SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11828-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

TIM BENNETT — Respondent

Before:

Mr J. A. Astle (in the chair)
Mrs A. Kellett
Mrs C. Valentine

Date of Hearing: 22 November 2018

Appearances

Shaun Moran, solicitor of The Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Applicant.

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegation against the Respondent was that:

1.1. Between 21 December 2015 and 22 February 2016, by sending inappropriate and offensive communications to one of his professional bodies the Society of Trust and Estate Practitioners (STEP) and other parties concerning a complaint made against him by MP, the Respondent breached Principles 2 and/or 6 of the SRA Principles 2011.

The Respondent admitted the allegation.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent which included:

Applicant:

- Application and Rule 5 Statement together with all exhibits dated 30 May 2018
- Applicant's Statements of Costs dated 1 June 2018 and 15 November 2018
- Emails from the Applicant to the Tribunal (copied to the Respondent) dated 14 November 2018, 16 November 2018, 19 November 2018,

Respondent:

- Letters from the Respondent to the Tribunal dated 18 October 2018 and 9 November 2018 together with attachments
- Letter from the Respondent to the Tribunal received on 8 November 2018
- Emails from the Respondent to the Tribunal (copied to the Applicant) dated 16 November 2018, 17 November 2018 and 19 November 2018
- Extract from medical report dated 25 June 2018
- Letter from the Respondent's solicitors to the Respondent dated 21 August 2018.

Service of Proceedings

3. The Respondent did not attend the hearing and was not represented. The Tribunal having considered all the documents noted that an application for substituted service had been granted on 7 August 2018. On 20 September 2018, the Respondent had written to the Applicant confirming he had received their letter of 23 July 2018 and stating that the hearing date of 22 November 2018 was not convenient for him. He stated he would be in London on specific dates in October 2018 and provided a UK address for correspondence to be sent to him.
4. The Respondent had then written to the Tribunal on 18 October 2018 referring to the hearing date on 22 November 2018 stating that he was not available on this day as he

would be abroad and requesting a re-listing in early 2019. This application had been refused by the Senior Deputy Clerk of the Tribunal on 24 October 2018 on the basis that no evidence of the Respondent's travel tickets had been provided.

5. The Respondent sent a further letter to the Tribunal on 9 November 2018 stating that he would not be attending the hearing on 22 November 2018 and that there was no need for a one day substantive hearing.

6. It was therefore quite clear to the Tribunal that the Respondent was aware of these proceedings and the final hearing date. The Tribunal was satisfied that the Respondent had been served in accordance with Rule 10 of the Solicitors (Disciplinary Proceedings) Rules 2007.

Application to Proceed in the Respondent's Absence

7. Mr Moran, on behalf of the Applicant, made an application for the hearing to proceed in the Respondent's absence. He referred the Tribunal to the Respondent's letter dated 9 November 2018 in which the Respondent had stated:

> "Please ensure the case proceeds in my absence on the basis of my agreement/admission to the Complaint, and my Statement in Mitigation."

8. Mr Moran requested the Tribunal to exercise its discretion and proceed in the Respondent's absence as the Respondent was out of the jurisdiction and had made admissions to the allegation.

The Tribunal's Decision on Proceeding in the Respondent's Absence

9. The Tribunal was mindful that it should only decide to proceed in the Respondent's absence having exercised the utmost care and caution. The Tribunal took into account the criteria set out in the case of R v Hayward and Jones [2001] QB 862 when considering whether it was appropriate to proceed in the Respondent's absence.

10. The Respondent had made it clear that he would not be attending the hearing on 22 November 2018 and in fact had specifically requested the case should proceed in his absence. He had made admissions to the allegation and had provided a Statement in Mitigation which the Tribunal would take into account in due course. The Tribunal was therefore satisfied that it was appropriate and in the public interest for the hearing to proceed in the Respondent's absence.

Application for part of the hearing to take place in private

11. The Respondent had sent an email to the Tribunal on 17 November 2018 attaching extracts from a medical report and requesting these be placed before the Tribunal at the final hearing. On 19 November 2018, the Applicant had sent an email to the Tribunal pointing out that the extracts from the medical report had been served late and the expert was not being tendered for cross-examination. The Applicant opposed the redacted report being provided to the Tribunal and stated that in order to determine the relevance of the report, an un-redacted copy needed to be served on the Applicant.

