

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**Determination by Consent Report**

**Mr Peter Kent  
7 Bagley Close  
Kennington  
OXFORD  
Oxon  
OX1 5LS**

**(Gray's Inn, November 1978)**

**A. Background**

1. Mr Peter Kent was called to the Bar by Gray's Inn in 1978 and, during 2018, was a BSB regulated person, authorised to practise as a self-employed barrister with 3PB barristers' chambers.
2. On 27 September 2018, Mr Kent drove a motor vehicle after consuming excess alcohol. As a result, on 12 October 2018, he was convicted of an offence under the Road Traffic Act 1988 of driving with excess alcohol. On 18 October 2018, Mr Kent reported the conviction to the BSB, following which, the BSB raised a complaint against Mr Kent.

**B. Charge**

3. As a consequence of the conduct outlined in paragraph 2 above, the BSB charged Mr Kent with one breach of the BSB Handbook/ Conduct Rules amounting to professional misconduct. The charge is:

**Charge 1**

**Statement of Offence** - Professional misconduct for a breach of Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

**Particulars of Offence** – Peter Kent, a barrister and BSB regulated person, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession, contrary to Core Duty 5, in that, on 27 September 2018, he drove a motor vehicle after consuming so much alcohol that the proportion of it in his breath, being 50 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath and, as a result of which, on 1 October 2018, he was convicted of an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 Road Traffic Offenders Act 1988.

### **C. Summary of Facts**

4. Core Duty 5 (Part 2 of the BSB Handbook, 1<sup>st</sup> Edition) states that a BSB regulated person must not behave in a way which is likely to diminish the trust and confidence which the public places in the barrister or in the profession.
5. On 27 September 2018, Mr Kent drove a motor vehicle with excess alcohol.
6. On 12 October 2018, he pleaded guilty to an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 Road Traffic Offenders Act 1988, namely that on 27 September 2018, he drove a motor vehicle after consuming so much alcohol that the proportion of it in his breath, being 50 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath.
7. Mr Kent reported the matter to the BSB on 18 October 2018 and a complaint was raised against him on 28 January 2019, to which he responded on 5 March 2019.
8. In his response to the complaint, Mr Kent put forward the following points for consideration:
  - i. The circumstances were slightly unusual in that, after leaving Chambers, he met some friends for a drink in central Oxford. He went home by bus. On visiting his mother, who lived nearby, he took the car to collect some food for dinner. On the way back, he had a minor traffic incident (his passenger side mirror clipped another driver's side mirror) and identities were exchanged. It seems that the driver saw fit to report the matter to the police who came to his home some time later. Between the time of the incident and the arrival of the police, he had prepared dinner and had a couple of glasses of wine. When breathalysed, he was well over the limit. Given that he had consumed alcohol earlier, before going home etc, and then had a drink close to the time of the test (as above) a computation of the relevant level of alcohol would have been of some complexity.
  - ii. On 12<sup>th</sup> October 2018, the first hearing took place. At the hearing, his Solicitor negotiated with the prosecution who offered to proceed on a lower blood alcohol reading (50mg) in return for a plea of guilty, as opposed to the reading of 75mg.
  - iii. Mr Kent said that 50mg may have been higher than a computed figure: he may even have been slightly under the limit. Mr Kent pleaded guilty in order to get the matter finalised and to avoid what would have been an enormous legal bill.
9. According to the memorandum of conviction, Mr Kent was sentenced to disqualification from driving for 14 months, reduced by 14 weeks after completing the DVSA (Driver and Vehicle Standards Authority) Approved Drink-Drive Awareness Course and was ordered to pay a fine and costs totalling £1776.
10. The solicitor for Mr Kent provided the evidence that the prosecution accepted that Mr Kent's breathalyser reading would have been less, as he had drunk alcohol after the road traffic incident. He also confirmed that a figure of 50mg was agreed and that a

hand-written basis of plea, signed by Mr Kent and the Prosecutor, containing this figure, was handed up and accepted by the court.

11. On 28 March 2019, a Casework Manager considered the complaint against Mr Kent and his comments and decided that there was sufficient evidence of a breach of the BSB Handbook/ Conduct Rules to warrant disciplinary action for professional misconduct. The Manager further decided that the case was suitable for disposal under the Determination by Consent ("DBC") procedure.
12. The BSB wrote to Mr Kent on 5 April 2019 informing him of the decision and invited him to consent to the matter being dealt with under the DBC procedure. Mr Kent replied by email on 25 April 2019, giving his consent.

#### **D. Previous Disciplinary Findings**

13. Mr Kent has one previous disciplinary finding against him in relation to his failure to comply with his 2010 CPD requirements, for which, on 26 September 2013, a three-person tribunal imposed a fine of £1000. He also paid an administrative penalty of £300 relating to the same matter.

#### **E. Plea and Mitigation**

14. Mr Kent advised the BSB by letter dated 7 June 2019 that he:
  - (a) did not dispute the facts as set out in sections A, C and D of this report; and
  - (b) admitted the charge as set out in section B of this report.
15. In mitigation, Mr Kent wanted the PCC to take into account the unusual circumstances set out in paragraphs 8 and 10 above. In addition, he wanted the PCC to consider:
  - i. His acceptance that it was unacceptable to drive with alcohol;
  - ii. The agreed reading of 50mg was not at the high end of these cases;
  - iii. The traffic incident leading to the charge was a slight contact between two cars which had not led even to an insurance claim for minor damage from either driver;
  - iv. This was the first such offence in 40 years of driving. Prior to this incident, he had always ensured that he did not drive under the influence of alcohol. On the evening in question, he had been using public transport and his bicycle. Very foolishly, he thought it would be safe to drive two miles to get some supper; and
  - v. He has already been fined by the magistrates. He has paid legal costs. He has attended a DVSA course. His practice has suffered in that he has not been able to attend courts unless they are accessible by public transport.

#### **F. Professional Conduct Committee's decision and reasons**

16. On the basis of Mr Kent's plea as set out at section E above, the Professional Conduct Committee found the charge against Mr Kent proved.

## **G. Professional Conduct Committee's sentence**

17. The Professional Conduct Committee imposed on Mr Kent the following sanction:

### **Charge 1**

18. In considering Charge 1, the Professional Conduct Committee has had regard to the enforcement strategy as well as the Sentencing Guidance (1 February 2018) issued by the Council of the Inns of Court. Section B1 (page 36) covers a conviction for drink driving and related offences. It suggests a starting point of a reprimand and a low level fine for a first-time conviction for drink drive only. A low-level fine is defined on page 32 of the guidance as a fine up to £1000.
19. The Professional Conduct Committee considered the circumstances of the case, including matters put forward by Mr Kent as mitigation. It took into account the following mitigating factors: Mr Kent's admission of the charge; and his co-operation with the investigation.
20. By way of aggravating circumstances, the Committee noted that Mr Kent had a previous disciplinary finding against him but for a dissimilar breach. The Committee also took into account his lack of insight in relation to the stated reason for his guilty plea at court.
21. Taking into account the above-mentioned factors and the sentence imposed by the magistrates' court, the Professional Conduct Committee reprimanded Mr Kent and imposed on him a fine of £500.