

Determination by Consent Report

Miss Jane Charlton



(Lincoln's Inn, November 2009)

A. Background

1. Miss Charlton was called to the Bar by Lincoln's Inn in 2009 and completed pupillage on 30 November 2012. Miss Charlton commenced a third six pupillage from 9 April 2015 to 31 March 2016 and a further third six pupillage from 1 April 2016 to 19 May 2016. From 20 May 2016 Miss Charlton has been recorded on the Bar Council records as an unregistered barrister. Therefore, Miss Charlton was unregistered at the time of the incidents giving rise to the complaint.
2. Miss Charlton self-reported the following conduct to the Bar Standards Board ("BSB"):
 1. Facing 4 charges of common assault on police officers following an incident on 11 June 2016 at her home. Miss Charlton pleaded guilty to the 4 charges and was sentenced on 21 September 2016 to a Community Order contrary to s39 of the Criminal Justice Act 1988
 2. Receiving a Community Resolution Order following an incident on 29 July 2016, whereby Miss Charlton assaulted a staff member at a nightclub.
3. On 3 October 2016, the BSB raised an internal complaint against Miss Charlton.
4. Investigation of the complaint was adjourned from November 2016 to March 2018 due to matters concerning Miss Charlton's health.
5. The Professional Conduct Committee ("PCC") considered the 2 separate incidences of assault at a meeting on 7 November 2018 and referred the matter to the Determination by Consent ("DBC") procedure. The BSB wrote to Miss Charlton's representatives on 14 November 2018 to inform of this decision. The representatives responded on 27 November 2018 to confirm that Miss Charlton agreed in principle for the complaint to be dealt with by DBC.

B. Charges

6. As a consequence of the incidences involving assault and subsequent police action outlined in paragraph 2 above, the BSB has charged Miss Charlton with 2 breaches of the Code of Conduct amounting to professional misconduct. The charges are:

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

Jane Charlton engaged in conduct 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 or about 11 June 2016 she assaulted four police officers contrary to section 39 of the Criminal Justice Act 1988 for which she was convicted by the Highbury Corner Magistrates Court on 31 August 2016 and sentenced on 21 September 2016 to a Community Order with a Rehabilitation Activity Requirement to attend appointments or participate in any activity as required by the responsible officer up to a maximum of 40 days, with an Unpaid Work Requirement to complete 100 hours within 12 months.

Charge 2

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

Jane Charlton engaged in conduct which is likely to diminish the trust and confidence which the public places in her or the profession, contrary to Core Duty 5, in that on or about 29 July 2016, she assaulted a staff member at a nightclub by kicking, which was dealt with by way of a Community Resolution Order.

C. Summary of Facts

Conduct relating to charge 1 – 11 June 2016 incident

7. On 11 June 2016 police were called to Miss Charlton's address following reports from her partner that she was throwing glasses at the wall.
8. Officers attended the scene where they found Miss Charlton to be "extremely drunk and unable to speak coherently".
9. According to Miss Charlton's partner, he and Miss Charlton had been having an argument during which Miss Charlton threw a glass at the wall.

10. Whilst Miss Charlton's partner was having a conversation with the officers, Miss Charlton ran into the room and made a "feeble attempt at pushing the officer". Miss Charlton was warned that if her behaviour continued she would be arrested for assault. Miss Charlton became more aggressive and started shouting "arrest me then" before trying to slap the officer on the arm.
11. Miss Charlton was restrained and quickly calmed down. She informed the officers that she would go to bed. Officers intended to treat the incident as a non-crime domestic however Miss Charlton's partner did not wish to participate in the process and the officers left the scene.
12. Approximately one hour later, the police were called back to the address by Miss Charlton's partner who stated that she had "kicked off again, was throwing things around, was out of control and was now targeting him".
13. 4 officers attended the scene. On arrival the front door was open, Miss Charlton's partner was holding the kitchen door closed and Miss Charlton was in the kitchen holding a large kitchen knife. One of the officers shouted at Miss Charlton through the kitchen window telling her to put down the knife. Miss Charlton turned and walked towards the window pointing the knife at the officer, shouting "fuck off".
14. Another officer grabbed hold of the kitchen door to prevent Miss Charlton from getting out. Officers were afraid for their safety and that of their colleagues as they believed that if Miss Charlton left the kitchen she would attack the officers with knives.
15. Miss Charlton picked up a knife, pointed it towards one of the officers and charged at the door. The officer in question shouted at her to put down the knife at which point she started kicking the glass door.
16. Taser officers arrived at the scene and on being informed of their arrival, Miss Charlton dropped the knife and was detained.
17. Miss Charlton's partner had a cut to his arm which had apparently been sustained during an argument with Miss Charlton when he had tried to take the knife from her but she had resisted.
18. Miss Charlton was arrested and interviewed by the police. During the interview she stated that she had been under immense stress recently. She said that she had had to recently stop working as a barrister as she wasn't capable of doing the work. According to Miss Charlton, she was experiencing relationship and financial difficulties.
19. On 31 August 2016, Miss Charlton pleaded guilty to four charges of common assault on the basis that she had shouted at police officers whilst holding a knife, in a manner which made them fear for their safety.
20. The memorandum of conviction records that in imposing the Community Order, the court took into account Miss Charlton's guilty pleas; the excess alcohol, the loss of a promising career and the nature of the offence.