12. Mr Moran made an application for this issue to be considered in private as the matter involved medical information relating to the Respondent.

The Tribunal's Decision on the Application for part of the hearing to take place in private

13. The Tribunal was mindful of the public interest and the fact that court cases should be dealt with transparently and in public. However, the Tribunal also accepted the Respondent had a right to privacy and there may be reference to his health conditions in relation to his contested application to rely on medical documents. In the circumstances, the Tribunal confirmed this application would be heard in private. This would protect the Respondent and ensure there was no prejudice to him.

The Respondent's Application to rely on medical evidence

14. The Respondent had provided by email dated 17 November 2018 five pages which were extracts from a medical report dated 25 June 2018. He described these as "the key pages". The Respondent, in his email, had requested these be placed in the bundle before the Tribunal at the final hearing. The Respondent had also produced a letter dated 21 August 2018 sent to him by solicitors representing him, who had commissioned the medical report in relation to another matter. That letter appeared to summarise the opinion contained in the medical report.

15. On 19 November 2018, the Applicant had written to the Tribunal and the Respondent opposing the redacted report being provided to the Tribunal and requesting an un-redacted copy to be served on the Applicant for further consideration.

16. In a further email dated 19 November 2018 to the Tribunal, the Respondent stated that the medical report was "still in draft", not in "final form" and contained some factual errors. The Respondent had set out in his email the details and parts of the report he wished to rely upon. The Respondent also made reference to issues of jointly held privilege (which he was not in a position to waive unilaterally) and stated it was not relevant to the Applicant or the Tribunal to be provided with an un-redacted copy of the report.

17. Mr Moran submitted that the pages from the medical report which had been provided were matters of mitigation. He pointed out that it was clear from the "Contents" page of the medical report which had been provided, that the report consisted of at least 25 pages. Mr Moran stated that a few days before the hearing, the Applicant had been provided with only 5 pages of this report which the Respondent had selected himself. Mr Moran submitted that the Applicant did not know the terms of reference for obtaining the medical report, or the questions that had been put to the medical expert who was not attending before the Tribunal to give evidence, or details of the full prognosis given. Mr Moran submitted the information provided was extremely limited and it should therefore be excluded. He submitted that if the Tribunal was minded to allow the medical report to be produced, then the Tribunal could attach appropriate weight to it but the Applicant opposed the redacted report being provided to the Tribunal. Mr Moran submitted the Respondent was "picking and choosing" what he wanted to show the Tribunal.

18. Mr Moran confirmed that the Applicant did not object to the letter from the Respondent's solicitors to the Respondent dated 21 August 2018 being provided to the Tribunal.

The Tribunal's Decision on the Respondent's Application to rely on medical evidence

19. The Tribunal had not seen the content of the medical report but noted from the information provided by Mr Moran that only five pages of the full report had been provided, and those pages had been chosen by the Respondent. That medical report had not been produced for these proceedings and moreover, the Tribunal noted that Standard Directions had been issued on 16 July 2018 which required the Respondent to file and serve any documents on which he wished to rely at the substantive hearing by 3 September 2018. The Respondent had failed to do this, and he had also failed to provide an un-redacted version of the medical report to the Applicant for further consideration.

20. In all the circumstances, the Tribunal concluded that the five pages provided were such a small proportion of the full medical report, that the Tribunal would not have a proper understanding of the basis on which instructions had been sent to the medical expert. Nor would the Tribunal have a proper understanding of the context in which the prognosis had been made. Accordingly, the Tribunal refused the Respondent's application to rely on the redacted medical report.

21. However, the Tribunal noted the Applicant did not object to the Tribunal being provided with a copy of the letter from the Respondent's solicitors to him dated 21 August 2018. Accordingly, the Tribunal would allow that letter to be relied upon and would take it into account in due course.

Factual Background

22. The Respondent was born in 1951 and admitted to the Roll on 1 August 1980. At the time of the hearing, the Respondent did not hold a Practising Certificate.

