



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanctions

Case reference: PC 2022/2352/D5

Alan Wheetman

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of the Middle Temple

Disciplinary Tribunal

Alan Wheetman

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 20 December 2024, I sat as Chairman of a Disciplinary Tribunal on 20, 21, 23 and 24 January and on 7 and 10 February 2025 to hear and determine five charges of professional misconduct contrary to the Bar Standards Board's Handbook against Alan Wheetman, barrister of the Honourable Society of the Middle Temple.

Panel Members

2. The other members of the Tribunal were:
 - Ian Arundale (Lay Member)
 - Vince Cullen (Lay Member)
 - Alex Horne (Barrister Member)
 - Monica Stevenson (Barrister Member)

Charges

3. The following charges were found proven:

Charge 2

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Conduct Rules (Part 2 of the Bar Standards Board's Handbook -Version 4.6).

Particulars of Offence

Alan Wheetman, 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 around 2 August 2022, while at a Magistrates' Court or thereafter, Mr Wheetman

- i. asked Person A if her eyelashes were real,
- ii. told Person A that he had done his own "stalking" on Facebook and found her profile,
- iii. showed Person A photographs of semi-nude women on his photography webpage on the Purpleport website,
- iv. offered to take photographs of Person A, with the suggestion that the modelling would be without clothing, with words to the effect of "you don't have to start with fanny or minge shots, we could do face pictures and then do a bit more if you want",
- v. offered to provide Person A a link to his photography webpage contained photographs of semi-nude women,
- vi. sent Person A a link to his photography webpage which contained photographs of semi-nude women.

Burden and standard of proof

4. The burden of proving the charges lay upon the Bar Standards Board throughout. Each charge had to be considered separately. The civil standard of proof could be applied in respect of all of the charges except Charge 16 as a Tribunal must apply the criminal standard of proof when deciding the charges of professional misconduct where the conduct alleged within that charge occurred before 1 April 2019.

Parties Present and Representation

5. The Respondent was present; he was represented by Mr Stuart Brady. The Bar Standards Board ("BSB") was represented by Ms Harini Iyengar.

Pleas

6. The 5 charges were put to Mr Wheatman who denied each charge.

Background

7. Mr Wheatman was born in January 1959. He was called to the Bar in 1995 after an earlier career as a police officer. At the times relevant to the charges under consideration he was practising criminal law from a set of chambers which included pupils. In his self-report to the BSB Mr Wheatman explained that he was a keen photographer and that several of the photographs he took were of professional models and some were fine-art nude models.

The hearing

8. Ms Iyengar presented the case on behalf of the BSB. The panel had been provided with a digital bundle. Additional documents were provided in the course of the hearing. Ms Iyengar provided an opening note for the BSB in which it was maintained that the alleged misconduct was serious and that it was sexual misconduct. In addition to witness statements the panel were provided with copies of the respondent's photographic portfolio.
9. The hearing, for which 5 days had been allowed, began with an application by the BSB for directions for anonymity for 2 of the witnesses (anonymity for the other witnesses having already been granted). The application was granted.
10. Oral evidence was given by Person C, the female pupil referred to in charge 9, and by Person A, a female police officer referred to in charge 2. Oral evidence was then given by Person D and by Person B, male pupils referred to in charges 6 and 13.
11. There was then some delay and loss of time while the BSB tried to secure the attendance of Person E, a barrister referred to in charge 16; but unfortunately she was unable to attend either personally or remotely because she was involved in an ongoing trial which prevented her participation even after the tribunal had explored the possibility of making other dates available. In the circumstances the BSB realistically decided not to seek an adjournment and decided to offer no evidence on charge 16.
12. Counsel for the respondent then made a submission of no case to answer in respect of the remaining charges (except charge 2). After hearing submissions and reading a written argument

in support of the submission, the panel retired to consider their decision. It was decided by the panel (with one member dissenting) that there was no case to answer on charges 6 and 13. It was also decided by the panel (with one member dissenting) that there was a case to answer on charge 9.

13. Accordingly, the hearing proceeded in respect of the remaining charges, 2 and 9, and the respondent Mr Wheetman gave evidence on 23 and 24 January 2025.

Findings

14. After closing submissions on 7 February, the panel retired to consider their decision which was announced on 10 February. The panel unanimously found that charge 2 had been established. The panel found that charge 9 had not been established to the required standard, with one member dissenting as to the conclusion on charge 9.
15. In respect of charge 9 the majority of the panel considered that although the respondent's behaviour had been to some extent inappropriate and concerning it did not amount to professional misconduct. The respondent and Person C had an established friendly professional relationship and a shared interest in photography. She said that she already knew the type of photos he took. The context of the 3 separate incidents referred to in charge 9 was important and did not suggest any sexualised motive. Person C herself did not consider the respondent's behaviour or comments to be offensive or inappropriate, taking them as no more than a joke which had perhaps been overfamiliar; and she did not suggest any adverse impact upon her.
16. In respect of charge 2 the panel found that the facts alleged to have been established by the evidence of Person A contained in her written statements and oral evidence which were considered to be essentially accurate, consistent and truthful. The behaviour of the respondent was unwanted and overfamiliar towards a much younger junior police officer who was previously unknown to the respondent. She had just wanted him to explain to her aspects of the court system following the hearing with which they had been concerned and which had concluded. She said that she formed the impression that he was asking her to become involved in sexually explicit photography. She said she was embarrassed to tell her colleagues and superiors what had occurred and was worried that it might affect her career.