Conduct relating to charge 2 – 29 July 2016 incident

21. On 29 July 2016, Miss Charlton had an argument with nightclub staff regarding her buying a drink for a homeless person whom staff did not want on the premises. Whilst being escorted off the premises, Miss Charlton kicked a staff member in the shin.
22. This matter was dealt with by way of a Community Resolution Order on the basis that Miss Charlton admitted the common assault and wrote a letter of apology to the staff member concerned.

Miss Charlton's response to the complaint (confidential health information redacted)

23. Miss Charlton deeply regrets the incidents and is aware that her behaviour fell below the standard of conduct expected of a member of the Bar.

24. The behaviour in respect of both incidents was entirely out of character [REDACTED]

25. [REDACTED]

26. Miss Charlton self-reported the criminal matters to the BSB promptly, pleaded guilty and has fulfilled the sentence obligations entirely.

27. [REDACTED]

D. Previous Disciplinary Findings

28. Miss Charlton does not have any previous findings of professional misconduct.

E. Plea and mitigation

29. Miss Charlton advised the BSB in a statement dated 14 January 2019 that she:
(a) Did not dispute the facts as set out in sections A and C of this report; and
(b) Admits the charges as set out in section B of this report.

30. Miss Charlton's mitigation is set out in paragraphs 23 - 27 of this report.

F. Committee decision

31. The Professional Conduct Committee find the 2 charges proven.

G. Committee sanction

32. When deciding an appropriate sanction, the Committee has had regard to the BSB's enforcement strategy as well as version 4 of the BTAS Sanctions Guidance (1 February 2018).

33. The sanctions guidance indicates under section B2, at page 37, that for a criminal conviction for a low level assault the starting point should be a reprimand and a medium level fine to a short suspension. A medium level fine is defined as being over £1,000 and up to £3,000. The sanctions guidance does not provide specifically for assault resulting in the imposition of a Community Resolution Order. *A community resolution does not involve a finding of guilt nor does it amount to a caution. Such a*

disposal is at the discretion of the police and is subject to the agreement of the victim and an acceptance by the perpetrator of criminal conduct. Typically this 'mediated' outcome is used to divert low level offending behaviour away from the Criminal process. For the purposes of the BATS sentencing guideline it is appropriate to have regard to it as if it were a caution but to make an allowance that the conduct was dealt with less seriously than by way of the imposition of a caution.

34. The Committee has considered as an aggravating factor the fact that Miss Charlton's conduct could undermine the profession in the eyes of the public.
35. In regard to mitigation, the Committee has considered Miss Charlton's guilty plea, that she has no previous findings of professional misconduct, her ill health at the time of the misconduct and that she has shown remorse.
36. Miss Charlton has submitted the following information regarding her current finances for the Committee's consideration:

- (i) [REDACTED]
[REDACTED]
[REDACTED]
- (ii) [REDACTED]
- (iii) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (iv) [REDACTED]
- (v) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

37. The Committee notes that Miss Charlton has already completed a rehabilitation activity requirement and completed 100 hours of unpaid work in relation to charge 1.
38. In all the circumstances, the Committee imposes the following sanction:

Charge 1 - Reprimand and fine of £500
Charge 2 - Reprimand