23. Mr H (the interim Chief Executive Officer) at The Society of Trusts and Estate Practitioners (STEP) referred the Respondent's conduct to the SRA in a report dated 2 November 2016 raising concerns that the Respondent had failed to act with integrity and had failed to behave in a way that maintained the trust the public placed in those providing legal services.

24. STEP is a professional organisation whose primary purpose is to support members in their careers, provide professional development and technical information and protect their reputation by maintaining high standards. STEP maintains professional standards by requiring members to be subject to a code of conduct.

25. Mr H stated that STEP had received a complaint from MP in August 2015 alleging that funds were advanced to the Respondent or to an entity under his control to be invested. MP had alleged that he and the Respondent were unable to agree a retainer and funds were either returned/sent to beneficiaries. MP alleged that no statement of account was provided to him despite his requests and consequently MP remained concerned that

further monies may be due to him. MP had also raised concerns that these retained funds had been used by the Respondent to create wealth for himself.

26. The Respondent was contacted by STEP and asked for his comments in relation to MP's complaint on 4 November 2015. It was the Respondent's responses to STEP about MP's complaint that led STEP to make a report to the SRA. The Respondent's communications with STEP and other parties involved in the matter were described as "quite extraordinary". In the letter of referral Mr H stated the communications involved:

> "...language which we consider to be wholly inappropriate and insensitive and with conduct which we consider to amount to bullying."

27. STEP provided the SRA with copies of the Respondent's communications. These included a number of emails to Mr H, Ms M (the Professional Standards Manager at STEP) and also to another party, MA (who was understood to be MP's partner).

28. In an email dated 21 December 2015 from the Respondent to Ms M and MA sent at 10:08, the Respondent stated:

> "Hi [Ms M]
>
> Your timing is right off, coming right before the holidays
>
> [MP] is a nutter.
>
> Please note that I don't propose to stand trial at the behest of a crazy man, and you shouldn't allow nutters to subvert the Code of Conduct".

29. In an email dated 21 December 2015 from the Respondent to Ms M sent at 13:14, the Respondent stated:

> "I think you will also find that this nutter also became a STEP member.
> So shall I counter complain against him?"

30. In an email dated 22 December 2015 from the Respondent to Ms M sent at 10:22, the Respondent stated:

> "I don't need to be patronised, especially as you have no idea what you are saying! You are not a professional person and you have no idea what it means to have your integrity called into question.
> As I have said, [MP] lacks mental capacity as he is on the extreme end of bipolar...
>
> England is full of witch hunts, so don't add STEP to the sad list of witch hunters..."

31. In an email dated 5 January 2016 from the Respondent to Mr H and Ms M sent at 15:23, the Respondent stated:

"[MP] is a total asshole……
Also your position is clearly not neutral, as you clearly believe there is a fire just because an unstable bipolar nutter says he smells smoke".

32. In an email dated 12 January 2016 from the Respondent to MA sent at 08:35, the Respondent stated:

"You will see that your sick companion is up to his antics again".

33. In an email dated 20 January 2016 from the Respondent to MP sent at 18:03, the Respondent stated:

"[MP] you appear to have a death wish…"

34. In an email dated 20 January 2016 from the Respondent to MP sent at 18:23, the Respondent stated:

"Now I know you are a crazy man with a death wish.
You go out of your way to kick me harder and stir shit for me with [N] in Jersey.
Why???.....
You have to agree to an apology and formal withdrawal of your complaint to STEP, otherwise this stops right here…"

35. In an email dated 23 January 2016 from the Respondent to MA and MP sent at 12:45, the Respondent stated:

"I feel sorry for you being associated with [MP]. What on earth drew you to him?

He is squalid.

He lacks hygiene & cleanliness.

He cannot control what he says or writes.

You need to give some thought as to where your Partner is steering his latest manic attrition as it is now in danger of rebounding and consuming him, you and [E].

How on earth you put up with his mania is beyond me…."

36. In an email dated 29 January 2016 from the Respondent to Ms M and MP sent at 14:50, the Respondent stated:

"Ha ha ha!
This is getting more comedic and farcical by the week!
Let's see if the mentally incapable SICK [MP] can string together a logical reply to your question!..."

