



Neutral Citation Number: [2022] EWHC 307 (Admin)

Case No: CO/3241/2021

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17/02/2022

Before :

MR JUSTICE SOOLE

Between :

PETER MAXFIELD-MARTIN

Appellant

- and -

**SOLICITORS REGULATION AUTHORITY
LIMITED**

Respondent

Francis FitzGibbon QC (instructed by **Richard Nelson LLP**) for the Appellant

Louise Culleton (instructed by **Capsticks Solicitors**) for the Respondent

Hearing dates: 15 and 16 December 2021

Judgment Approved by the court for handing down

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

THE HONOURABLE MR JUSTICE SOOLE

Mr Justice Soole :

1. The Appellant ('PMM') appeals against an Order dated 28 July 2021 and associated Judgment dated 31 August 2021 whereby the Solicitors Disciplinary Tribunal¹ found proved three Allegations of misconduct by him whilst in practice as a solicitor at Gomer Williams & Co Ltd ('the firm') and imposed the sanction of suspension from practice for 12 months. The allegations arose from his completion of an application dated 25 June 2018 to the Law Society for mental health re-accreditation which contained declarations to be signed respectively by the applicant and a 'partner/senior manager' in the firm, in this case a partner/director, Gareth Gwyndaf Jones ('GGJ'); and from his subsequent conduct when the firm reported him to the Law Society in terms which alleged that he had completed the form on behalf of GGJ without his authority.
2. Principles 2 and 6 of the SRA Principles 2011 provide that a solicitor must '*2. act with integrity*' and '*6. behave in a way that maintains the trust the public places in you and in the provision of legal services*'.
3. The first two Allegations against PMM were that in breach of Principles 2 and 6 he:
 - 1.1 submitted his application for mental health re-accreditation with a declaration he completed and signed off in the name of GGJ, which certified that its contents were correct and confirmed GGJ had read and understood the declaration, when he knew that GGJ had not seen or reviewed the application;
 - 1.2 suggested in an email to the firm that they withdraw the allegation they had made about him to the Law Society, whilst referring to reporting alleged breaches by the firm of the Civil and Criminal Contracts. There is no appeal against the Tribunal's finding on this Allegation.
4. In addition, by Allegation 1.3 the SRA advanced Allegation 1.1 on the basis that his conduct was dishonest: '*Dishonesty is alleged as an aggravating feature of [PMM]'s misconduct but is not an essential ingredient in proving the allegations.*' The identified particulars of dishonesty relied upon the two-stage test for dishonesty reaffirmed by the Supreme Court in Ivey v Genting Casinos [2017] UKSC. As to the first stage it alleged that when acting as he did PMM knew or believed: that GGJ had neither seen nor read the application; that GGJ had not signed the application nor given the declaration; that GGJ had not authorised the submission of the application with his signature; that the recipient would be misled as to the above matters when it received the application; and that the declaration was untrue: para.69. As to the second stage, that in those circumstances PMM was dishonest by the standards of ordinary decent people.
5. By this appeal, PMM does not dispute the factual basis alleged in Allegation 1.1; but challenges the findings that this his conduct was dishonest (Allegation 1.3) and that it constituted breaches of Principles 2 and 6.

¹ Mr P. Lewis (in the chair), Ms A.E. Banks, Dr S. Bown

6. The appeal is pursuant to s.49(1) Solicitors Act 1974 and CPR 52.20/21. There is no dispute as to the essential principles of such an appeal, in particular that (a) it is by way of review, not rehearing (CPR 52.21(1)); (b) the Court will only allow the appeal of the decision of the Tribunal was ‘wrong’ or ‘unjust because of a serious procedural or other irregularity in the proceedings in the lower court’ (52.21(3)(a)); (c) this can connote an error of law or fact or the exercise of discretion; (d) the Court should exercise particular caution and restraint before interfering with either the findings of fact or evaluative judgment of a first instance and specialist tribunal, particularly where the findings have been reached after seeing and evaluating witnesses; (e) the Court will only interfere with findings of fact and their evaluation, including a finding of dishonesty, if it is satisfied that the Tribunal committed an error of principle in carrying out the evaluation or for any other reason its evaluation was wrong in the sense of falling outside the bounds of what the Tribunal could properly and reasonably decide; (f) the SDT is a specialist tribunal particularly equipped to appraise what is required of a solicitor in terms of professional judgment and an appellate court will be cautious in interfering with such an appraisal; (g) decisions of specialist tribunals are not expected to be the product of elaborate legal drafting. Their judgments should be read as a whole; and in assessing the reasons given, unless there is a compelling reason to the contrary, it is appropriate to take it that the tribunal has fully taken into account all the evidence and submissions: see e.g. SRA v. Martin [2020] EWHC 3525 (Admin); SRA v. Good [2019] EWHC 817 (Admin); SRA v. Siaw [2019] EWHC 2737 (Admin); SRA v. Day [2018] EWHC 2726 (Admin).

Narrative

7. The background narrative can largely be taken from the Tribunal’s succinct summary. PMM was admitted to the Roll in July 1989. At the material time he worked as a solicitor at the firm from their offices in Llanelli, on a consultancy basis. He had become an accredited member of the Mental Health Panel of Solicitors in June 2015. The firm had a mental health Legal Aid contract and PMM was the Legal Aid supervisor for the work. In order for the Legal Aid contract to be renewed in this area of work, PMM needed to be re-accredited. He submitted this application on 25 June 2018, a few days before the final date for its submission.
8. In addition to his own signature and declaration, the form had to be signed by a ‘partner/senior manager’ under the declaration *‘I hereby certify and acknowledge that the information provided in this application is correct to the best of my knowledge’*. Against the ‘Signature’ box, the form stated *‘For electronic applications: I have read and understood the declaration above. Please check box to confirm your acceptance’*. There followed a box in which PMM inserted an ‘X’. Against the main box he typed in the name of GGJ.
9. In the course of subsequent correspondence between the Law Society and the firm concerning issues relating to Continuing Professional Development (CPD), the firm obtained a copy of the application form. By emails in August 2018 from another director, Juliet Phillips-James (‘JPJ’), it was stated that GGJ’s name had been put on the form without his consent and that he had never had sight of the application.

