

Paul Philip
Chief Executive Officer
Solicitors Regulation Authority

By email: paul.philip@sra.org.uk

13 February 2019

Dear Mr Philip

Recent decisions of the SDT regarding junior lawyers

This letter is written on behalf of the Junior Lawyers Division of the Law Society of England and Wales (“JLD”). The JLD represents LPC students, trainee solicitors, and qualified solicitors of up to five years’ post qualification experience.

We write in relation to recent decisions of the Solicitors Disciplinary Tribunal (“SDT”) and, in some cases, subsequent appeals to the High Court, regarding junior members of the profession. Specifically, we write with regard to decisions relating to the following junior lawyers:

1. Sovani James – struck off for backdating letters despite strong evidence to support that she was suffering from mental ill-health, had been subjected to bullying and oppressive management; and
2. Emily Scott – struck off as a trainee solicitor for breaching the SRA Code of Conduct following whistleblowing on her seniors despite the SDT finding that she had been bullied and pressured by those seniors.

We will deal with each matter in turn. Our primary concern is the most vulnerable lawyers in our profession, by their role and experience, are not currently being adequately protected by the SRA’s approach to enforcement or by any practical measures. The revised SRA Enforcement Policy announced in February appears not to address these well documented concerns.

1. Sovani James

In the context of our ongoing work stream focusing on the wellbeing of junior lawyers (which we will go on to discuss), the JLD has reviewed the initial SDT judgment and subsequent High Court appeal concerning the Sovani James disciplinary proceedings, with which we are sure that you will be familiar.

We note with concern the comments of both the relevant SDT and High Court judgments which highlighted how, at the firm (McMillan Williams) in question:

-‘...pressures...were passed down to the fee earning team who must have felt that they were carrying the world on their shoulders.’

-‘[Telling] junior solicitors that they had to make up hours by working weekends, long evenings, Bank Holidays... was a notable example of bad, ineffective and inappropriate management.’

-‘The letter from [the Chief Executive Officer] to the Respondent was threatening and harassing in tone. The Tribunal believed that the intention behind the letter was to frighten the recipient into compliance, namely into working long hours in the evenings, at weekends, at

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holiday times, in short doing whatever was necessary to make up time recording deficits and therefore increase billing. This was inappropriate...[and] hectoring of a junior employee.'

-'...[McMillan Williams] must take upon itself a significant proportion of blame [for the misconduct].'

-'...the pressure on the respondent was caused in large part by a culture in [McMillan Williams] which was toxic and uncaring. That may provide an explanation for her dishonesty having occurred.'

2. Emily Scott

Having reviewed the SDT judgment, noting that of the three Respondents only Ms Scott attended, the JLD understands that Ms Scott was stuck off for acting dishonestly and in breach of the SRA Code of Conduct whilst under the instruction of her seniors as a trainee solicitor. We understand that after leaving the firm Ms Scott then informed the SRA of the firm's (Quality Solicitors De Vita Platt) misconduct.

We note in particular the below comments of the SDT:

-'[Ms Scott's] motivation was to retain her employment. She stood to make no additional gain above and beyond that. The Tribunal noted that this was in the context of pressure from the Second Respondent'

-'The circumstances were not planned on her part but [Ms Scott] carried out instructions and there was an element of planning required to do so'

-'[Ms Scott had limited responsibility for the circumstances giving rise to the misconduct. She had been attempting to conceal the misconduct of the Second Respondent'

-'[Ms Scott] had been deceived, pressured, bullied and manipulated by the Second Respondent'

The judgment makes reference to the Sovani James case (as discussed above). It is also noted that the SDT commented:

'the fact that [Ms Scott] was under pressure and working in a horrendous environment could not excuse dishonesty'

3. Our concerns

The JLD has previously raised concerns about the protection of trainee and junior solicitors. We enclose the following communications:

- a. Letter from the JLD to the SRA (January 2013) raising the problem of lack of protection for trainees.
- b. Letter from JLD to SRA (July 2014) seeking a response to the January 2013 letter.
- c. Response from SRA to JLD (September 2014).
- d. Letter from JLD to SRA (October 2015).
- e. Response from SRA to JLD (November 2015).