37. In an email dated 31 January 2016 from the Respondent to Ms M, MP, MA and another third party sent at 02:53, the Respondent stated:

> "[MP]
>
> YOU ARE THE ASSHOLE THAT TRIGGERS ALL OF THE COMPLAINTS…
>
> YOU ARE SICK
>
> YOU NEED PROFESSIONAL HELP
>
> BUT UNFORTUNATELY FOR ALL WHO COME INTO YOUR ORBIT, YOU ARE ALSO A DISHONEST AND DISGUSTING PIECE OF SHIT…
>
> … BUT OOPS I FORGOT – YOU ARE A MANIC DEPRESSIVE WITH MOOD SWINGS AND NO REAL GRASP OF REALITY…
>
> …SO ENJOY THE WORLD OF YOUR INSANITY"

38. In an email dated 19 February 2016, from the Respondent to the Hong Kong Monetary Authority and MP sent at 12:21, the Respondent stated:

> "Hello
>
> [MP] is a certifiable nutcase on strong medication for Bipolar Mood Disorder Most of what he says is made up of garbled rubbish, emanating from the sewer that resides in his brain…"

39. Mr H noted in his report to the SRA that he considered it relevant that the Respondent's email footer stated "Tim Bennett LLB Solicitor".

40. Ms M signed a witness statement dated 22 September 2017 detailing her involvement with MP's complaint on behalf of STEP and her experience in communicating with the Respondent. She confirmed her position at STEP and stated:

> "2. Part of my role is to administer the disciplinary process for STEP. We received a complaint from a former member of STEP, [MP] against Mr Bennett regarding an alleged failure to provide a copy of the trust accounts upon request. Both parties were known to the then Chief Executive of STEP with Mr Bennett being a founder member of the organisation. The first stage of our disciplinary process involves the Chair of the Disciplinary Panel (DPC) requesting comments on the complaint from the member. I wrote to Mr Bennett in accordance with instructions from the DPC, notifying him of the complaint……
>
> 5. Mr Bennett's emails were rude, derogatory and aggressive and I found them increasingly threatening and intimidating. His comments relating to [MP]'s alleged mental health issues were particularly offensive……

> 8. I remain of the view that Mr Bennett's communications were designed to deliberately intimidate, harass and bully me into closing the complaint, undermining my confidence and the confidence of others in me."

41. In a letter to the SRA dated 12 May 2017 the Respondent set out his position in relation to this matter and stated he was "deeply embarrassed by this" and "I wish to apologise formally to all concerned". However, he also stated: "I do object to first STEP, and now the SRA, seemingly taking the side of a criminal money launderer…".

42. The Respondent acknowledged:

> "with embarrassment the abruptness and rude nature of several of my communications at that time".

43. The Respondent referred to being under "extreme stress" during the period of June 2014 to Easter 2016 arising from medical matters affecting him and his partner. He stated:

> "I certainly do not poke fun at people with mental illness and I don't understand how that conclusion can have been drawn."

44. The Respondent also stated that there was no substance to MP's complaint and pointed out that STEP ultimately dropped the complaint.

Witnesses

45. No witnesses gave evidence.

Findings of Fact and Law

46. The Tribunal had carefully considered all the documents provided and the submissions of the Applicant. The Applicant was required to prove the allegation beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

47. **Allegation 1.1: Between 21 December 2015 and 22 February 2016, by sending inappropriate and offensive communications to one of his professional bodies the Society of Trust and Estate Practitioners (STEP) and other parties concerning a complaint made against him by MP, the Respondent breached Principles 2 and/or 6 of the SRA Principles 2011.**

47.1 The Respondent, in his letter dated 9 November 2018 had stated:

> "I had already confirmed yesterday to the SRA that I agree/admit the complaints set out in the Statement issued pursuant to Regulation 5(2) issued on 30 May 2018."

The Respondent had attached to that letter his Statement in Mitigation.

47.2 The Tribunal found Allegation 1.1 proved based on the Respondent's admission and also on the documents provided. The Tribunal was satisfied that sending inappropriate and offensive communications to STEP and other parties was a failure to act with moral soundness and rectitude. The Respondent had failed to show a steady adherence to an ethical code and had thereby acted with a lack of integrity. This was a breach of Principle 2 of the SRA Principles 2011.