10. By reply dated 6 September 2018 to questions from the Law Society, PMM stated that he had been given express authority by GGJ to submit the application. By email dated 13 September the Law Society advised him that his application was unsuccessful and that he could appeal against the refusal. His appeal was successful and the re-accreditation granted from 1 July 2018 to 30 June 2021. In doing so the Law Society stated *'After careful consideration of the documents you have provided, your appeal has been granted. We are of the view that there is sufficient evidence to suggest that you had implied authority to submit the application with the consent of the firm'*: letter 10 December 2018.
11. The matter was reported to the SRA. In his response to its 'Explanation with Warning' letter, PMM did not accept that the form was submitted without the knowledge or consent of GGJ, but did accept that he completed the declaration in his name and that he did not provide him with a copy of the form before doing so. He referred to a meeting on 1 May 2018 at which he stated he was given express authority to act in the way he did; and that the matter had been further discussed on 29 June 2018.
12. PMM was dismissed by the firm on 14 September 2018. In an email to GGJ and JPJ dated 1 October 2018 he made reference to alleged breaches by the firm of Civil and Criminal Contract and suggested that *'in all the circumstances [the firm] would be better served by immediately withdrawing the allegation made to the Law Society'* in respect of his application of GGJ's signature to the re-accreditation form. This conduct was the subject of Allegation 1.2, from which there is no appeal.

The Judgment

Allegation 1.1

13. The Tribunal recorded PMM's admission that he had completed the declaration in the name of GGJ; and that when doing so he knew that GGJ had not seen or reviewed the application. Accordingly it found the factual basis of that allegation to be proved; and for that purpose the issue of GGJ's consent and authority did not arise. Thus *'The issue of consent was relevant to the Respondent's reason for acting as he had, however it was not relevant to the simple factual issue of whether he had submitted the form and completed the declaration knowing that Mr Jones had not seen or reviewed it, which the Respondent had not disputed. The factual basis of Allegation 1.1 was therefore proved on the balance of probabilities'*: para.37.20.
14. I will deal later with its findings that this conduct breached Principles 2 and 6.

Allegation 1.3 : dishonesty

15. The Tribunal began with consideration of why PMM had acted as he did. On the issue of authority and consent, it found that PMM had the implied authority of GGJ to act as he did. This conclusion appears in a number of passages in the Judgment, including the distinct section concerning the allegation of dishonesty. It is necessary to set these out in some detail.

16. At paragraph 37.21 it stated: *'The Tribunal considered the evidence of [GGJ] and was not persuaded that he had given a direct instruction: "sign the form using my name and I don't need to see it". The Tribunal did, however, find that [GGJ] used words to the effect of "just get it done". The Tribunal's impression of [GGJ] was that he was someone who had, at the time of these events, been very busy, preoccupied and irritated with [PMM]...[GGJ] had accepted in his evidence that there was scope for misunderstanding on the part of [PMM] on this issue.'*
17. At paragraphs 37.24 and 37.25, the Tribunal rejected PMM's evidence that he had made a contemporaneous note of the meeting with GGJ on 1 May 2018; and therefore rejected its authenticity: *'The Tribunal found that the only reference to accreditation at that meeting was [GGJ]'s request that the [PMM] 'just get it done'. The Tribunal found that if the note had been a genuine, contemporaneous record of what had been discussed, [PMM] would have produced it in his email of 6 September 2018...The Tribunal found that the note of 1 May 2018 was a self-serving document produced after the event in order to [sic] support his account of events and in doing so had knowingly exaggerated the position of [PMM] when he quoted him as saying "use my name". The Tribunal did not accept the Respondent's evidence that [GGJ] used those words. The authority given to [PMM] was not that specific and was much more general and implied. The Tribunal found that [GGJ] did not give such a direct instruction but it was satisfied that he had used a form of words that led to the Respondent believing he had the authority to complete the form in the way he did.'*; see also at [48].
18. Then in the 'Dishonesty' section of the judgment, it stated at [37.29]: *'The Tribunal found that [GGJ] believed that he had authority to put complete [sic] the declaration in the name of [GGJ]'; at [37.30] that 'Although [PMM] had the implied authority of [GGJ] to do so, that authority could not be delegated, and [PMM] knew that from the wording and purpose of the declaration'; and at [37.31]: '...the public would consider it dishonest, notwithstanding the authority [PMM] had, to make a declaration on a form for professional accreditation to his representative body that was untrue.'*
19. As to the effect of a finding that PMM had authority from GGJ to act as he did, the Tribunal recorded the following submission from Counsel for the SRA: *'Mr Bullock submitted that even if [PMM] had authority from [GGJ], this was still a lack of integrity as he should not have agreed to put [GGJ]'s name down when [GGJ] had not read the document as it gives the impression [GGJ] had read it when he had not. Mr Bullock accepted that his case on dishonesty was weakened in the event that the Tribunal found that [PMM] did have express authority to put [GGJ]'s name on the certification'* [37.8].
20. Mr Bullock's concession was consistent with the SRA particulars of dishonesty which, as noted above, included the allegation that GGJ had not authorised the submission of the re-accreditation application with his signature.
21. As to the law on dishonesty, the Tribunal duly identified the two-stage test from Ivey v. Genting Casinos [2017] UKSC 67 at [74]: *'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or*

dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest’.

