

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

*This report has been redacted for publication purposes to protect the identity of third parties.*

**Determination by Consent Report**

**Mr Edward Ross**

**(Gray's Inn, July 2010)**

**A. Background**

1. Mr Edward Ross was called to the Bar by Gray's Inn in 2010. Between 2015 and 2017, Mr Ross was practising as a self-employed barrister from 3 Paper Buildings ('Chambers'). Mr Ross was therefore a BSB regulated person to whom the core duties in the BSB's Code of Conduct apply.
2. On 25 July 2017, Mr Ross self-reported to the Bar Standards Board ('BSB') admitting that he purchased small quantities of cannabis from [REDACTED], on his own or together with others, on four separate occasions between December 2014 and February 2017. The total value of the cannabis was in the region of £300.
3. The BSB duly raised an internal complaint and following full investigation, determined to refer this complaint to the Professional Conduct Committee ('PCC') for disposal. Pursuant to rE37, the complaint was considered by the PCC on 20 February 2018 and the PCC determined that there had been a breach of CD5, on the balance of probabilities, and the case was suitable for disposal under the Determination by Consent ('DBC') procedure.
4. Pursuant to rE67, the BSB wrote to Mr Ross on 21 February 2018 to confirm the PCC's decision and asked Mr Ross whether he agreed, in principle for the complaint to be dealt with under the DBC procedure. Mr Ross responded on 22 February 2018 and confirmed his agreement.

**B. Charge(s)**

5. As a consequence of the conduct outlined in paragraph 2 above, the BSB has charged Mr Ross with two breaches of the Code of Conduct amounting to professional misconduct. These 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 (9<sup>th</sup> Edition)

## Particulars of Offence

Mr Ross, a Barrister, behaved in a way which is likely to diminish the trust and confidence which the public places in him or in the profession, contrary to Core Duty 5, in that he purchased and possessed cannabis, a class B drug, on four occasions between March 2015 and February 2017.

### Charge 2

#### 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

Mr Ross, a Barrister, behaved in a way which is likely to diminish the trust and confidence which the public places in him or in the profession, contrary to Core Duty 5, in that he shared cannabis, a class B drug, with others, on more than one occasion, between March 2015 and February 2017, and such conduct fulfils the criterion for 'supply' under Section 4(1) of the Misuse of Drugs Act 1971 as amended.

### C. Summary of Facts

6. Core Duty 5 states that a barrister must not behave in a way which is likely to diminish the trust and confidence which the public places in them or in the profession.
7. On 25 July 2017, Mr Ross emailed the BSB and self-reported that "*between December 2014 and February 2017, I purchased, either on my own or together with others, small quantities of cannabis from [REDACTED]. There were a total of 4 purchases over this period of time and the total value of the purchases was in the region of £300...*"
8. Section 4(1) of the Misuse of Drugs Act 1971 states that "*...it should not be lawful for a person...to supply or offer to supply a controlled drug to another*". Section 5(1) of the Misuse of Drugs Act 1971 states "*... it shall not be lawful for a person to have a controlled drug in his possession*". Cannabis is a class B drug in accordance with Schedule 2 of the Act.
9. The BSB wrote to Mr Ross on 12 December 2017 notifying him that a complaint had been raised against him and asked him to provide a response to the complaint. Mr Ross responded on 19 January 2018 enclosing a character reference, advice from a Grade 4 CPS Prosecutor, a letter from Chambers, and his response can be summarised as follows:
  - a) Mr Ross accepts that what he has done is wrong and does not in any way wish to excuse his actions;
  - b) Mr Ross admits to purchasing cannabis from [REDACTED] on four separate occasions. These occasions being as follows:

- March 2015 - ██████████ and I each put £30 in and purchased cannabis to the value of £60;
- March 2015, ██████████ and I each put £30 in and purchased cannabis to the value of £60;
- May 2015, I purchased cannabis alone to the value of £60;
- February 2017, I purchased cannabis to the value of £120.