47.3 The Tribunal was further satisfied that sending numerous inappropriate and offensive communications over a two-month period to various parties was behaviour that did not maintain the trust the public placed in the Respondent and in the provision of legal services. The Respondent had thereby breached Principle 6 of the SRA Principles 2011.

Previous Disciplinary Matters

48. None.

Mitigation

49. The Respondent had provided the Tribunal with a Statement in Mitigation. In this statement the Respondent stated MP was a vexatious litigant, who had made a complaint which was incorrect, "mischievous and unfounded". The Respondent provided details of his response to MP's complaint. He also referred to Ms M being:

> "… a novice and totally inexperienced in dealing with Fiduciary and Financial complaint matters…".

50. The Respondent stated that he was at the receiving end of extremely vexatious and unfounded allegations and he had:

> "…lost my cool whilst a junior and novice STEP staff member was investigating this."

The Respondent accepted he had made "very inappropriate remarks" which he should not have done. He also accepted that if he was to use strong language of any sort, he should not have placed his name as "Tim Bennett Solicitor" on emails, as this demeaned the profession.

51. The Respondent stated that his "inappropriate and vulgar words were published to a very limited range of persons". They were not spoken in a public venue or posted on social media. He also stated that the words were published in the context of a vexatious complaint and not in any professional capacity as a solicitor, as he was not acting as such. The Respondent also stated that MP was not his client. He stated that although Ms M stated she felt threatened by his words, the Respondent believed she was more threatened by the fact that the Respondent was a founder member of STEP and had been a committee chairman. The Respondent stated:

> "I do still believe that her inexperience compounded and caused the escalation of a situation that should have been dealt with in a simpler and more efficient way."

52. The Respondent provided details of his medical condition and the effect this had had on his conduct. He stated the complaint made by MP:

> "…. pushed me over the edge into saying these inappropriate words, which I bitterly regret and for which I have already stated I am sorry."

53. The Respondent provided details of his career history and reminded the Tribunal that he had been working for almost 40 years with no previous complaints of his use of inappropriate language. He stated that STEP was "my baby" as he had helped to found the organisation and assisted in many other ways. He stated that he had been Deputy Chairman for 4 years and had been very active in the first 15 years with branch and membership development. The Respondent stated he very much regretted having used bad and inappropriate language in the context of STEP as this had demeaned his hitherto good relations with the executive management there.

54. The Respondent stated that the words he had used "were clearly ill-befitting" a solicitor, but "were not of the worst kind or used in the worst way in the circumstances".

Sanction

55. The Tribunal had considered carefully the Respondent's Statement in Mitigation and the other documents he had provided. The Tribunal referred to its Guidance Note on Sanctions when considering sanction. The Tribunal also considered the aggravating and mitigating factors in this case.

56. The Tribunal firstly considered the Respondent's culpability. It was clear from the Respondent's Statement in Mitigation that he had reacted to a complaint which he considered to be vexatious. Whilst his conduct initially may have been spontaneous, it subsequently went beyond this as it continued over a period of two months and involved various people, including a third party in Hong Kong.

57. Although the Respondent had provided information of his involvement with STEP as a founding member, it was somewhat surprising that he had taken out his frustrations on a staff member of that organisation when it would have been expected that he would have shown respect towards the organisation and its staff. His conduct towards Ms M was completely unacceptable and was clearly aimed at undermining her role. Furthermore, the Respondent had written to MP's partner and the tone of his email to her dated 21 January 2016 went beyond the use of colourful language.

58. The Tribunal was conscious that it had not been provided with the entire train of emails that had passed between the Respondent and MP. This was unfortunate as the Tribunal did not have the full picture of the comments made by MP to the Respondent. It was therefore unclear to the Tribunal what the nature of their relationship was, but, from the numerous emails sent by the Respondent to MP which had been provided, it seemed to be more than a professional relationship. The Respondent had sent an email to MP on 12 February 2016 which gave a flavour of their relationship and made reference to their "friendship".

59. Another example of the nature of their relationship was an email provided by the Respondent which he had sent to MP dated 5 February 2015 in which he stated:

"Despite you being a cantankerous bastard, I enjoy your company and intellect!"