22. Applying the first of those two stages, *‘The Tribunal found that [PMM] knew that [GGJ] had not read and understood the declaration or reviewed the form and he was aware that he was inserting [GGJ]’s name, not his own, on the declaration. [PMM] had admitted this throughout. The Tribunal found that [PMM] believed that he had authority to put complete [sic] the declaration in the name of [GGJ]’: 37.29.*
23. It continued: *‘[PMM] had also accepted in his evidence that the Law Society would have concluded that the form had been reviewed by [GGJ] and would have believed that [GGJ] had completed the declaration, not [PMM]. In completing the form in this way, the Tribunal found that [PMM] had completed a false declaration in that he led the Law Society to believe that [GGJ] had reviewed the form and completed the declaration, when he had done neither. Although [PMM] had the implied authority of [GGJ] to do so, that authority could not be delegated, and [PMM] knew that from the wording and the purpose of the declaration’: [37.30].*
24. Turning to the Ivey second stage: *‘The Tribunal found on the balance of probabilities that [PMM]’s conduct would be considered dishonest by the standards of ordinary decent people. The Tribunal took account of [PMM]’s good character as reflected in the references he had served in these proceedings. The Tribunal recognised that these went to propensity and credibility. However, the public would consider it dishonest, notwithstanding the authority [PMM] had, to make a declaration on a form for personal accreditation to his representative body that was untrue. The purpose of the declaration was a safeguard to ensure that the application had been reviewed and approved by a director at the firm. [PMM] had led the Law Society to believe that this step had been complied with when he knew it had not. [GGJ] had not discussed the content of the form with [PMM], let alone reviewed it, and in those circumstances [PMM]’s conduct in representing that [GGJ] had complied with and signed the declaration would be considered dishonest’: [37.31].*
25. Accordingly the Tribunal found that PMM had by his conduct established under Allegation 1.1 acted dishonestly.

Ms Cara Young

26. For the purpose of the appeal, it is necessary also to consider other sections of the judgment where the Tribunal considered the evidence of another solicitor at the firm, Ms Cara Young, who had made a similar application for re-accreditation and had herself entered GGJ’s name in the space for declaration and signature by a partner/senior manager; and in circumstances where he had not reviewed the content of the information provided in her application. The Judgment records her evidence as follows: *‘Ms Young told the Tribunal that when she had submitted a similar application for accreditation Mr Jones said to her “I trust you, put my name to it”. Ms Young told the Tribunal that she had given [GGJ] the opportunity to look at the form and then she saw nothing wrong with him having given her that authority as it was his choice at the time. Ms Young told the Tribunal that she had come into the office to complete the form as there was information which she did not have at home. She confirmed that [GGJ] was*

in the room when she completed the form. Ms Young told the Tribunal that there is no discussion [sic] about the content of the form: [35].

27. At [37.23] the Tribunal accepted this evidence; but concluded that the circumstances surrounding her application were materially different to that of PMM: *'The Tribunal accepted the evidence of Ms Young. The circumstances surrounding her application for re-accreditation were somewhat different to those involving the Respondent as [GGJ] was in the same room and they had discussed the application while it was being completed. Ms Young's evidence did show a pattern whereby [GGJ] would not complete the declarations himself but would allow others to do so on his behalf. The difference in Ms Young's case was that there had been discussion and [GGJ] had been given every opportunity to review the form if he wished to do so.'*
28. At this point I should refer to further detail of the evidence given by Ms Young.
29. In her letter of support of PMM to the re-accreditation department of the Law Society dated 9 October 2018 she stated: *'Whilst working at [the firm] I submitted my application for re-accreditation to the Law Society in May 2017. As I was at that time on maternity leave I attended the office to complete my application and spoke in person to [GGJ]. [He] was happy to give me his authority to submit the application without sight of its contents. The application was then submitted under the electronic signature of [GGJ] as I was authorised to do so. I then received my re-accreditation certificate on the 18th September 2017.'* Her letter concluded with the statement that she had always found PMM *'to be a person of unquestionable honesty and integrity'*.
30. In her witness statement dated 4 June 2021 she confirmed the contents of that letter and also stated in respect of her conversation with GGJ: *'I spoke with [GG all J]...and explained that the application form for re-accreditation needed to be signed by a Director. He said words to the effect that he trusted me and that I could put his name down or sign the form on his behalf. I can say with some certainty that he never looked at the form before it was submitted.'*
31. In her evidence in chief, Ms Young reconfirmed the statements in her letter and witness statement. In cross-examination on behalf of the SRA, she was asked *'Bearing in mind that we're talking about events which happened at four years ago, which were not of particular significance at the time, would you accept that in fact the conversation went further than that and that there were discussions also about the contents of the form?'* She replied: *'There was no discussion about the contents of the form, and I accept what you're saying about the four years, but this came to my attention in 2019 when the Law Society had written to [PMM], and I remember saying to [him] when he told me about the complaint from the Law Society, 'But [GGJ] didn't look at my form', and then I remembered the conversation with [GGJ]'*.
32. In re-examination, the questions and answers included: *'Q: Did you ask him in terms, 'Do you want to look at the form?'. A: I said, 'This form needs to be signed by a director'. Q: Did it go any further than that? A: I don't think I did say, 'Do you want to see it?'* Then, when asked about the quality of her memory of events in 2017, she replied *'When [PMM] told me about the complaint to the Law Society, I remember saying to him, 'Well, [GGJ] didn't look at my application'. And then I specifically remember sitting at the desk, and I turned to [GJJ] and I said, 'This form needs to be signed by a director'. I specifically remember it. Q: ... Did you have any difficulty in*

remembering what had happened when you wrote the letter to the Law Society? A: No, I remembered what happened. He definitely didn't see my form'.

33. By contrast, in his cross-examination GGJ had said: *'She went through the accreditation form, we discussed it with her. I was happy that the form was complete and instead of me walking around my desk to tick the box, I said, "Put my name and tick it" ... Q: You didn't look at the form before you filled it in, did you? A: No, as I said, we discussed the form. She took me through the form and discussed it. Q: You didn't ask her about what she put on the form, did you? A: We discussed the form, sir... Q: You were probably engaged with something else, and you said something to the effect of, "Yes, go ahead, put my – sign it on my behalf". A: No, sir. Q: And I suggest that was exactly the same approach that you took to PMM]. A: That's incorrect, sir. Q: But you gave no proper attention to the form that Ms Young needed to send off, did you? A: We discussed the form, sir. She came to the office whilst on maternity leave. If it was the case as you suggested, then why would she need to come to the office? I explained to her that I needed to speak with her. We discussed the form. Q: ... Well, so you say, but the principle of the thing is the same, isn't it? You were content for somebody else to put your name on their form. A: Because she was sat less than a foot away from me, sir. Q: Well, what was to prevent you from picking up the form on her desk and writing the name – your name on it yourself? A: It's an electronic form, sir. Q: ... What was to prevent her from emailing you a Word version of that form and you typing in your name and typing in an X in the box? A: Nothing, sir. Q: ... So why didn't you do it? A: Because I saw the form. The form was on her computer, facing me. I was content with it, so I said, "That's fine". Q: Well, we'll have to disagree about that.'*

