

## **Determination by Consent Report (Final)**

### **Mr Graham Russell**

**(Inner Temple, November 2004)**

#### **A. Background**

1. Mr Graham Russell was called to the Bar by Inner Temple in 2004 and, during October 2017, was practising as a self-employed barrister from Citadel Chambers.
2. On 13 October 2017 Mr Russell was arrested for being over the drink drive limit. The specimen in breath was 65 microgrammes (the legal limit being 35). He pleaded guilty to one offence of drink driving on 30 October 2017 and was sentenced to a fine of £1153 and disqualified from driving for 18 months. Mr Russell reported the conviction to the BSB on 31 October 2017 and an internal complaint was raised.
3. The matter was referred to a Determination by Consent procedure by the Investigation and Hearings Team Manager on 20 February 2018. (The post holder being authorised to do so under rE3 of the Complaints Regulations). On 5 March 2018 Mr Russell informed the BSB that he consented to the procedure.

#### **B. Charge(s)**

4. As a consequence of the failures outlined in paragraph 2 above, the BSB has charged Mr Graham Russell with 1 breach of the Code of Conduct amounting to professional misconduct. The charge is:

#### **Statement of Offence**

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9<sup>th</sup> Edition)

#### **Particulars of Offence**

Graham Russell, a practising barrister behaved in a way which was likely to diminish the trust and confidence which the public places in the profession, contrary to Core Duty 5, in that,

On 13 October 2017 he drove a motor vehicle after consuming so much alcohol that the proportion of alcohol in his breath was 65µg per 100 ml of breath which exceeded the

prescribed limit of 35 µg of alcohol per 100 millilitres of breath, as a result of which conduct he was convicted on 30 October 2017 of an offence under section 5(1)(a) Road Traffic Act 1988 and Schedule 2 Road Traffic Offenders Act 1988 and sentenced to a fine of £1153 and ordered to be disqualified from driving for 18 months.

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

5. Mr Russell was arrested at 23:46 on 13 October 2017 in Rugby, Warwickshire. This was after the completion of a roadside breath test. Having failed the roadside test, Mr Russell provided two breath samples in custody, the lowest reading being 65µg.
6. Mr Russell appeared before Coventry and Warwickshire Magistrates Court on 30 October and was sentenced as set out in the charge.

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

7. There are no previous disciplinary findings recorded against Mr Russell.

### **E. Plea**

8. By letter dated 12 March 2018, Mr Russell admitted the charge.
9. By reason of the admission by Mr Russell and the memorandum of conviction the Professional Conduct Committee found the charge proved.

### **G. Sentencing Information**

10. The Bar Tribunal and Adjudication Service (BTAS) Sanctions Guidance (“the Guidance”) sets a starting point for a first time conviction of this nature as a reprimand and a low level fine. A low level fine is defined as up to £1,000.
11. There are no aggravating or mitigating factors specific to a conviction for drink driving as identified in section B.1 of the Guidance.
12. In terms of personal mitigation Mr Russell has reiterated both before the Magistrates’ Court and to the Bar Standards Board that he is ashamed of his actions and shows remorse. He has communicated insight as to the impact of his actions upon others. Additional personal references speak to the matter being out of character and support the sentiments put forward by Mr Russell as to remorse on his part.

13. The Committee has considered the general aggravating factors contained within the Sanctions Guidance. There are none that apply.
14. The Committee has considered the general mitigating factors within the same document and consider that the following apply:
  - Admission of the charge
  - Genuine remorse
  - Single incident
  - Previous good character
15. Accordingly, the Committee consider that the appropriate sentence for this matter is a **reprimand** and fine of £500.