



**Solicitors
Regulation
Authority**

The Cube
199 Wharfside Street
Birmingham B1 1RN

DX: 720293 BIRMINGHAM 47
UK 0370 606 2555
Int + 44 (0)121 329 6800
F + 44 (0)121 616 1999
www.sra.org.uk

From the Chief Executive

Ms Charlotte Parkinson
Chair, Junior Lawyers Division
The Law Society
113 Chancery Lane
London, WC2A 1PL

Sent by email only to: juniorlawyers@lawsociety.org.uk

19 May 2020

Dear Ms Parkinson

Re: Recent decision of the SDT regarding Claire Louise Matthews

Thank you for your letter of 6 May relating to the above decision.

You raise very important issues about the environment in which junior lawyers work, and the need for the SRA to take a fair and proportionate approach in our enforcement procedures, particularly when faced with evidence of vulnerability or health concerns. We agree and are committed to doing so.

You set out a number of concerns about our decision to prosecute Ms Matthews before the Solicitors Disciplinary Tribunal (SDT) and our handling of that prosecution. You will appreciate that there are ongoing appeal proceedings in that case. However, I can briefly confirm that I am satisfied that our handling of this case was appropriate.

First, you mention the issue of junior lawyers working in toxic environments and/or hiding regulatory issues or being unable to speak out, out of fear. That is something that we take very seriously – although it was not an issue in this case, we understand how difficult it can be for people in such a situation.

Of course, this raises fundamental issues for the profession which need a coordinated response. Those such as yourselves whose role is to support solicitors and promote good practice, play an important role. Our enforcement procedures only come into play where things have already gone wrong at the firm or for an individual, and measures must be taken to protect the public. That said, we always seek to approach these matters sensitively and set out below some of the ways in which we do so.

Further, we are clear about the importance of reporting concerns so that we can act to address bad working practices as well as any conduct issues. We understand what a difficult situation this is for anyone to find themselves in, let alone someone in a junior position.

We have introduced rules which make it clear that we will not tolerate anyone we regulate attempting to prevent an individual from making a report, or to subject them to detrimental treatment for having done so.

Our guidance sets out the help and support we can provide to those who speak up, including the role of confidential or anonymous reports. And if an individual is involved themselves in the conduct in question, that contextual mitigation, such as the person's junior position, lack of control over events, and any fear of reprisals, will be taken into consideration by us when deciding on the appropriate outcome.

Cases such as this one highlight that it is often where there is a failure to be open and honest when things go wrong (here, the loss of data) that we need to step in and take action.

You also mention concerns about the prosecution of solicitors with mental health issues. We want to do everything we can to support solicitors with health issues and to help to make sure that they do not find themselves in our processes. As part of that we have published a range of resources on our website as part of the [Your health, your career](#) section, which includes signposting to organisations that can offer support for people in difficulties.

We recognise the impact regulatory proceedings can have on the health of the individual concerned, and this is obviously an issue of great concern to us.

We need to balance carefully the public interest against the interests of the individual. We are able to adapt our procedures, and apply reasonable adjustments, where appropriate – and to consider alternative means of disposal where an individual is not well enough to participate, or participate fully, in Tribunal proceedings. These considerations involve us taking case by case decisions, guided by the evidence, to ensure any action we take is both fair and proportionate, and protects the public interest.

We are also clear in our guidance that the health of the individual at the time of events may have a significant bearing on the nature and seriousness of any alleged breach.

We have developed new guidance (attached) which sets out in more detail current practice and processes where health issues are raised in our proceedings. This is currently in draft form, and we aim to publish it shortly with a view to providing greater comfort and transparency for those who may be subject to regulatory procedures at a time when they are particularly vulnerable or unwell. However, we felt it would be useful to share with you at this stage to help explain our approach. In particular, it explains that expert medical evidence is not always required, and where it is necessary, the circumstances in which we would obtain this ourselves – which include where the solicitor in question is too unwell or is otherwise unable to obtain it themselves.

As you will be aware though, neither a person's junior position, nor health, will be an answer where the person has been found guilty of culpable dishonesty. This is the position that was confirmed in the case of *Sovani James*, and the seriousness of dishonest behaviour for a solicitor's professional status has been highlighted in caselaw since *Bolton –v– The Law Society* [1993] EWCA Civ 32.

In this case, it is easy to lose sight of the fact that this is not about a solicitor leaving a briefcase on a train, but that the evidence of her colleagues was that she lied to them on a number of occasions about the matter. The Tribunal described this conduct in paragraph 35 of the judgment

“The Respondent’s actions after the loss of the briefcase were not spontaneous, on the contrary, following an initial moment of panic which many people in this position would have experienced, the Respondent pursued a considered path of conduct in which she did not report the loss as promptly as she ought to have done and in accordance with her employer’s policy on reporting data loss. The Respondent consciously misled her colleagues as to the true state of affairs whilst making enquiries with the rail company’s lost property department in the hope of recovering the briefcase and contents without ever informing her employer that they had been lost and to that extent there was thought and planning on the Respondent’s part.”

I do hope that this helps to explain our approach and reassures you that we do take a careful and considered approach to all decisions to prosecute, particularly where there are health issues involved.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Philip', written in a cursive style.

Paul Philip
Chief Executive
Solicitors Regulation Authority

Encl. Draft Guidance