Principle 2 : Integrity

34. As to the distinct issue of whether the conduct admitted in Allegation 1.1 was in breach of Principle 2, the Tribunal applied the test set out in Wingate v. SRA [2018] EWCA Civ 366 per Jackson LJ at [100]: *'Integrity denotes adherence to the ethical standards of one's own profession. That involves more than mere honesty. To take one example, a solicitor conducting negotiations or a barrister making submissions to a judge or arbitrator will take particular care not to mislead. Such a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse.'*
35. The Tribunal was satisfied that PMM had lacked integrity *'...on the basis that he had signed a form knowing it was untrue. Solicitors should not sign documents in the name of someone else. This had been a document to a professional body for accreditation referring to ability to practise in that area, when it had not been seen by the person it said it had. This was completely inconsistent with the duty to be scrupulously accurate referred to in [Wingate]' [37.33].*

Principle 6

36. The conduct in Allegation 1.1 was also in breach of this principle: *'The Tribunal considered that the public was entitled to expect that a declaration signed by a solicitor was accurate and was signed off by the person it claimed to be. Taking into account the Tribunal's findings set out above, the Tribunal found on the balance of probabilities that [PMM] had failed to maintain the trust the public placed in him and in the*

provision of legal services. The Tribunal therefore found the breach of Principle 6 proved': [37.34].

Grounds of appeal and submissions

37. The five grounds of appeal may be divided into two essential but interwoven categories. First, that the Tribunal was wrong to find that PMM's admitted conduct in Allegation 1.1 was dishonest or in breach of Principles 2 or 6, in circumstances where PMM had and/or believed he had the authority of GGJ to sign in his name. Secondly, that it was wrong to reach that conclusion having regard to its acceptance of the evidence of Ms Cara Young.

38. The five grounds of appeal are that the Tribunal was wrong:

'1...to have found proved the allegation of dishonesty made against [PMM].

2...to conclude that ordinary decent people would find that [PMM]'s conduct was dishonesty (sic) having found that [he] '...believed that he had authority to put complete the declaration in the name of [GGJ]' and having accepted the evidence of the witness Cara Young.

3....to find that the authority to sign the declaration on the form could not be delegated. There is no indication on the form, or anywhere else in the evidence that the authority could not be delegated.

4...to have disregarded the concession made by the [SRA] that their case on dishonesty was weakened if the Tribunal found that [PMM] had authority to complete the declaration in the name of [GGJ].

5...to have found proved the allegations that [PMM] breached Principles 2 & 6 in completing the declaration on behalf of [GGJ] in light of their finding that he had authority to complete the declaration in the name of [GGJ].'

Authority

39. Mr FitzGibbon identified the issue on this part of the appeal as: 'Was the Tribunal justified in drawing serious adverse inferences from PMM signing the document in the name of GGJ with the implied authority to do so (as the Tribunal found) without his principal having read it?'

40. In giving a negative answer to that question Mr FitzGibbon submitted, first, that in the circumstances of this form, there was no bar to the delegation by the 'partner/senior manager'(as principal) to the applicant for re-accreditation (as agent) of the insertion of his signature on the form. Secondly, such authority having been given, it was wrong to treat the declaration as 'false'; alternatively wrong to treat PMM's submission of the form with a false declaration as an act of dishonesty.

41. As to the delegation by a principal to an agent of the signature of documents on his behalf, the Tribunal had wrongly made the general assertion that '*solicitors should not sign documents in the name of someone else*': 37.33. That general proposition was too sweeping and contrary to authority. Thus Bowstead on Agency (22nd ed.): '*An agent may execute a deed, or do any other act on behalf of the principal, which the principal*

might personally execute, make or do; except for the purpose of executing a right, privilege or power conferred, or of performing a duty imposed, on the principal personally, the exercise or performance of which requires discretion or special personal skill, or for the purpose of doing an act which the principal is required, by or pursuant to any statute or other relevant rule, to do in person': para.2-018; and 'Signature by proxy: As a general rule, 'at common law a person sufficiently 'signs' a document if it is signed in his name and with his authority by somebody else. An indication that the signature is per procuracionem ['pp'] is desirable but not essential': citing LCC v Agricultural Foods Products Ltd [1955] 2 QB 218 per Romer LJ at 223-224 and other authorities relating to various types of documents.

42. The re-accreditation document did not expressly stipulate that it must be signed personally by the maker of the declaration, nor was there any statutory prohibition or established rule of practice by the Law Society which required a personal signature.
43. As to the effect of the authority given by GGJ to PMM, this overrode the necessity for the named signatory (GGJ) to have read the contents. By giving his authority (*'just get it done'*: Judgment [37.21], GGJ was implicitly trusting PMM to provide accurate and truthful information in the body of the form; and PMM did so. In the course of argument I understood Mr FitzGibbon to step back from his written submission that the declaration on behalf of GGJ was not 'false'. His central argument was that a distinction must be drawn between a statement which is not true and one which is made dishonestly; and that it was the giving of authority by GGJ, and/or his belief that he had such authority, which saved it from being a dishonest statement by PMM.
44. Errors in these respects had pervaded the Tribunal's conclusions at each of the two Ivey stages. As to the first stage (the subjective state of mind), it had wrongly held that completion of GGJ's section of the form could not be delegated by GGJ to PMM : *'Although [PMM] had the implied authority of [GGJ] to do so, that authority could not be delegated, and [PMM] knew that from the wording and the purpose of the declaration'* [37.30]. Then, despite having found that PMM had the implied authority from GGJ to do what he did and/or that he believed that he had such authority, the Tribunal had taken no account of that fact when considering his actual state of mind when submitting the form to the Law Society.
45. As to the Ivey second stage (the objective test) [37.31], the Tribunal's conclusion (*'However, the public would consider it dishonest, notwithstanding the authority the Respondent had, to make a declaration on a form for personal accreditation to his representative body that was untrue'*) similarly conflated the distinct concepts of truth/falsity and dishonesty. In one sense the declaration was untrue because GGJ had not himself read and approved the form; but it did not follow that the presentation of an 'untrue' form to the Law Society was an act of dishonesty in and itself. What saved it from being dishonest was the authority that GGJ had given.
46. That critical potential distinction between knowledge of falsity and dishonesty was duly acknowledged by the SRA in its framing of the Allegations. Thus Allegation 1.1 was that PMM had been party to the making of a statement of fact which he knew to be untrue; and Allegation 1.3 raised the distinct issue of whether he had acted dishonestly in so doing: see also the similar distinction drawn in charges framed by the GMC and noted by the Court of Appeal in Raychaudhuri v. GMC [2018] EWCA Civ 2027 at [32]. Thus the Tribunal had fallen into the trap of moving from its finding on the factual basis

