

## **Determination by Consent Decision**

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

Colette Chesters

Called 14 March 1996

### **Case Reference**

2024/1608/DC

### **Charges**

#### **Charge 1**

##### **Statement of Offence**

Professional Misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition).

##### **Particulars of Offence**

Ms Colette Louise Chesters, an unregistered barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in her or the profession, contrary to Core Duty 5 in that on 21 October 2019, when suspected of having driven a vehicle and having been required to provide a specimen of breath for analysis in the course of an investigation into whether she had committed an offence under section 3A, 4, 5 or 5A failed to provide the specimen without a reasonable excuse to do so, contrary to section 7(6) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. Ms Chesters was found guilty and convicted of this offence at Wimbledon Magistrates Court on 14 June 2021 and was sentenced to 18 months of disqualification from driving and a £300 fine.

#### **Charge 2**

##### **Statement of Offence**

Professional Misconduct contrary to Rule rC8 (integrity only) of the Conduct Rules (Part 2 of the Bar Standards Board Handbook – Version 4.3).

##### **Particulars of Offence**

Ms Colette Louise Chesters, an unregistered barrister, behaved in a way which could reasonably be seen by the public to undermine her integrity in that, when suspected of having driven a vehicle and having been required to provide a specimen of breath for analysis in the course of an investigation into whether she

had committed an offence under section 3A, 4, 5 or 5A failed to provide the specimen without a reasonable excuse to do so, contrary to section 7(6) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. Ms Chesters was found guilty and convicted of this offence at Wimbledon Magistrates Court on 14 June 2021 and was sentenced to 18 months of disqualification from driving and a £300 fine.

### **Charge 3**

#### **Statement of Offence**

Professional Misconduct contrary to Rule rC65.2 of the Conduct Rules (Part 2 of the Bar Standards Board Handbook – Version 4.6).

#### **Particulars of Offence**

Ms Colette Louise Chesters, an unregistered barrister, failed between 15 June 2021 and 27 June 2024, to report promptly to the Bar Standards Board, that she was the subject of a criminal conviction which was not a minor criminal offence, as described in the Certificate of Conviction of Wimbledon Magistrates Court dated 14 June 2021.

### **Statement of Facts**

1. On 21 October 2019, Ms Colette Louise Chesters, an unregistered barrister who was called to the Bar on 14 March 1996, was driving a vehicle and was stopped by the police.
2. She was asked to provide a specimen of breath for analysis and failed to supply the specimen without a reasonable excuse to do so.
3. Her actions were contrary to Section 7(6) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 - she was arrested and charged for this offence.
4. On 14 June 2021, Ms Chesters appeared at the Wimbledon Magistrates Court, where she was found guilty of the offence and was sentenced to a disqualification of 18 months and a fine of £300.
5. Ms Chesters self-reported the criminal conviction to the Bar Standards Board on 28 June 2024, almost three years after the conviction had taken place.

### **Previous disciplinary findings**

6. Ms Chesters has not had any previous findings of professional misconduct.

## **Plea and Mitigation**

7. Ms Chesters admits all the charges.
8. By way of mitigation, Ms Chesters states that prior to the offence she had driven for more than 40 years and had an impeccable driving record without any issues. The offence was an aberration from her usual conduct.
9. Ms Chesters' perception of the event at the time contributed to her conduct which led to the offence. The Judge in Ms Chesters' case accepted that considerable mitigation attached to her case, as reflected in the low sentence.
10. Ms Chesters had relinquished her practicing certificate at which time she did not intend to practice again and did not realise that she still had a duty to report her conviction while unregistered. It was only when Ms Chesters decided she would consider returning to practice that she reviewed the provisions and was shocked and distressed to learn of her reporting obligation. Ms Chesters self-reported to the BSB as soon as she became aware that she should have.
11. Ms Chesters states that she has a previous impeccable record professionally and personally, and that it is deeply distressing and punishment in itself to have to accept a finding of integrity against her. Ms Chesters states she is deeply remorseful of her actions.

## **Decision of the IDP**

Charges found proved: Charges 1, 2 and 3

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

The Panel considered all the evidence in the bundle, including Ms Chesters' responses and admissions to the Charges and agreement to this matter being dealt with under the DBC procedure.

Also, in reaching its decision, the Panel considered Regulation rE169 of the Disciplinary Tribunal Regulations, which states:

### ***rE169***

*"In proceedings before a Disciplinary Tribunal which involve the decision of a court or tribunal in previous proceedings to which the respondent was party, or where a wasted costs order was made against the respondent, the following Regulations shall apply:*

1. *a copy of the certificate or memorandum of conviction relating to the offence shall be conclusive proof that the respondent committed the offence;*
2. *any court record of the findings of fact upon which the conviction was based (which may include any document prepared by the sentencing judge or a transcript of the relevant proceedings) shall be proof of those facts, unless proved to be inaccurate."*

Whilst this applies to evidence at Disciplinary Tribunal, given that the DBC process equates to disciplinary action the Panel was of the view that this is relevant to the Panel's consideration of whether the charges are found proved.

