

Oliver Conway

Employee

663006

Fined Date: 7 June 2022

Decision - Fined

Outcome: Fine

Outcome date: 7 June 2022

Published date: 15 June 2022

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Ashfords LLP

Address(es): Ashford House, Grenadier Road, Exeter, EX1 3LH, England

Firm ID: 508761

Firm or organisation at date of publication

Name: Enigma

Address(es): 1st Floor, Farrer Court, 77 North Hill, Plymouth, PL4 8HB, England

Firm ID: 548739

Outcome details

This outcome was reached by SRA decision.

Decision details

Regulatory Settlement Agreement

Reasons/basis

Agreed outcome and undertakings

1. Mr Oliver Conway (Mr Conway), a former employee of Ashfords LLP, a licensed body (the Firm), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- i. he pays a financial penalty of £2,000
- ii. the publication of this agreement



iii. he will pay the costs of the investigation of £600.

Summary of Facts

2. Mr Conway was a trainee solicitor at the Firm at the time of the conduct.

3. On the evening of 19 December 2019 he attended an after work Christmas meal that had been organised for members of the team that Mr Conway worked with.

4. Prior to the Christmas meal, the Firm had issued a specific warning to all staff about the applicability of the SRA's Standards and Regulations. It reminded colleagues about the need to maintain professional standards at events over the festive period.

5. Following the meal, a number of the team members went to a bar before attending a nightclub.

6. During the course of the evening Mr Conway had consumed a large volume of alcoholic beverages and was inebriated. 7 While at the nightclub, Mr Conway acted towards Person A (a fellow employee of the Firm) in a manner which was inappropriate and/or unwanted in that he:

- i. offered Person A a drink saying that he "had roofied it"; and
- ii. slapped Person A on the bottom.

8. For clarification, "roofie" is a common generic slang term to describe "date-rape drugs" such as GHB or Rohypnol. The use of drugs to incapacitate people and render them vulnerable to sexual assault has been prominent in the media since the early 2000s.

9. For the avoidance of doubt, there is no suggestion that Mr Conway had placed any drugs in the drink he offered to Person A.

10. Later in the evening, while at the nightclub, Mr Conway also acted towards Person B (a fellow employee of the Firm) in a manner which was inappropriate and/or unwanted in that he:

- i. squeezed Person B's bottom, resulting in her pushing him away and telling him "don't do that"
- ii. grabbed Person B around the waist and dragged her away from a conversation she was engaged in
- iii. repeatedly pulled Person B by the arm and put his hands around her waist and hips.

11. Following an internal investigation at the Firm Mr Conway was summarily dismissed.

12. Mr Conway reported his conduct to the SRA.

Admissions

13. Mr Conway states that he was inebriated to the extent that he could not, and still cannot, remember the events of 19 December 2019.

14. However, Mr Conway accepts that the behaviour detailed in the summary of facts must have taken place.

15. Mr Conway admits and the SRA accepts that by acting in a manner towards Persons A and B on 19 December 2019 which was inappropriate and/or unwanted, he failed to:

- i. act in a way that upholds the public's trust and confidence in the solicitors' profession and in doing so breached Principle 2 of the SRA Principles ("the Principles")
- ii. act with integrity and in doing so breached Principle 5 of the SRA Principles ("the Principles").

Why a fine is an appropriate outcome

16. 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.

17. When considering the appropriate sanctions and controls in this matter, the SRA has taken into account the admissions and mitigation that Mr Conway:

- i. voluntarily and without invitation sent letters to Person A and Person B apologising for his behaviour prior to the SRAs involvement
- ii. reported his conduct to the SRA
- iii. fully accepted that his actions were inappropriate and that the way he had conducted himself was wrong
- iv. expressed remorse and demonstrated insight into his own conduct. Mr Conway has accepted that he acted against his own morals and accepted normal character
- v. has demonstrated understanding as to how his conduct caused discomfort to his colleagues
- vi. submitted character references which demonstrate that his conduct on the 19 December 2019 was out of character
- vii. has assured the SRA that the behaviour will not be repeated
- viii. is embarrassed and humiliated by his behaviour.



18. The SRA accept that this was a one-off event and does not form a pattern of misconduct beyond the evening in question.

19. The SRA considers that a fine is the appropriate outcome for the following reasons.

20. The SRA Enforcement Strategy makes clear that the SRA considers behaviour which harms an individual's personal autonomy and dignity to be at the higher end of seriousness, irrespective of any financial or other harm.

21. The SRA also takes into account harm that could reasonably have been anticipated to arise from the conduct or behaviour in question. This directs our focus onto behaviour that represents a risk, even if harm may not have materialised.

22. Mr Conway's behaviour towards his two colleagues amounted to a breach of his professional obligations and his own personal moral code, in that it involved:

- touching of an intimate area of their body without their consent
- a comment which could have been perceived as being threatening
- subjecting his colleagues to harassing and abusive behaviour which was capable of causing harm
- a wilful or reckless disregard for his regulatory obligations.

23. The SRA is satisfied that Mr Conway's behaviour demonstrates characteristics which support the view that the alleged misconduct is serious and as such a higher sanction such as a fine is required.

24. The SRA accepts that Mr Conway was inebriated at the time of his conduct. However the SRA does not consider inebriation to be a mitigating factor. Mr Conway was directly in control and responsible for his own behaviour and so further indicates that a fine is an appropriate sanction.

25. A fine is appropriate to uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. This is because the SRA regards the conduct as unacceptable and therefore some public sanction is required to uphold public confidence in the delivery of legal services.

26. Mr Conway's actions demonstrated a lack of integrity and were serious.

27. The purpose of a financial penalty is to sanction the regulated person for a serious breach of our standards or requirements. For the reasons outlined above, Mr Conway's alleged conduct was serious and as such a financial penalty is the appropriate sanction.

28. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

Amount of the fine

29. The amount of the fine has been calculated in line with the SRA's published guidance on its approach to setting an appropriate financial penalty (the Guidance).

30. Having regard to the Guidance, the SRA and Mr Conway agree that the nature of the misconduct was medium. Mr Conway cooperated with the investigation, the conduct took place during a single evening and did not form a pattern of misconduct beyond the evening in question. The Guidance gives this type of misconduct a score of one.

31. The SRA considers that the impact of the misconduct was medium because it had the potential to cause moderate impact. The Guidance gives this level of impact a score of four.

32. The nature and impact scores add up to five. The Guidance indicates a broad penalty bracket of £1,000 to £5,000 is appropriate.

33. In deciding the level of fine within this bracket, the SRA has considered the mitigation above which Mr Conway has put forward.

34. SRA considers a basic penalty of £2,000, which is towards the middle of bracket B, to be appropriate.

Publication

35. Publication of this agreement is a requirement of the Legal Services Board's rules. The SRA must publish information on enforcement action or sanctions imposed against a licensed body or manager or employee of a licensed body. There is no discretion in the rules for the SRA not to publish this agreement.

36. Mr Conway agrees to the publication of this agreement.

Acting in a way which is inconsistent with this agreement

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

38. If Mr Conway 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.

39. 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.

Costs

40. Mr Conway agrees to pay the costs of the SRA's investigation in the sum of £600. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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