- c) Mr Ross states that none of the purchases took place in Chambers or during business hours.
  - d) Mr Ross socialised with ██████████ and ██████████ informed him, and ██████████, that ██████████ smoked, purchased and sold cannabis. Mr Ross and ██████████ subsequently purchased cannabis from ██████████ on three separate occasions in 2015.
  - e) Mr Ross has not used cannabis since May 2015.
  - f) With reference to the 2017 purchase, ██████████ asked Mr Ross to assist him in purchasing cannabis as he was struggling to deal with ██████████ diagnosis. Mr Ross intended to telephone ██████████ and obtain the telephone number of the supplier however ██████████ advised him that ██████████ was purchasing cannabis that day and would purchase some for him. ██████████ dropped the cannabis round to Mr Ross's home the following day.
  - g) Mr Ross did not financially gain from the transactions and the Police were not involved.
  - h) Mr Ross states that he was not aware that his actions amounted to 'supply'.
  - i) On 24 March 2017, Chambers informed Mr Ross that following a disclosure being made by ██████████, an internal investigation had commenced.
  - j) As a result of the investigation, disciplinary meetings were held on 5 April 2017 and 5 July 2017. Following receipt of a letter dated 22 August 2017 indicating that an expulsion meeting was being organised, Mr Ross voluntarily resigned from Chambers.
10. The accompanying advice from the Grade 4 CPS Prosecutor states that *'it is unlikely in all of the circumstances, that Mr Ross would have been charged with supply. Rather, and in accordance with CPS guidance, Mr Ross would have been charged with simple possession. As a matter of law, someone who purchases a controlled drug on behalf of another and gives it to the other is guilty of the offence of supply. If, however, Mr Ross was prosecuted for supply, following credit for a plea of guilty and credit for relative good character, the most likely sentence would be a fine'*. The Prosecutor does not believe however that the custody threshold would be met, and deems it inconceivable that Mr Ross would receive a custodial sentence whether suspended or immediate.
11. The Bar Standards Board wrote to Mr Ross on 19 January 2018 requesting further information regarding his cannabis use and provided Mr Ross with the opportunity to comment on a report prepared for the Bar Standards Board by Chambers. Mr Ross responded on 1 February 2018 and confirmed that the purchases were only ever for a single night's use; either a Friday or Saturday night, the purchases always took place within his home and that during 2015 he was using cannabis recreationally.

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

12. PC 2016/0349/DC (DBC) – Professional misconduct contrary to Core Duty 5 of the Code of Conduct (9<sup>th</sup> Edition). Mr Ross drove a motor vehicle after consuming so much

alcohol that the proportion of alcohol, 59 micrograms of alcohol in 100 millilitres of breath, exceeded the prescribed limit, for which conduct he was convicted at Oxford Magistrates' Court and sentenced to a fine of £835, ordered to pay a surcharge of £84 and CPS costs in the sum of £85 and was disqualified from driving for a period of 9 months. Mr Ross was issued with a fine of £400.

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

13. Mr Ross advised the BSB by email dated 28 March 2018 that he:

(a) did not dispute the facts set out in sections A, C and D of this report;

(b) admitted the charges set out within section B of this report, subject to a slight amendment which the BSB agreed with, and has implemented within this report.

14. By way of mitigation, Mr Ross has stated as follows:

*"To add to what the Committee will already have first and foremost, I would like to sincerely apologise for my actions. I know that I have fallen below the standard that is expected of me and I do not seek to make excuses for my behaviour. I am very sorry and I have learnt from my behaviour for the future.*

*The purchases fall into two-time periods, those in 2015 and that in 2017. In neither of these circumstances was there any intention to supply cannabis. I now understand that by sharing with ██████████ and ██████████ this was supply but there was no financial gain nor ever an intention to gain financially.*

*2015 - During this period, I had limited experience in the profession having only become a tenant in 2014. I allowed a personal relationship to preclude my judgment but I now realise my mistakes and this will not happen again in the future. When this matter was investigated by my previous chambers I co-operated fully and from the outset I admitted my wrong doing.*

*2017 - The circumstances of this occasion are set out in detail in my letter of 17 January 2018 at pages 13-14 of the draft DBC bundle. ██████████ was undergoing an extremely traumatic time with ██████████ diagnosis. This precipitated ██████████ wishing to purchase cannabis and affected my judgment in agreeing to assist him. It was a single occasion and I deeply regret my actions".*

15. Mr Ross has provided the Professional Conduct Committee with details of his financial position.

#### **F. Committee decision**

16. The Professional Conduct Committee find the charges proved.

#### **G. Committee sentence**

17. In sentencing Mr Ross, the Committee has had regard to the enforcement strategy as well as Version 3 of the BTAS Sanctions Guidance (2015) which was in force at the time.
18. Section B3 of the Sanctions Guidance 'Conviction for drug possession and supply', at page 28, states that the starting point for a conviction for drug possession, (normally tried in the Magistrates' Court) should be a reprimand and a medium level fine. It further states that where a conviction results in a custodial sentence, the general starting point should be disbarment unless there are clear mitigating factors that indicate that such a sanction is not warranted. This matter, if prosecuted as a criminal offence would have been dealt with in the Magistrates' Court attracting a non-custodial disposal.
19. A medium level fine is defined as over £1,000 but up to £3,000.
20. The Committee notes that Mr Ross has a previous conviction for drink driving and this is an aggravating factor in accordance with the Sanctions Guidance. The Committee also notes however that an absence of financial gain is also a mitigating factor, in accordance with the Sanctions Guidance.
21. The Committee has considered the following mitigating factors: the admission, the genuine remorse displayed and co-operation with the BSB investigation.
22. The Committee has also had regard to the financial information put forward by Mr Ross.
23. In all of the circumstances, Mr Ross is sentenced as follows:  
**Charge 1** – A fine of £500  
**Charge 2** – A fine of £1,000 and a reprimand.