of Allegation 1.1 to its finding on dishonesty (Allegation 1.3) without giving appropriate scrutiny to that distinct issue.

47. The distinction was also duly acknowledged by Counsel for the SRA (Mr Bullock). As the Judgment correctly recorded, *'Mr Bullock accepted that his case on dishonesty was weakened in the event that the Tribunal found that [PMM] did have express authority to put [GGJ]'s name on the certification.'* The Tribunal had failed to take account of that important and correct concession, which applied equally to its findings that PMM had the implied authority of GGJ and that he acted in the belief that he had such authority.
48. In any event the question on dishonesty in this case was whether the ulterior purpose was to effect a fraud. That was not the case here, because the contents of the information about PMM were true. The finding on dishonesty overlooked the circumstances in which the inaccuracy about GGJ came to be inserted. The position might have been different if the Tribunal had found that PMM had no authority to enter GGJ's name.

The contrast with Ms Cara Young

49. Mr FitzGibbon then contrasted the approach of the Tribunal to the circumstances in which Ms Young had completed her own re-accreditation form.
50. The Tribunal had expressly accepted Ms Young's evidence: [37.23]. As recorded earlier in the Judgment, the circumstances were that she had come into the office to complete a similar form, because there was information which she did not have at home; GGJ had been in the room when she completed the form; she had given him the opportunity to look at the form; GGJ had said to her 'I trust you, put my name to it'; there had been no discussion about the content of the form; and *'she saw nothing wrong with him having given her that authority as it was his choice at the time'*: [35].
51. However in the same paragraph in which the Tribunal accepted her evidence, it stated that the circumstances surrounding her application were *'somewhat different'* to those involving PMM. Those different circumstances were identified in terms that Ms Young had been in the same room as GGJ while completing the application and that the two of them had discussed the application.
52. There were two particular errors in this finding of a difference between the two cases. First, that there had been 'discussion' about the form. As in PMM's case, Ms Young and GGJ had not had any discussion about the content of the application form; which was what mattered for the purpose of the declaration. That was clear from her evidence and was so accepted by the Tribunal through the combination of its paragraphs [35] (penultimate sentence) and [37.23] (first sentence).
53. Secondly, that GGJ had had the opportunity to review the form if he wished to do so. In PMM's case, the firm equally knew that the form was being prepared for submission. This was demonstrated by the exchanges of e-mails between the co-director JPJ and PMM in June 2018: see the exchanges on 12.6.18, 15.6.18 and JPJ's e-mail of 22.6.18 *'Further to your e-mail last week could you confirm that you have now submitted your application for reaccreditation to the Law Society.'*; and by the firm's reimbursement of the initial fee for a check by the Disclosure and Barring Service. The firm, and GGJ in particular, thus equally had the opportunity to ask for and review the form before its

submission, but had not done so. This all reflected Ms Young's evidence which, as the Tribunal stated, *'did show a pattern whereby [GGJ] would not complete the declarations himself but would allow others to do so on his behalf'*: [37.23].

54. This left only the difference that Ms Young had been in the same room as GGJ when completing the form and had at that same time given him the opportunity to review the form if he wished to do so.
55. This showed no true difference of substance between the two cases. In Ms Young's case, just as in PMM's, she entered GGJ's name on the form in the evident knowledge that he had neither seen nor reviewed its contents. Yet the Tribunal suggested no criticism of Ms Young but concluded that the circumstances of her case could be distinguished. The approach to her evidence contrasted with its conclusion that ordinary decent people would consider it dishonest, notwithstanding the authority to sign, to make an untrue declaration in such a form.
56. Having made no such criticism of Ms Young, the Tribunal ought to have asked itself whether the handling of Ms Young's application gave a good indication of what ordinary decent people would make of completing a form in someone else's name with authority to do so. In each case the authorisations were based on trust, between people who knew one another, that the form would be completed accurately. This was all relevant to the second stage test in *Ivey*; for if this was a practice which was regarded as normal, as apparently it was, then it was not correct to say that objectively speaking it must be regarded as dishonest.
57. This was again further supported by Mr Bullock's correct, but overlooked, concession that the case on dishonesty was weakened in the event that the Tribunal found that PMM did have express authority to put GGJ's name on the application. This applied equally where the Tribunal's finding was of authority to be implied from his words to the effect 'just get it done'.
58. This lack of true difference between the cases of PMM and Ms Young was equally relevant to the finding that PMM's conduct had been in breach of Principles 2 and 6. Whilst acknowledging the potential distinction between dishonesty and lack of integrity (see *Wingate*), this did not explain the difference which the Tribunal found between the two cases. Thus the Tribunal expressed no criticism of Ms Young on any basis. In these particular circumstances the same applied to its finding that there was a breach of Principle 6.
59. Mr FitzGibbon pointed further to the Law Society's letter to PMM dated 10 December 2018 in which it granted his appeal against revocation of his accreditation. Whilst acknowledging that this had been based on documents which included the notes which the Tribunal had found to be self-serving and produced after the event to support his account, the important point was that the Law Society had found no basis of complaint where there was implied authority to sign and the contents of the application were true. This was another pointer on the issue raised by the second limb in *Ivey*.

