

Luke Holden

Solicitor

530273

Agreement Date: 2 September 2021

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 2 September 2021

Published date: 17 September 2021

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Shoosmiths LLP

Address(es): 100 Avebury Boulevard, Milton Keynes MK19 1FH

Firm ID: 569065

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1. Luke James Holden, a solicitor and formerly an Associate at Shoosmiths LLP agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is fined £2,000
- b. to the publication of this agreement
- c. he shall pay the costs of the investigation of £600.

Reasons/basis

2. Summary of Facts

2.1. Until approximately February 2021, Mr Holden operated a Twitter account ('Account'), that was publicly available. The Account identified himself as a property litigation solicitor.

2.2. Over a course of seven months, demonstrating persistent and protracted conduct, Mr Holden posted a series of Tweets on his Account.

His Tweets were targeted at MPs and a government advisor and their families and included:

- a. one tweet which incited harassment and/or abuse of a MP and his family which caused harm, distress and offence to the individual concerned
- b. one tweet which incited harassment and/or abuse of a MP
- c. one tweet which incited invasion of a government advisor's family's privacy
- d. one tweet which used derogatory and offensive language in respect of a MP's child
- e. seven tweets which used threatening and/or derogatory and/or offensive language in respect of MPs and a government advisor and on two occasions their respective families.

2.3. On 15 March 2021 Mr Holden's response to the SRA explained that he had closed the Account.

3. *Admissions*

3.1. Mr Holden admits and the SRA accepts that by virtue of his publicly available Account on which the Tweets were posted and on which he identified himself as a solicitor, Mr Holden:

- a. openly incited abuse on at least three occasions towards the MPs he addressed/tagged in
- b. openly incited abuse towards the family of one MP
- c. used threatening and/or offensive and/or abusive language towards the individuals he addressed and/or tagged which was likely to shock or harass.

3.2. In doing so, Mr Holden failed to:

- a. behave in a way that upholds public trust and confidence in the solicitors' profession and in legal services, in breach of Principle 2 of the SRA Principles, and
- b. act with integrity, in breach of Principle 5 of the SRA Principles.

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 sanction in this matter, the SRA has taken into account the admissions made by Mr Holden and the following mitigation which he put forward:

- a. the Tweet was taken down shortly after it was posted
- b. in response to the SRA investigation he closed his Account
- c. in or around April 2021 Mr Holden offered an apology to three MPs; and
- d. Mr Holden has no previous history for failing to comply with his regulatory obligations.

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

- a. the content of the Tweets constitutes a serious breach of professional standards; such conduct was highlighted to the profession in the SRA's Warning Notice on "Offensive communications" which was first published in August 2017
- b. the comments posted in the Tweets were offensive, derogatory and inappropriate
- c. the Tweets had the potential to cause harm to and did cause distress to one MP
- d. Mr Holden was directly responsible for the content of the Tweets and the Account identified him as a solicitor
- e. Mr Holden maintains his views posted in the Tweets were strongly held, valid political opinions which he stands by. However, the manner in which they were expressed and the comments he used were wholly inappropriate and offensive
- f. The Tweets demonstrated a pattern of misconduct, a disregard for the risk of harm and a failure to comply with his professional obligations over a period of approximately seven months
- g. Mr Holden took remedial action and apologised for his conduct and has shown remorse
- h. Mr Holden has cooperated with our investigation.

4.4. A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. This is because the Tweets had the potential to cause significant harm (one Tweet did cause distress to a MP) and a sanction is required to uphold public confidence in the delivery of legal services. 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 Mr Holden agree that the nature of the misconduct was high. This is because the Tweets demonstrated a pattern of misconduct and a reckless disregard to comply with Mr Holden's professional obligations. The Guidance gives this type of misconduct a score of three.

5.3. The SRA considers that the impact of the misconduct was low. This is because the Tweets which encouraged abuse to the individuals addressed and/or to their families had the potential to cause significant harm. The Guidance gives this level of impact a score of two.

5.4. The nature and impact scores add up to five. The Guidance indicates a broad penalty bracket of £1,001 to £5,000 is appropriate.

5.5. In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above which Mr Holden has put forward.

5.6. Considering the factors set out in the Enforcement Strategy including Mr Holden's culpability and the impact of the conduct, it is agreed that a fine within the middle of the bracket is appropriate. The SRA therefore considers a basic penalty of £3,500 to be suitable.

5.7. The SRA considers that the basic penalty should be reduced to £2,000. This reduction reflects Mr Holden's mitigation as set out within paragraph 4.2 above.

5.8. Mr Holden has made no financial gain or received any other benefit as a result of his conduct. Therefore, no adjustment is necessary to remove this and the amount of the fine is £2,000.

Other information

6. Publication

6.1. The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory process. Mr Holden agrees to the publication of this agreement.

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

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

7.2. If Mr Holden 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.

7.3. 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.

8. Costs

8.1. Mr Holden 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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