Sanctions

17. After announcing the decision the panel allowed time for the respondent and his counsel to consider the position, and then returned to hear submissions in mitigation before again retiring to consider the appropriate sanctions. The panel returned and announced their decision as follows.

18. It was necessary for the Tribunal to have regard to the current sanctions guidance. That guidance makes it clear that sanctions are not to be imposed to punish, although it was to be recognised that sometimes they may have a punitive effect. The purposes of applying sanctions for professional misconduct are to:

1. protect the public and consumers of legal services;
2. maintain public confidence and trust in the profession and the enforcement system;
3. maintain and promote high standards of behaviour and performance of the Bar; and
4. act as a deterrent to the individual barrister, as well as the wider profession from engaging in the misconduct subject to sanction.

All of those matters were relevant to this case.

19. It is recognised by the guidance that misconduct of a sexual nature encompasses a wide range of conduct. The approach to sexual misconduct, as set out in section 5 of Part 1 of the guidance, provides that such behaviour seriously undermines public trust and confidence in the Bar and has a negative impact on diversity, recruitment, and retention at the Bar. It was therefore important that misconduct of that type is marked by serious sanctions to maintain public confidence, and to act as a deterrent and encourage the reporting of such misconduct.

20. More generally, any sanction should be proportionate and no more than necessary to achieve the stated purposes and the guidance requires a staged approach.

21. It was first necessary to determine the appropriate applicable misconduct group for the proved misconduct. The parties accepted and the panel agreed that the appropriate group within the sanctions guidance for conduct concerned in this case, was Group B which is referable to sexual misconduct.

22. It was then necessary to determine the seriousness of the misconduct by reference to culpability and harm factors. In this case, on the occasion referred to in charge 2 Mr Wheatman was not dealing with a member of the public, but rather with a young female trainee police officer in the proceedings with which he was immediately concerned. To that extent it took place in a

professional context. They were previously unknown to each other. They were in a room in a court building with nobody else present. He led her into an unnecessary, unexpected and essentially inappropriate and unwanted discussion about possible nude photographic modelling, examples of which he showed to her; in doing so he used some crude language, although the exact words were not agreed. In oral evidence Person A said that the respondent said to her "You do not have to start with fanny or minge shots. You can take your clothes off the more confident you become". The respondent's evidence was that he said "You do not have to do fanny or bum shots" and that when he said that he had been referring to his models generally rather to what might be expected of Person A. However, even on his own version the wording was still crude. At its lowest the respondent's behaviour caused her to believe the respondent might have wished to photograph her naked or semi-naked and any reasonable person would have drawn the same inference. Overall, it was conduct which clearly left her feeling uncomfortable, even if she was too polite to show it or he was too insensitive to appreciate the effect on her. Person A was sufficiently troubled at the time to describe what had happened to her mother on her way back to the police station and to raise it immediately with her colleagues at the police station.

23. It was next necessary to determine the indicative sanction level for the proved misconduct.

The panel considered that the conduct fell within the lower range in terms of culpability and harm for which suspension of between 12 and 24 months was suggested.

24. Aggravating and mitigating factors were then to be applied.

25. In addition to the factors already mentioned the conduct was aggravated by the disparity in age and seniority and by the essential recklessness of Mr Wheatman towards Person A who was attending court for the first time in her career, and by his responsibility for the situation which arose. The panel also considered that the references made by Mr Wheatman to her physical appearance and subsequent talk of modelling, possibly in the nude, indicated some level of sexual motivation. Mr Wheatman accepted that after the hearing he had said to his clerk that "[he] had been greatly helped by an extremely pretty CID officer, who was unlike any CID officer [he] had ever met."

26. Mitigating factors were considered. Although Mr Wheatman showed some insight in respect of the conduct towards the members of his chambers, he showed considerably less in respect of person A, although he did express some insight and regret with the

benefit of hindsight. Mr Wheetman self-referred to the BSB and appeared then to have cooperated with the BSB. He had no previous disciplinary record. He was suspended from membership of his chambers in August 2022. He was no longer in practice as a self-employed member of the Bar, being without a practising certificate since January 2023. He has no other work and is now living on dwindling capital.

27. In the circumstances the panel determined that the BSB should be ordered not to issue a practising certificate to Mr Wheetman for a period of 24 months. That order should have immediate effect. Mr Wheetman said that he does not intend to return to practice. However, should he seek to return to practice he should be required to undertake the BSB'S current course on equality, diversity and inclusion. The BSB should also note the panel's concerns about his future suitability as a pupil supervisor.

28. After hearing further submissions on the application by the BSB for costs and on the schedule provided in support of that application it was ordered that Mr Wheetman should pay £3,000 towards the costs of the BSB, inclusive of any VAT.

Dated: 10 February 2025

His Honour James Meston KC
Chairman of the Tribunal