SRA submissions

Authority

60. Ms Culleton submitted that the Tribunal made no error of law in its application of the two-stage test set out in Ivey. As the Tribunal found, the fact that PMM believed he had GGJ's authority to submit the form using his name on the declaration did not negate the fact that PMM was presenting to the Law Society a declaration which he knew to be untrue and misleading because GGJ had not seen or reviewed the form.
61. The Tribunal thereby correctly drew a distinction between PMM's belief that he had authority with his own independent responsibility for submitting it in the knowledge that the declaration was false and misleading. Allegation 1.1 was not just about entering GGJ's name on the form, but doing so in the knowledge that (contrary to GGJ's purported declaration and certificate) he had not seen or reviewed the contents of the application.
62. Ms Culleton did not dispute the general common law rule set out in Bowstead and the authorities. However the contents of the form in this case took it outside that general rule; because of the personal declaration whereby each signatory certified and acknowledged the accuracy of the contents of the form. This led to the Tribunal's correct conclusion that '*Although [PMM] had the implied authority of [GGJ] to do so, that authority could not be delegated, and [PMM] knew that from the wording and the purpose of the declaration*': [37.30]. By this the Tribunal meant that what could not be delegated was the duty of the person whose name was being put on the declaration to review the form and to confirm the contents of the form which the declaration required.
63. Ms Culleton accepted that the Tribunal's statement that '*Solicitors should not sign documents in the name of someone else*' [37.30] was too broad a general proposition in the light of the authorities on the common law. However that statement needed to be read in the context of the particular circumstances where the terms of the declaration on the form required the signatory to take the active role of reviewing the contents of the document; and hence required personal signature by the partner/senior manager. Furthermore, the Tribunal was making the point in the context of the broader issue of Principle 2/integrity rather than dishonesty.
64. In argument Ms Culleton accepted that, if GGJ had reviewed and was satisfied with the contents of the form, he could have then authorised PMM to insert his name into the signature; but that had not happened. In the absence of that prior review, the starting point was that the partner/senior manager's name could not be inserted by someone else. That was why Ms Young had been correct to say that the form needed his signature.
65. Ms Culleton duly acknowledged the distinction between a knowledge of falsity of statements made and whether those statements were made dishonestly. Thus, e.g., as observed in Raychaudhuri at [32]: '*Things might be said in the heat of the moment without any settled or dishonest intention to deceive in relation to something important*'. However the Tribunal had correctly recognised that this was not the case here. Even if acting under a belief that he had authority from GGJ, PMM's state of knowledge was such that he knew that the declaration was false and misleading and he had a settled intention to deceive the Law Society in that respect.

66. By analogy, as observed in SRA v. Siaw [2019] EWHC 2737 (Admin), it would be an *'impermissible and irrelevant gloss'* on the Ivey test to take into account the solicitor's motive for doing what he did. In Siaw it was irrelevant that the solicitor had not engaged in a *'concerted effort to mislead or hoodwink the regulator'*; the SDT should have *'simply applied the objective Ivey test and asked itself whether his conduct of receiving the money in his personal account and retaining it there with that knowledge was conduct which ordinary decent people would regard as dishonest...'* [58]. That was the test which the Tribunal had correctly applied in the present case.
67. As to the concession made by Mr Bullock, this was made only by reference to express authority. In any event it was a matter for the Tribunal to determine the case on the evidence and any inferences properly drawn from the evidence and the submissions made by either party. Even if a finding of express or implied authority were considered to weaken the case, the degree to which it might do so was a matter for the Tribunal. It would not inevitably lead to a finding of no dishonesty. For the reasons already given, the issue of authority was in no way determinative of the issue of dishonesty; nor of integrity (Principle 2), nor breach of Principle 6.

Ms Young

68. Ms Culleton initially submitted that the Tribunal in fact accepted GGJ's evidence that he had had sight of the form which Ms Young was completing when in the same room as him and that they had discussed the form: *'[GGJ]..maintained that she had been in the same room as him at the time and they had discussed the form, which he had also had sight of. [GGJ] denied that it had been an identical situation to that involving [PMM]':* [21]. This evidence had been maintained in cross-examination: see the passages cited above.
69. Further, the paragraph of the Tribunal's judgment which included Ms Young's conflicting account that *'Ms Young told the Tribunal that there is [sic] no discussion about the content of the form'* [35] was simply a summary of her evidence. The Tribunal's findings included acceptance of GGJ's evidence that he and Ms Young had discussed the form, hence *'The difference in Ms Young's case was that there had been discussion and [GJJ] had been given every opportunity to review the form if he wished to do so'* [37.23].
70. However, in argument, Ms Culleton rightly conceded that the Tribunal had accepted Ms Young's evidence in full; and thus as set out in her letter of 9 October 2018, witness statement and cross-examination and re-examination. As to Judgment paragraph [37.23], she likewise accepted that on the evidence of Ms Young there had been no discussion with GGJ about the contents of the form. The reference in that paragraph to 'discussion' was to GGJ saying 'sign, I trust you'.
71. However the Tribunal reasonably concluded that the two cases were 'somewhat different'. In contrast to PMM's case, Ms Young completed the form while in the same room as GGJ, who was aware that it was being completed at that time; Ms Young had given him the opportunity to review the form if he wished to do so; and he gave his authority for her to sign at that time when the form had been completed in his presence.
72. Ms Culleton acknowledged that the declaration to which Ms Young inserted GGJ's signature was also false; and that the distinction drawn by the Tribunal between the two

cases could be regarded as subtle. However neither GGJ or Ms Young had been on trial; and in any event evaluations on issues of alleged dishonesty could involve subtle distinctions. Thus the observations of the Court of Appeal in Raychaudhuri when restoring the disciplinary tribunal's finding that the professional had not been dishonest in '*...a case which the MPT plainly regarded as finely balanced, involving circumstances which required subtle but important and morally significant distinctions to be drawn. It seems clear that the MPT gave anxious consideration to whether the appellant's conduct could be regarded as dishonest and that it thought that there was an important moral distinction to be drawn in the particular circumstances of the case, with the appellant falling on the right side of line..*': per Sales LJ at [56]; see also at [57].

