

Lynn Foy

Employee

667796

Employee-related decision Date: 13 July 2020

Decision - Employee-related decision

Outcome: Control of non-qualified staff (Section 43 / Section 99 order)

Outcome date: 13 July 2020

Published date: 21 July 2020

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Gardner Iliff & Dowding

Address(es): 14-16 Wolverhampton Road, Cannock STAFFORDSHIRE
WS11 1AN, England

Firm ID: 47779

Outcome details

This outcome was reached by SRA decision.

Decision details

1. Agreed outcome

1.1 Ms Lynn Foy, a former employee of Gardner Iliff & Dowding (the Firm), agrees to the following outcome to the investigation of her conduct by the Solicitors Regulation Authority (SRA):

- a. she is fined £500
- b. to the SRA making an order under section 43 of the Solicitors Act 1974 (a section 43 order) in relation to Ms Foy that, from the date of this agreement:
 - i. no solicitor shall employ or remunerate her in connection with his practice as a solicitor
 - ii. no employee of a solicitor shall employ or remunerate her in connection with the solicitor's practice
 - iii. no recognised body shall employ or remunerate her



- iv. no manager or employee of a recognised body shall employ or remunerate her in connection with the business of that body
 - v. no recognised body or manager or employee of such a body shall permit her to be a manager of the body
 - vi. no recognised body or manager or employee of such body shall permit her to have an interest in the body
- except in accordance with the SRA's prior permission

c. to the publication of this agreement

d. she will pay the costs of the investigation of £300

Reasons/basis

2. Summary of Facts

2.1 Between August 2019 and November 2019 Ms Foy worked at the firm in its family law department. She is an experienced family law practitioner and was a fellow of CILEx.

2.2 Ms Foy was acting for a client in ancillary relief proceedings. She met the client on 10 September 2019 and reviewed the contents of a draft consent order with her. The client agreed to the terms of the draft order. Ms Foy forgot to request that the client sign the order.

2.3 When Ms Foy realised her error, rather than make arrangements for the client to sign the draft order, she signed it herself, purporting to be the client. She sent the order to the court for sealing.

2.4 The court sealed the order and returned it to Ms Foy. When the client saw the order she raised concerns with the firm about its validity because Ms Foy had signed it.

2.5 The Firm investigated the matter and Ms Foy was suspended from her employment on 22 November 2019. Ms Foy admitted her conduct in a letter to the firm, resigned from her position and agreed to refer her conduct to CILEx.

2.6 The firm referred Ms Foy's conduct to the SRA for investigation on 22 November 2019

3. Admissions

3.1 Ms Foy admits, and the SRA accepts, that:

- a. by signing the order purporting to be her client and submitting that order to the court, Ms Foy acted without

integrity and in a way which would undermine public trust in the provision of legal services, in breach of principles 2 and 6 of the SRA Principles 2011

b. the conduct set out above was dishonest.

4. Why a fine 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 Ms Foy and the following mitigation which she has put forward:

- a. Ms Foy made full admissions to the firm and the SRA.
- b. Ms Foy's actions were intended to avoid any inconvenience to the client by having to reattend the office to sign the draft order.
- c. Miss Foy has worked in the legal profession for over forty years and has a clean regulatory history.
- d. Miss Foy received no financial benefit from her conduct.

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

- a. Ms Foy is an experienced practitioner who should have appreciated the importance of the draft order containing the client's actual signature and the implications of sending it to the court containing a falsified signature.
- b. Her actions misled the court and were dishonest.

4.4 A fine is appropriate to uphold public confidence in the solicitors' profession and in legal services provided by authorised persons because a deterrent is necessary to prevent actions of dishonesty being repeated within the profession. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

5. Amount of the fine

5.1 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).

5.2 Having regard to the Guidance, the SRA and Ms Foy agree that the nature of the misconduct was low because this was an isolated incident, there is no pattern of similar misconduct and she co-operated fully with the



SRA's investigation. The Guidance gives this type of misconduct a score of one.

5.3 The SRA considers that the impact of the misconduct was low because Ms Foy's actions caused some delay and inconvenience to the client and to the other party to the order, but no material adverse impact. The Guidance gives this level of impact a score of two.

5.4 The nature and impact scores add up to three. The Guidance indicates a broad penalty bracket of £500 to £1,000 is appropriate.

5.5 In deciding the level of fine within this bracket, the SRA has considered the mitigation which Ms Foy has put forward in paragraph 4.2 above.

5.6 On this basis, the SRA considers that the lack of material harm and the co-operation shown by Ms Foy, indicate a fine at the lower end of the bracket. The SRA has also taken into consideration Ms Foy's financial circumstances, which indicate a basic penalty of £500, at the bottom of the bracket, to be appropriate.

5.7 Ms Foy did not receive any financial gain or receive any other benefit above the level of the basic penalty from the misconduct. Therefore, no adjustment is necessary and the amount of the fine is £500.

6. Why a section 43 order is appropriate

6.1 The SRA's Enforcement Strategy and its guidance on how it regulates non-authorised persons, sets out its approach to using section 43 orders to control where a non-authorised person can work.

6.2 When considering whether a section 43 order is appropriate in this matter, the SRA has taken into account the admissions made by Ms Foy and the mitigation she has put forward at paragraph 4.2 above.

6.3 The SRA and Ms Foy agree that a section 43 order is appropriate because:

- a. Ms Foy is not a solicitor
- b. her employment or remuneration at the Firm means that she was involved in a legal practice
- c. by virtue of the misconduct admitted in paragraph 3.1 above, Ms Foy has occasioned or been party to an act or default in relation to a legal practice. Ms Foy's conduct in relation to that act or default makes it undesirable for her to be involved in a legal practice.

6.4 For the reasons set out at paragraph 4.3 above, Ms Foy's conduct makes it undesirable for her to be involved in a legal practice.

7. Publication

7.1 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. Ms Foy agrees to the publication of this agreement.

8. Acting in a way which is inconsistent with this agreement

8.1 Ms Foy agrees that she will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

9. Costs

9.1 Ms Foy 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.

Search again [<https://www.sra.org.uk/consumers/solicitor-check/>]