

# **Stephen Daly**

## **Solicitor**

### **115397**

**Agreement Date: 11 June 2024**

## **Decision - Agreement**

Outcome: Regulatory settlement agreement

Outcome date: 11 June 2024

Published date: 12 June 2024

## **Firm details**

### **Firm or organisation at date of publication and at time of matters giving rise to outcome**

Name: Owen Tudor Ltd

Address(es): Radclyffe House, 66-68 Hagley Road, Birmingham, B16 8PF

Firm ID: 820833

## **Outcome details**

This outcome was reached by agreement.

### **Decision details**

#### **1. Agreed outcome**

1.1. Mr Stephen Daly (Mr Daly), a director of Owen Tudor Ltd (the Firm), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is rebuked
- b. to the publication of this agreement
- c. he will pay the costs of the investigation of £300.

#### **2. Summary of Facts**

2.1 In September 2022, Mr Daly accepted instructions from his client (the Client) to act for them in a sensitive matter, notably a child arrangement order. As part of that case, Mr Daly was due to represent the Client at a two-day court hearing on 27 and 28 March 2023 at a Family Court.



2.2 On 23 March 2023, Mr Daly was notified that the hearing listed for 27 and 28 March 2023 had been adjourned. Mr Daly contacted the Client on the same day to inform them. He advised that the adjournment would allow the Client more time to prepare cross-examination and to discuss ongoing fees.

2.3 On 24 March 2023, Mr Daly was notified by the opposing side that the hearing had been reinstated as originally scheduled. Mr Daly emailed the Client the same day at 14.58 saying he 'cannot now prepare this case in the professional way necessary', and that the Client should 'attend (the court) on Monday and ask for an adjournment' and 'I cannot go next week'.

2.4 Mr Daly did not attend the hearing on 27 or 28 March 2023, leaving the Client to attend alone and represent themselves. Mr Daly's actions did not allow the Client sufficient time or opportunity to seek alternative representation for the hearing.

2.5 Mr Daly did not make an application to come off the court record or to adjourn. He had no proper basis to leave his client without representation. Mr Daly appears to have seen the vacation of the original hearing as an opportunity to sort out fee disputes and then to prepare. When the hearing was reinstated, Mr Daly did not recognise his professional obligation to the Client, and failed to attend the hearing.

2.6 Later, on 1 August 2023 at 16.15, Mr Daly emailed the Client. This was to discuss issues over non-payment of his fees, issues regarding appointment attendance and issues in preparing for the case. He ended the email by stating that he could not represent them any longer as he could not work for free.

2.7 On 1 August 2023, at 16.37, Mr Daly emailed a copy of the email mentioned above at paragraph. 2.6, which he had sent to the Client, to the opposing side. Mr Daly then asked the opposition whether the contents of this email would change their intention to apply for a cost order against Owen Tudor Ltd.

2.8 The Client confirmed that they did not waive privilege or authorise Mr Daly to disclose the personal email. They stated that Mr Daly had breached their confidentiality.

2.9 In addition, the Judge confirmed in the Wasted Costs Order that in their view, the email was subject to privilege, and had been disclosed without the Client's consent.

### **3. Admissions**

3.1 Stephen Daly makes the following admissions which the SRA accepts:



- a. on 24 March 2023, he notified the Client that he was refusing to represent them at a court hearing on 27 and 28 March 2023, despite having previously agreed to attend and represent them at this hearing on this date. He did not attend the hearing and his actions did not allow his client realistic or sufficient opportunity before the hearing to seek alternative representation or otherwise prepare. In doing so, he breached Principle 2 and Principle 7 of the SRA Principles (the Principles). He also breached Paragraph 3.2 and Paragraph 3.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs (the Code).
- b. he breached the Client's confidentiality by disclosing the contents of an email he had sent to his client to an opposing solicitor without the Client's permission. In doing so, he breached Principle 7 of the Principles and Paragraph 6.3 of the Code.

#### **4. Why a written rebuke is an appropriate outcome**

4.1 The SRA's Enforcement Strategy sets out its approach to the use of its enforcement powers where there has been a failure to meet its standards or requirements.

4.2 When considering the appropriate sanctions and controls in this matter, the SRA has taken into account the admissions made by Mr Daly and the following mitigation which he has put forward:

- a. the conduct had minimal impact the outcome of the Client's proceedings
- b. there was an underlying fee dispute at the time of the conduct
- c. he does not have any prior regulatory history.

4.3 The SRA considers that a written rebuke is the appropriate outcome because:

- a. Mr Daly's conduct was reckless and disregarded the risk, or potential risk of harm his conduct could have caused to the Client's child arrangement proceedings
- b. Mr Daly failed to recognise his professional obligation to the Client
- c. Mr Daly breached client confidentiality, which is an unqualified duty and Mr Daly should have taken reasonable steps to protect it. He was reckless in his disclosure of the email and conduct of this nature has the potential to damage the reputation of the profession. It is in the public interest to impose a sanction, and a rebuke is the most appropriate level.
- d. Mr Daly was directly responsible for his conduct
- e. We consider that there is low risk of repetition.

#### **5. Publication**



5.1 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. Mr Daly agrees to the publication of this agreement.

## **6. Acting in a way which is inconsistent with this agreement**

6.1 Mr Daly agrees that he will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

6.2 If Mr Daly denies the admissions or acts in a way which is inconsistent with this agreement, the conduct which is subject to this agreement may be considered further by the SRA. That may result in a disciplinary outcome or a referral to the Solicitors Disciplinary Tribunal on the original facts and allegations.

6.3 Denying the admissions made or acting in a way which is inconsistent with this agreement may also constitute a separate breach of Principles 2 and 5 of the Principles and Paragraph 7.3 of the Code of Conduct for Solicitors, RELs and RFLs.

## **7. Costs**

7.1 Mr Daly agrees to pay the costs of the SRA's investigation in the sum of £300. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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