The Panel noted that, despite pleading not guilty, Ms Chesters was found guilty at Wimbledon Magistrates Court on 14 June 2021 for failing without reasonable excuse to provide a specimen or specimens contrary to section 7(6) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

The Panel had been provided with a copy of the memorandum of conviction confirming the conviction and sentence imposed. Ms Chesters was fined the sum of £300.00, disqualified from holding or obtaining a driving licence for 18 months, and ordered to pay a victim surcharge of £32.00, and to pay costs to the Crown Prosecution Service in the sum of £650.00.

### ***Charge 1***

The Panel was satisfied that the provisions of rE169, and the certificate of conviction, together with Ms Chesters' admissions, was sufficient to prove the facts of this Charge.

It was of the view that this conviction was likely to diminish public confidence in the profession for the following reasons;

- a. Criminal convictions of this nature, where there is a refusal to co-operate with law enforcement could reasonably be seen to diminish the trust and confidence the public places in the profession, and in Ms Chesters.
- b. The public would expect barristers, who are crucial participants in the administration of justice, to comply with the law and legal processes.

Accordingly, in relation to this Charge, the Panel was satisfied that there was sufficient evidence, on the balance of probabilities of a breach of CD5 of the Handbook.

### ***Charge 2***

The Panel relied upon the same reasons as it had for Charge 1 in finding that the facts of this Charge were proved.

In respect of the alleged breach of rC8 the Panel determined that there was sufficient evidence that Ms Chesters had acted without integrity. The Panel bore in mind the definition of integrity as set out in Wingate v. SRA [2018] EWCA Civ 366:

*“the term ‘integrity’ is a useful... to express the higher standards which society expects from professional persons and which the professions expect from their own members...”*

The Panel considered that the fact that Ms Chesters had not complied with the police when suspected of an offence demonstrated a lack of integrity.

Accordingly, in relation to this charge, the Panel was satisfied that there was sufficient evidence, on the balance of probabilities of a breach of rC8 of the Handbook.

### **Charge 3**

The Panel noted that Ms Chesters admits this Charge and accepts that she did not report her conviction to the BSB as required. The Panel determined therefore that the facts of this Charge were proved.

In relation to the alleged rC65.2 breach the Panel noted the salient parts of the chronology namely that;

- Ms Chesters was charged on 21 October 2019,
- Ms Chesters was convicted on 14 June 2021, and
- Ms Chesters self-reported to the BSB on 28 June 2024.

The Panel noted that rC65.2 required Ms Chesters to promptly self-report her conviction and determined that a delay of over 3 years was not prompt. Ms Chesters had said that she had thought that the requirements of rC65.2 did not apply to her because she had relinquished her practicing certificate at the time, and due to her ill-health did not intend at that time to practise in the future. However, the Panel considered that it was Ms Chesters' responsibility to be aware of and comply with her reporting obligations to her regulatory body.

Accordingly, the Panel decided that there was sufficient evidence, on the balance of probabilities, of a breach of rC65.2 of the BSB Handbook in that Ms Chesters had failed in accordance with her professional and regulatory obligations to report promptly that she had been convicted of a criminal offence.

### **Sanction**

Having found the facts of the Charges proved and determined that there was sufficient evidence, on the balance of probabilities, of breaches of the BSB Handbook in relation to the Charges, the Panel considered whether enforcement action should be taken.

The Panel determined that the Charges found proved amount to professional misconduct and that it was proportionate and sufficiently in the public interest, having regard to the regulatory objectives, to impose a sanction on Ms Chesters.

In light of Ms Chesters' failure to provide a specimen of breath and cooperate with the police and her subsequent failure to report the conviction promptly to the

regulator, the Panel determined that a fine should be imposed and words of Advice given.

The Panel considered Ms Chesters' response including her confidential mitigation. With regard to the BSB Enforcement Strategy and the serious nature of the Charges, which involved failing to comply with a police request, the Panel considered that it was appropriate to take enforcement action.

In deciding the appropriate sanction to impose, the Panel referred to the Bar and Tribunal and Adjudication Services Sanctions Guidance, version 6 (the Guidance). The Panel determined that the proved conduct breach fell within 'Misconduct group E - Criminal Convictions' of the Guidance.

In determining the appropriate level of fine to be imposed and the words of Advice to be given, the Panel assessed the aggravating and mitigating factors as set out in the guidance.

Aggravating Factors Considered by the Panel:

- Pleaded Not Guilty at the Magistrates' Court.
- Did not report to the BSB for a period of 3 years.

Mitigating Factors Considered by the Panel:

- Ms Chesters' confidential mitigation.
- It was a one-off event.

### ***Fine***

The Panel noted the financial information provided by Ms Chesters to the BSB. The Panel determined that a reprimand would not be sufficient to reflect the seriousness of the offence and that imposing a fine reflected the seriousness of Ms Chesters' 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.

Having regard to the aggravating and mitigating factors, the Panel considered that a fine of £750.00 (seven hundred and fifty pounds) is an appropriate and proportionate amount to address the public interest in this case and mark Ms Chesters' conduct as described in Charges 1, 2 and 3 as unacceptable.

### ***Advice***

In respect of Charge 3 only, the Panel gave the following Advice:

*"Ms Chesters is reminded of her duty to ensure that she complies at all times with her professional and regulatory obligations and remains fully cognisant with the relevant provisions of the Handbook to avoid breaches of this nature in the future".*

**Confidential mitigation considered (Not for publication)**

This section has been redacted as the original content is confidential.