73. Even if there were no difference between the two cases, there was still no good reason to overturn the evaluative judgment of the Tribunal, which had seen and heard all the witnesses and reached a reasonable conclusion through the correct application of the two-stage Ivey test.
74. Further, PMM could obtain no support from the terms of the Law Society letter which upheld his appeal on re-accreditation. That decision was made in the light of PMM's two manufactured and self-serving notes of the meetings with GJJ.
75. In any event, these arguments all related to the charge of dishonesty. The finding of lack of integrity in breach of Principle 2 was distinct: see Wingate per Jackson LJ that '*Integrity is a more nebulous concept than honesty*' [96]; and that '*Such a professional person is expected to be even more scrupulous about accuracy and a member of the general public in daily discourse*' [100]. Further, '*A professional disciplinary tribunal has specialist knowledge of the profession to which the respondent belongs and of the ethical standards of that profession. Accordingly such a body is well placed to identify want of integrity. The decisions of such a body must be respected, unless it has erred in law*': [103].
76. In its Rule 12 statement of its case on breach of Principle 2, the SRA had duly included: '*Acting with integrity would require [PMM] to have provided the application, before it was sent to the Law Society, to GJJ for review before the declaration confirming that the information was correct was made. This being so regardless of any authority he thought he had... It was essential that [PMM] ensured that the application was completed correctly*'.
77. The Tribunal's adverse finding on the issue of integrity thus stood independently of the issues of delegation, authority and the contrast with the case of Ms Young. The same applied to the breach of Principle 6.

Discussion and conclusions

Authority

78. It is necessary first to disentangle the legal issues which arise as between GGJ and PMM and as between GGJ/PMM and the Law Society. In my judgment these have become confused in the course of the Judgment and the argument on appeal.

79. As between GGJ and PMM, PMM had GGJ's actual authority to complete and then submit the form in the way he did. That much is clear from the Tribunal's Judgment: [37.21], [37.25], [37.29-31] and [48]. In those paragraphs the Tribunal described this as implied authority, evidently meaning implied actual authority.
80. Given that the Tribunal's conclusion on authority was based on its finding of fact that GGJ had *'used words to the effect of "just get it done"'* [37.21], I briefly raised in argument whether it might be more accurate to describe it as express actual authority.² However I proceed on the basis of the finding of implied actual authority.
81. Actual authority is a legal relationship between the principal and agent alone: see e.g. Freeman & Lockyer v. Buckhurst Park Properties (Mangal) Ltd [1964] 2 QB 480 per Diplock LJ at 502. That relationship is distinct from that between GGJ/PMM and the Law Society. In consequence, and contrary to Mr FitzGibbon's initial submission, the fact that GGJ gave PMM authority to do what he did in no way undermines the Tribunal's conclusion that the declaration in the form was false. As a matter of undoubted fact, the declaration entered in the name of GGJ was false. Accordingly, since PMM accepted that he knew that GGJ had not seen or reviewed the application, it followed that the factual basis of Allegation 1.1 was proved.
82. In my judgment this distinction between the two legal relationships (GGJ-PMM, cf. GGJ/PMM-Law Society) is also the key to understanding the difficult final sentence in paragraph [37.30] of the Judgment: *'Although [PMM] had the implied authority of [GGJ] to do so, that authority could not be delegated, and [PMM] knew that from the wording and the purpose of the declaration'*. On a fair reading, the Tribunal was stating that (i) as between GGJ and PMM, PMM had authority to act as he did; but (ii) as between GGJ/PMM and the Law Society, and to PMM's knowledge, the duty of GGJ to review and be satisfied with the contents of the application before signature could not be delegated.
83. For the same reason it is also irrelevant as to whether or not it was necessary – as between GGJ/PMM and the Law Society - for GGJ personally to enter his electronic signature on the form. What matters for the Law Society is that the declaration by the partner/senior manager should be true. (Without deciding the point, I am inclined to accept Ms Culleton's concession that, if and only if GGJ had read and reviewed the contents of the application and was satisfied with the truth of the declaration, he could have properly authorised PMM to undertake the physical task of inserting his electronic signature. However best practice must surely be for the partner/senior manager personally to enter that signature).
84. Having correctly found the factual basis of Allegation 1.1 to be admitted and proved, the Tribunal then had to consider (i) whether this constituted a breach of Principles 2 and/or 6 (Allegation 1.1) and (ii) whether the conduct was dishonest (Allegation 1.3). I will deal first with the issue of dishonesty.

Dishonesty

² cf. e.g. the summary of the distinction between express and implied actual authority in Hely-Hutchinson v. Brayhead Ltd [1968] 1 QB 549 per Lord Denning MR at 583A-C.

85. A finding of dishonesty did not necessarily follow from the Tribunal's finding that the factual basis of Allegation 1.1 was established. That is self-evident, but in any event is further demonstrated by the fact that the SRA identified this as a distinct additional allegation (Allegation 1.3) for the Tribunal to consider: see also the similar example of that practice in Raychaudhuri at [32].
86. It is at this stage of the enquiry that PMM's belief that he had authority to act as he did came potentially into play. Counsel for the SRA recognised this in his concession, recorded at [37.8], which in turn was consistent with the SRA's particulars of dishonesty which included absence of authority as one of the matters relied on. Whilst the concession was expressed by reference to the fact of authority, what matters for this purpose is the belief that he had such authority. This is reflected in the first of the two-stage tests reaffirmed in Ivey; whereby the fact-finding tribunal '*must first ascertain (subjectively) the actual state of the individual's knowledge and belief as to the facts*'.
87. On a fair reading of the paragraphs which relate to the Ivey first stage enquiry [37.29-37.30] the Tribunal identified PMM's state of knowledge and belief as that he (i) believed himself to have been authorised by GGJ to act as he did; but (ii) knew that the declaration by GGJ was false. Accordingly both those aspects of his state of mind fell for consideration at the second stage of the objective question.
88. However, when it turned to that question [37.31], the Tribunal gave no real weight to the first of those two findings. It began by taking account of the evidence of PMM's previous good character; but then placed its focus on the fact of PMM's knowledge that the declaration on behalf of GGJ was false. Its consideration of the issue of authority was expressed in the terms of '*notwithstanding the authority [PMM] had*'; and took no apparent account of the associated and proper concession of Counsel for the SRA that the issue of authority was a potentially relevant factor in the objective assessment. Thus in effect it treated PMM's knowledge of the falsity of the declaration (the factual basis of Allegation 1.1) as determinative of the issue of dishonesty raised by Allegation 1.3.
89. In my judgment it is clear that PMM's belief that he had GGJ's authority to act as he did was potentially relevant to the second stage objective test for dishonesty. This is apparent from the terms of SRA's particulars of dishonesty and the associated concession from Counsel at the hearing. It was particularly so in the circumstances where, as the Tribunal accepted, (i) the evidence showed a pattern whereby GGJ would not complete the declarations himself but would allow and trust others to do so on his behalf and (ii) the contents of the form as they related to PMM and his application for re-accreditation were accurate. This in turn is reflected in the Tribunal's comparative assessment of the evidence of Ms Young.

