sought disbarment.

Costs Application

12. The BSB made an application for costs, which was not opposed by Mr Dunlop.

Sanction and Reasons

13. The Tribunal retired to consider its decision. On the resumption of the hearing, the Tribunal gave judgment as follows.
14. The Respondent has admitted 7 charges of professional misconduct between April and October 2019. The charge sheet contained 9 charges but charges 5 and 8, which were alternatives, were withdrawn. The charges were sent to the Respondent in December 2023. In a response dated July 2024 the Respondent did not dispute the

factual basis of the charges, but denied that his conduct amounted to professional misconduct. A Convening Order was issued on 13 December 2024 listing the case for a two-day contested hearing. Following an indication by the Respondent later that month that he was willing to admit the seven charges, the hearing time was reduced to one day.

15. The Respondent accepts that his career at the Bar is over and that disbarment is inevitable.
16. All of the charges arise out of the Respondent's conduct of 3 cases before the Upper Tribunal (Immigration and Asylum Chamber) in 2019.
17. The standard of proof is the civil standard. On the basis of the uncontested written evidence of the Applicant and the Respondent's statements, the Tribunal is satisfied that all of the charges are proved.
18. The background is as follows. The Respondent is now aged 70. He was called to the Bar in 1980. Between 1984 and 2002 he practised at the Hong Kong Bar. He returned to the UK in 2006 and resumed practice at the Bar in 2011. He worked as a sole practitioner from modest premises in East London. In 2012 he obtained public access accreditation and in 2014 he was authorised to conduct litigation. His practice was broad based and covered family, crime, commercial and immigration work. His chambers were known by different names over the years. He ceased practice in 2023 because of ill-health and he has not renewed his practising certificate since March of that year. The Respondent continues to suffer poor health and has required in-patient hospital treatment on several occasions in the last few years.
19. In 2016 the BSB became concerned about the organisation of the Respondent's chambers. He appeared to be associated with three sets of chambers: Boswell, Lincoln and Cadogan. At some point all three sets had operated from the same

address, but two sets had closed and only Cadogan remained when the BSB began an investigation and undertook a supervision visit. The chambers were found to be disorganised and chaotic. The role and responsibilities of SH, an individual linked to the chambers, was a cause for particular concern. SH appeared to be holding himself out as a barrister. Following the supervision the BSB prepared a report identifying action to be taken by the Respondent. In particular, the Respondent was required to clarify in writing the role of SH and another individual. A follow up visit took place in February 2017. During this visit the Respondent informed the BSB that SH was not a qualified barrister, was not employed by chambers, but that he assisted with administration and research. The BSB assessed the chambers as being in the High Risk Category.

20. In March 2019 the Respondent applied to become a pupil training organisation. This triggered a further supervision visit at which the Respondent described SH as an ex-barrister who had been suspended at some point but whom the Respondent believed was entitled to obtain a practising certificate again. The BSB checked the records and found that SH was not an unregistered barrister and had never been suspended from practice. Notwithstanding the continuing concerns of the BSB about the roles of people associated with the chambers and the Respondent's failure to provide information requested by the BSB, the chambers continued to operate until 2023.

21. The Respondent was struggling to cope. He was out of his depth when it came to immigration cases, but he accepted immigration work referrals from individuals he said he trusted including SH. The Respondent accepts that he made assumptions about SH's background without checking his qualifications or professional status. The Respondent says he trusted SH and did not wish pry into the reasons why SH was not authorised to practise. He says he did not employ SH but allowed SH to draft applications and legal submissions which he later adopted. The paperwork relevant to the charges was at best incompetent and at worst incoherent.

22. Notwithstanding the continuing concerns of the BSB about the roles of people associated with the chambers and the Respondent's failure to provide information requested by the BSB, the chambers continued to operate until 2023. Mr Dunlop describes the chambers as being out of control. Without the Respondent's consent, other people purporting to offer legal advice were using the Respondent's name and the name of his chambers on notepaper and on social media. This continued even after the Respondent had ceased to practise.

23. Charges 1-4 and 6 relate to the Respondent's appearance before Upper Tribunal Judge Canavan in April 2019 on an application for judicial review of a negative immigration decision. The application failed and Judge Canavan's summary judgment included the following criticisms of the Respondent's preparation and presentation of the case:

Para 1 (ii) the grounds are overly lengthy, poorly pleaded and make general and sometimes incoherent submissions on human rights issues without particularising any arguable public law issues in the decision.