This indicated their friendship was somewhat unusual.

60. It seemed to the Tribunal that STEP, and other third parties, had become caught up in a dispute during which the Respondent's relationship with MP had become toxic. However, this was no excuse for the appalling language used by the Respondent which amounted to far more than mere banter between friends. He had made reference to MP's mental health which was an attempt to undermine both MP and the complaint MP had made.

61. Whilst the Respondent may not have had direct control of the circumstances initially giving rise to his misconduct, as he believed he had been subjected to false claims being made against him by MP, his indignation should not have been expressed in the offensive and inappropriate language he had used. The Respondent had been a solicitor since 1980 and was therefore very experienced. He should have known better than to use offensive and inappropriate language. Taking all these matters into account, the Tribunal concluded that the Respondent's culpability was high.

62. The Tribunal then considered the harm caused by the Respondent's conduct. It was clear from the witness statement provided by Ms M that the Respondent's behaviour had impacted directly on her. She spoke of feeling harassed, intimidated and bullied. Whilst there was no evidence before the Tribunal of any harm caused to MP or his partner, there had been harm caused to the reputation of the profession, particularly as the Respondent had been communicating with various third parties including STEP. The Respondent had failed to act with complete integrity and the extent of harm could reasonably have been foreseen to be caused by his misconduct.

63. The Tribunal then considered the aggravating factors in this case and identified those as follows:

- The Respondent's conduct had been repeated over a two month period.
- The Respondent ought reasonably to have known that his conduct was in material breach of his obligations to protect the public and the reputation of the profession.
- The Respondent, in his Statement in Mitigation, had shown little insight into the impact his conduct had had on Ms M, who had clearly been caused great distress, in that he continued to apportion some blame to her for the position he had found himself in by referring to her as inexperienced.
- The Respondent also sought to minimise his conduct and blame others by describing MP as a vexatious litigant.
- The Respondent had sought to minimise the impact of his offensive language by stating social media was not involved and he did not really acknowledge the impact on those who had been the recipients of his emails.

64. The Tribunal then considered the mitigating factors and identified those as follows:

- There had been evidence of some limited insight on the part of the Respondent in that he accepted he should not have behaved in the way that he did and had apologised. This was counterbalanced to some extent, however, by the Respondent seeking to excuse his behaviour by explaining in detail the "vexatious" complaint that had led to it. However, the Tribunal did note that that complaint was ultimately dismissed.

- The Respondent had a previously long unblemished career and this conduct took place over a relatively short period when considered against that.

- The Respondent had made admissions to the allegation albeit they were quite late in the proceedings.

65. Whilst the Respondent may have been suffering from some health issues over a long period of time as set out in the letter from his solicitors dated 21 August 2018, the Tribunal could not ascertain any possible link between those health issues and the Respondent's conduct. The Tribunal only had the Respondent's word that his historic medical condition had led to him behaving as he did, as there was no independent medical evidence to support this assertion. The Tribunal recognised that the Respondent may well have suffered from a long standing medical condition but could not be satisfied that this had led to his behaviour. It was also pertinent that the Respondent, despite his medical condition, appeared to have managed working with no problems for a long time prior to this incident. Furthermore his conduct had only arisen in the context of MP's complaint despite the Respondent having stated he also acted for "wealthy international clients". In the circumstances, the Tribunal attached little weight to the letter from the Respondent's solicitors dated 21 August 2018.

66. The Tribunal considered carefully whether this was a case where it could make no order or order a Reprimand. The Tribunal concluded that as the Respondent had a high level of culpability, had acted with a lack of integrity and had caused harm to Ms M as well as to the reputation of the legal profession, his conduct was too serious to justify no order or a sanction at the lowest level.

67. The Tribunal then considered whether a Fine was an appropriate sanction. The Tribunal concluded that the risk of repetition was low as the Respondent was unlikely to behave in this way again. He had acted with a lack of integrity in his communications over a two month period. There had been harm to Ms M and to the reputation of the legal profession and in light of this, the Respondent's conduct was serious, but not so serious that the protection of the public or the protection of the reputation of the legal profession required a more severe sanction. The Tribunal concluded that a Fine was the proportionate and appropriate sanction in this case.