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You will note that our initial letter dated January 2013, raised concerns about circumstances not dissimilar to that of Ms Scott's. We also note that within the SDT judgment the training principals, although struck off, were not struck off or even reprimanded for grossly abusing their position as a training principal. The comments within the judgment are limited to the senior having 'breached his position of trust'.

Training contract positions are difficult to obtain and are not standard employment positions. The pressures on trainees are unique in the profession and include a failure to complete the training would probably restrict the rest of a career.

We previously asked the SRA to protect trainee and junior solicitors who have access to files of those who are, perhaps in some way, in breach of the SRA Code of Conduct.

Specifically (and for your ease of reference) we stated that the JLD would:

'[...] welcome an incorporation and acknowledgement of the protection of both junior whistleblowers and, if applicable, protection of their training contracts. This, however, will not wholly address the concerns we have about the lack of sanctions being brought against principal solicitors who fail to uphold the terms and aims of the training contract.'

In the case of Ms Scott, our concerns have been realised and we therefore now ask the SRA to confirm what protections are afforded to trainee solicitors and junior solicitors who whistleblow in circumstances whereby they may have been pressured into being complicit in actions that breach the SRA Code of Conduct.

Whilst choosing to reserve our opinion on the outcome of the above proceedings (in terms of the sanctions imposed on Ms Scott and Ms James) for the time being, the JLD would be grateful to know whether, given the above criticisms, any investigation has taken place into the conduct of the firm's training principal and also the firms in question (McMillan Williams and Quality Solicitors De Vita Platt).

If it is not possible to divulge this information, we should be grateful if you would clarify whether a hypothetical individual or firm which was criticised in a similar fashion to the above would face investigation. We note the SRA has previously indicated it was not investigating McMillian Williams according to Law Society Gazette articles.

Whilst we have indicated that we reserve our opinion on the outcome of both proceedings, the JLD directs the SRA to its [Resilience and Wellbeing Survey Report 2018](#) which identified that 90% of respondents had experienced stress in their role, with 26% of those respondents experiencing severe/extreme levels of stress. The survey also highlighted that:

- 67.3% of respondents felt that a high workload was the cause of their stress;
- 42.8% of respondents felt that ineffective management was the cause of their stress; and
- 45.0% of respondents felt that a lack of support was the cause of their stress.

The JLD should therefore be grateful if the SRA would set out the following:

- i. what practical support and measures the SRA has in place for junior lawyers who are facing difficulties in raising their concerns in the workplace;
- ii. what is the SRA doing to ensure that organisations employing junior solicitors are being supportive and that these organisations do not have 'toxic' cultures in which junior lawyers feel unable to raise concerns or ask for help.

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The JLD would welcome the SRA taking action against organisations that do not provide healthy working environments for their junior lawyers and in which junior lawyers do not feel confident in raising concerns without reprisals. We would be keen to discuss these issues further with the SRA and how best the SRA might approach such matters in terms of developing practical support and measures which junior lawyers can have confidence in.

We would also point out that sanctions such as in the case of Ms James and Ms Scott are likely to deter individuals, particularly junior lawyers who are the most vulnerable in our profession, to disclose wrongdoing (either by their employer or by themselves) for fear that they will be struck off, landed with a heavy costs order and receive negative publicity.

We look forward to receiving your response on these serious issues.

Yours sincerely



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Attachments: Previous correspondence between the JLD and the SRA 2013 to 2015.

CC: Christina Blacklaws, President, the Law Society
Michael Garson, Chair, Professional Standards and Ethics Committee
David Greene, Chair, Policy and Regulatory Affairs Committee
Lubna Shuja, Chair, Membership Communications Committee
Elizabeth Rimmer, CEO, LawCare

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