

## **Determination by Consent Decision**

### **Name of regulated person and call date**

David Scott Ewart KC  
Called to the Bar in November 1987

### **Case Reference**

2024/2116/DC

### **Charges**

#### **Statement of Offence**

Professional Misconduct contrary to Core Duty 5 of the Code of Conduct (Part 2 of the Bar Standards Board Handbook Version 4.6)

#### **Particulars of Offence**

Mr David Scott Ewart KC, a barrister and BSB regulated individual, behaved in a way which is likely to diminish the trust and confidence which the public would place in him or in the profession, in that, on 26 November 2023 he drove a motor vehicle on Brighton Road and was involved within a collision between his vehicle and a delivery van which caused damage to the delivery van. Following the collision, he failed to stop and provide his name and address and further failed to report the occurrence of the accident within 24 hours to a police station or constable contrary to section 170 of the Road Traffic Act 1988.

Mr Ewart subsequently entered a guilty plea to this offence at the Magistrates Court on 4 September 2024 and his licence was endorsed with 8 penalty points, and he was ordered to pay a £12,000 fine.

### **Referral to DBC Procedure from IDB (29 April 2025)**

This case was referred to the DBC procedure following an IDB Decision on the 29 April 2025.

### **Statement of Facts**

1. At around 9.30am, on Sunday 26 November 2023, Mr Ewart was driving his Volvo V40 on Brighton Road in Coulsdon.
2. Having missed the entrance to his intended car park at Lion Green Road, as a result of construction work in the area, Mr Ewart continued along Brighton Road which merged into dual carriageway beyond traffic lights. The two carriageways were separated by a hatched area of the approximate width of a

lane. Having joined the dual carriageway in the right hand lane, he attempted to perform a U-Turn.

3. Having slowed to a stop, Mr Ewart signalled right and attempted the U-Turn. As he did so, a van attempted to overtake on his righthand side. The van made contact with the driver side door of Mr Ewart's car at low speed.
4. Mr Ewart states that by the time he had stopped his vehicle, he was in the other carriageway and facing in the opposite direction to the van which had continued along the road a little way in the original direction.
5. Having stopped his vehicle, he explained that he looked to see what had happened to the van. The van seemed fine, and the driver was looking up and down at a phone or something similar. Other vehicles then began to overtake Mr Ewart and so he decided to drive slowly to the Green Lion Road car park.
6. Mr Ewart parked within the car park and looked out for the van. He assumed that the van would follow if the driver wished to exchange details. When the van did not arrive, Mr Ewart assumed that the van had continued on with their journey. He assumed there would not be much damage to the van given that his vehicle only had a small dent in the door which he was unconcerned with. Mr Ewart assumed that had the driver wanted his details, they would have followed him to the car park.
7. Mr Ewart's car remained in the Green Lion car park all day.
8. He reports that he considered using the Met Police online reporting platform the same day as the incident, however, he did not have the insurance details or the details of the van.
9. Once Mr Ewart had returned home, he was then involved in caring for his five children and preparing for a heavy trial which lasted for the rest of the working week.
10. On the Saturday morning after the incident, he reported the accident via the online platform.
11. In the following week, Mr Ewart received a form asking for details of the driver of his car. He completed this form and returned it immediately.
12. The Van driver had reported the collision and claimed that Mr Ewart was at fault.
13. Mr Ewart was subsequently charged with driving without due care and attention and failing to stop and report the incident. The CPS dropped the charge of driving without due care and attention, following Mr Ewart's representations.

14. On 4 September 2024, Mr Ewart entered a guilty plea to the charge of failing to report the incident having not made the report within 24 hours. He was fined £12,313.00 and his licence was endorsed with 8 penalty points.
15. Mr Ewart accepts that failing to report the collision within 24 hours was a bad mistake, but highlights that he was not seeking to avoid reporting the collision. He states that he thought at the time that he was not responsible for the collision, it was minor, and he did not wish to make any complaint against the other driver.
16. Mr Ewart accepts that he broke the law by not reporting the collision in time.
17. Mr Ewart also states that there have been no claims as a result of the collision. He also states that this was the first collision and first penalty points received in 30 years of driving.
18. Mr Ewart sets out general mitigation in his response to the allegation alongside his personal mitigation outlined above.

### **Previous disciplinary findings**

19. Mr Ewart has no previous disciplinary findings.

### **Plea and Mitigation**

20. Mr Ewart accepts each of the charges on the facts but does not accept any breach of the Code of Conduct.
21. Mr Ewart states that, in particular, he is not clear whether the IDB Panel had understood that the “personal injury” to the van driver was a sore knee which did not require any medical treatment.
22. Mr Ewart states that this injury was caused by the van driver’s poor driving and not his failure to report the accident in time.

### **Decision of the IDP**

Charge 1 was found proved by virtue of the Memorandum of Conviction, the provisions of rE169 and Mr Ewart’s admission. The Panel was satisfied that the conduct for which Mr Ewart received a criminal conviction was in breach of Core Duty 5.

### **Reasons for the decision on why charges are proved/not proved**

#### **Sanction**

In deciding the appropriate sanction to impose, the Panel had regard to the Bar Tribunals & Adjudication Service (BTAS) Sanctions Guidance (the Guidance) (January 2022) and in particular considered that B’s conduct fell within;

## Misconduct Group E. Criminal convictions

In determining the appropriate sanction to be imposed, the Panel assessed the culpability and harm factors set out in the Guidance including Annex 2.

### Culpability Factors

- The offence which led to conviction was serious.
- This was a one-off offence.

### Harm

- The impact on the public confidence in the legal profession.

### Aggravating Factors

- B's lack of insight.

### Mitigating Factors

- B's admissions of fact,
- B self-reported to the BSB,
- B's lack of previous disciplinary findings.

Having considered the above factors, the Panel decided that the matter could fall within the indicative sanction of low range of this misconduct group. The low range sanction in relation to this misconduct group is a low to high level fine.

### Fine

The Panel considered that a fine was proportionate and in the public interest to reflect the seriousness of B's conduct. In addition, whilst not intending to be punitive, this would send a clear message to the profession and the public that this type of conduct by a Barrister is not acceptable.

The Panel considered paragraph 6.16 of the BTAS Guidance which stated that a low-level fine can go 'Up to £5,000'.

Having balanced the aggravating factors against the mitigating factors (set out above), the Panel determined that a fine of £1,000 should be imposed on B.

### Reprimand

The Panel agreed that B should be reprimanded. The Panel noted that the purpose was not to punish B for a second time, but to convey that B's conduct fell far short of what is expected of a barrister, and such a significant departure could seriously damage public confidence.