68. The Tribunal then considered the amount of the Fine to be imposed. The Tribunal assessed the Respondent's conduct to be moderately serious. He had caused damage to the reputation of the profession and had caused significant distress to Ms M as well as to other staff working at STEP. Indeed, Mr H had referred to the Respondent's communications as "quite extraordinary" and stated the language was "inappropriate and insensitive and with conduct which we consider to amount to bullying."

69. The Tribunal concluded that a Fine of £5,000 was a proportionate amount to reflect the seriousness of the Respondent's misconduct and the harm that had been caused by them

but also the limited period over which the emails had been sent, and the low risk of repetition. The Respondent had not provided any evidence of his means for the Tribunal to consider in relation to the amount of the Fine.

Costs

70. Mr Moran requested an Order for the Applicant's costs in the total sum of £10,126.38. He provided the Tribunal with a Statement of Costs which contained a breakdown of those costs.

71. Mr Moran submitted that most of the costs had been incurred due to the difficulties in arranging for service of documents on the Respondent. The Applicant had been required to liaise with three jurisdictions to deal with and arrange for publicity in relation to the Order of the Tribunal for substituted service. Mr Moran stated that a significant amount of time had been spent on this. He accepted that a hearing had taken place on 2 August 2018 when an application for substituted service was refused. At that hearing the Tribunal had requested further information.

72. Mr Moran submitted that subsequently the Applicant's application for substituted service by way of advertisements in publications in the UK, China and Switzerland was granted on 7 August 2018. Mr Moran stated that whilst he was trying to arrange for publication in Switzerland, where there had been some difficulties with the Swiss publishers, the Respondent had received a copy of the papers at a UK address and had contacted the SRA himself.

73. Mr Moran stated that earlier attempts had been made to write to the Respondent at a Swiss address but there had been no response and the Applicant had been reluctant to send bundles of documents in the normal post to Switzerland without being sure that they would come to the Respondent's attention. Emails had also been sent by the Applicant to the Respondent to the email address from which he had corresponded during the SRA investigation and from which he had recently continued to correspond. Mr Moran confirmed that the Statement of Costs had also been served on the Respondent by email.

74. The Tribunal had considered carefully the matter of costs. During the course of the SRA investigation, the Respondent had been corresponding by email but this appeared to stop abruptly as soon as he was informed that matters had been referred to the Tribunal. On 2 August 2018, the Applicant had been asked to provide specific further information to the Tribunal concerning the Respondent's Swiss address, but this did not seem to have been provided at the subsequent hearing on 7 August 2018. Furthermore, the Applicant had made a claim of 7 hours for the final hearing but it had taken less time than estimated, although there had been some waiting time involved too. Accordingly, the Tribunal made a reduction to the costs claimed in relation to attendance at the hearing.

75. The Tribunal was also of the view that the sum of almost £4,000 which had been claimed for 6 hours of "liaising with media in relation to substituted service" was excessive. The Tribunal would allow half this amount as this was considered to be a reasonable figure.

76. Taking into account the reductions made, the Tribunal assessed the Applicant's total costs in the sum of £8,000 and made an Order that the Respondent pay this amount.

77. In relation to enforcement of those costs, the Tribunal had particular regard for the case of SRA v Davis and McGlinchey [2011] EWHC 232 (Admin) in which Mr Justice Mitting had stated:

> "If a solicitor wishes to contend that he is impecunious and cannot meet an order for costs, or that its size should be confined, it will be up to him to put before the Tribunal sufficient information to persuade the Tribunal that he lacks the means to meet an order for costs in the sum at which they would otherwise arrive."

78. In this case the Respondent had not provided any documentary evidence of his income, expenditure, assets or capital. The Tribunal did not therefore consider this was a case where there should be any deferment of the costs order.

Statement of Full Order

79. The Tribunal Ordered that the Respondent, TIM BENNETT, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,000.00.

Dated this 3rd day of January 2019
On behalf of the Tribunal

J. A. Astle

J. A. Astle
Chairman

Judgment filed
with the Law Society
on 03 JAN 2019