Ms Young

90. It is clear that the Tribunal accepted her account of the re-accreditation process in her case; and in particular as to the extent of the involvement of GGJ. Ms Culleton was right to concede that the Tribunal's reference to 'discussion' [37.23] did not involve acceptance that there had been any discussion about the content of the form. On the contrary, it expressly accepted her evidence that there had been no such discussion.
91. In the result, the only differences which the Tribunal identified between the two cases were that (i) GGJ had been present in the room when Ms Young was completing her

form; (ii) while completing the form she had offered, but GGJ had not taken, the opportunity to look at the form.

92. At the same time, the Tribunal accepted Ms Young's evidence as to her subjective state of mind – in particular that she '*...saw nothing wrong with [GGJ] having given her that authority as it was his choice at the time*' [35]. This evidence was given in the context of her evidence that GGJ had told her '*I trust you, put my name to it*'. The acceptance of Ms Young's account, without adverse comment, is in striking contrast to the Tribunal's approach and conclusion on PMM's state of mind.
93. In my judgment there were no material differences between the circumstances in which Ms Young and PMM completed their respective applications. In each case GGJ demonstrated his 'pattern' of allowing his signature to be entered without his own personal consideration of the contents of the form; and in doing so trusted the applicant to complete the form accurately. In agreement with Mr FitzGibbon, I do not consider that there was any difference from the fact that, in PMM's case, the authority and the trust were implied rather than express.
94. I acknowledge, of course, that neither Ms Young nor GGJ were facing charges before the Tribunal. However Ms Young's evidence had been called in support of PMM's position; and the Tribunal evidently considered it necessary to take account of her own evidence and compare it with the circumstances of PMM's case.
95. I also remind myself of the principles noted above which impose restraint on interference with the findings of the specialist disciplinary tribunal; that the Tribunal had the particular advantage of seeing and hearing all the witnesses; of the need to avoid undue textual analysis of the language of the Judgment; and of the '*subtle but important and morally significant distinctions*' (Raychaudhuri) which can arise in such assessments. However with all due weight to those matters, I cannot see any good basis for the Tribunal's conclusion that these were material differences between the accreditation process as conducted by PPM and Ms Young. In my judgment the matters identified by the Tribunal were of no substantive difference.
96. I conclude that the two central grounds of challenge compel the conclusion, both individually and cumulatively, that the Tribunal's finding of dishonesty cannot be sustained. In its consideration of that issue, it did not take account of PMM's belief that he had authority to act as he did; and identified differences with the case of Ms Young which were of no material significance.

Principle 2 : Integrity

97. I reach the same conclusion on the issue of integrity and breach of Principle 2 as it relates to Allegation 1.1. I acknowledge of course the potential distinction between findings of dishonesty and of want of integrity, for the reasons identified in Wingate. However, in this particular case, I consider that the matters which compel the overturning of the finding of dishonesty apply equally to the finding of want of integrity is applied to Allegation 1.1. In particular, in the absence of any criticism of Ms Young (or GGJ) in the circumstances of her re-accreditation application, I can see no basis for the Tribunal to have reached the conclusion which it did.

Principle 6

98. On the very particular facts of this case and the terms of the Tribunal's reasoning, I also conclude that the finding on breach of Principle 6 cannot be sustained. In particular, the Tribunal's brief reasons on this point are that the breach was established '*Taking into account the Tribunal's findings set out above*'. In circumstances where those include findings on dishonesty and want of integrity which cannot be sustained, I conclude that this decision on breach of Principle 6 is also vitiated by those errors.
99. Accordingly I conclude that the Tribunal's decisions or that PMM's conduct on the admitted factual basis of Allegation 1.1 was dishonest and in breach of Principles 2 and 6 must each be set aside. In reaching these conclusions, I emphasise that my decision is based on the very particular facts of this case and having regard to the particular reasoning of the Tribunal. The imperative obligation for solicitors to ensure that forms such as this are completed with the utmost care and accuracy is undiminished.

Sanction

100. Since the sanction was imposed by global reference to Allegations 1.1-1.3, I conclude that it must follow that it should be set aside and determined afresh. By reference to s.49(4) Solicitors Act 1974 and CPR 52.20, the parties agree that the Court has the power either to redetermine the sanction or to remit that issue to the Tribunal. In the event that the appeal were successful, Ms Culleton submitted that the issue of sanction should be remitted to the specialist Tribunal; in particular in circumstances where its previous decision had not expressed a view on the appropriate sanction for Allegation 1.2 alone. Mr FitzGibbon's contrary submission focussed on the absence of any statutory provision for the suspension of the sanction pending an appeal and the suggested likelihood that remittal to the Tribunal would involve greater delay than a decision by the Court.
101. In the absence of an existing sanction in respect of Allegation 1.2 alone, I consider that the more appropriate course is for the fresh determination to be carried out by the specialist Tribunal. Accordingly I set aside the sanction imposed by the Tribunal; and remit the matter for determination afresh in the light of this judgment.