(iii) the first point discloses a fundamental misunderstanding on the part of the applicant's legal representative as to the operation of leave extended under section 3C of the Immigration Act 1971.

(v) Mr McLanachan attended the hearing and attempted to make a submission with reference to the Court of Appeal decision of *Ashan v SSHD* [2017] EWCA Civ 2009, of which only selective extracts were provided. He was unable to point to any mention of the argument in the previous pleadings. No application was made to amend the previous pleadings. No application was made to amend the grounds of challenge. In any event, his submissions were entirely incoherent and appeared to amount to an unparticularised assertion that the applicant should have an in-country right of appeal when he had none.

Judge Canavan was sufficiently concerned about the preparation of the case to question the Respondent about his business relationship with SH and how the case had

come to be prepared. On the same date Judge Canavan issued a Notice to Show Cause requiring the Respondent and SH within seven days of the Order to file a signed written response to a number of specific points aimed at clarifying the business relationship of SH and the Respondent, SH's professional qualifications, and to provide a copy of the Respondent's instructions.

24. Charge 7 concerns the Respondent's failure to provide a competent standard of work in his written submission dated 19 August 2019 and his appearance on 29 August 2019 before Judge Canavan.
25. Charge 9 relates to the Respondent's appearance before Upper Tribunal Judge O'Callaghan on 24 September 2019. The hearing was adjourned because the Respondent wished to rely on new grounds of appeal. The Respondent was required to provide a note dealing with the history of his client's representation. The Respondent replied in a letter of 3 October 2019 but failed to provide all the relevant information.
26. Version 6 of the Sanctions Guidance dated 1 January 2022 applies. Mr Dunlop points out correctly that none of the charges concern dishonesty. The most serious charge is recklessly misleading the court.
27. Mr Stott has drawn our attention to the need for procedural rigour in immigration cases. The Administrative Court has stressed that the duty to the court is paramount. Practitioners must be deterred from advancing grounds which are objectively wholly without merit. Such cases waste public money and cause delay with the inevitable adverse impact on the court's ability to deal timeously with cases which do have merit. The Administrative Court has made clear that failure to comply could lead to a referral to the Regulator.
28. Charges 3,4,6 and 9 fall into Group F - misleading the court and others. The relevant culpability factors in Group F are that the misleading statements occurred

in a professional context and they occurred despite warnings. Additional culpability factors in Annex 2 are that the Respondent was responsible for the misleading statements and could have reasonably foreseen the harm. As to harm, we consider that the misconduct would have had a significant impact on public confidence in the Respondent and the profession. We judge the misconduct to fall within the upper range of seriousness: significant culpability and significant harm. The indicative sanction is suspension of 12 months to disbarment.

29. Charges 1,2,and 7 concern the administration of justice so fall within Group G. There are no specific culpability factors under Group G. In relation to harm we identify the adverse impact on proceedings and other court users because of the waste of court time. The factors identified in Annex 2 in relation to the Group F charges apply equally here. Taken individually each charge is assessed as middle range seriousness i.e. significant culpability and limited harm. The indicative sanction is a high level fine to a suspension of less than 12 months.
30. The aggravating factors are that the Respondent was a barrister of many years' experience, albeit not in immigration matters. The mitigating factors are that the Respondent has not previous findings of misconduct and he has admitted the charges thus avoiding a contested hearing. We have taken into account the Respondent's ill health over the past few years and the fact that he has no intention to return to practice.
31. In relation to the Group F charges the unanimous view of the Tribunal is that the only just sanction is disbarment. We are satisfied that the sanction of disbarment is proportionate. We are aware that the Respondent has said that he welcomes disbarment as it marks the end of an unhappy and stressful period in his life. However, we have reached our decision to disbar independently of the Respondent's view.
32. In relation to the Group G charges, we agree with Mr Stott that individually the charges are not so serious as to justify a departure from the sanctions guidelines. However, it is significant that between 2019 and 2023 the Respondent's conduct

posed a risk to the administration of justice. We have concluded that the prolonged period of incompetence requires a sanction more serious than a fine or short period of suspension. In relation to the Group G charges taken collectively, we are unanimous in our decision that the just and proportionate sanction is disbarment.

33. The application for costs is not resisted. The costs are reasonable. The Respondent is ordered to pay costs in the sum of £3,510 within 28 days.

34. The finding and sanction were made in the absence of the Respondent in accordance with rE183.

35. The Treasurer of the Honourable Society of Gray's Inn is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

Dated: 7 March 2025

**HH Janet Waddicor
Chair of the Tribunal**