

Determination by Consent Report

**Mr Richard Keogh
Alexander Johnson & Co.
246 Bethnal Green Road
LONDON
E2 0AA**

(Middle Temple, November 1991)

A. Background

1. Richard Keogh was called to the Bar by Middle Temple in 1991. At the time of the incident which forms the basis of the charges, he was working as an employed barrister for a firm of solicitors. Mr Keogh is now working as a sole practitioner barrister, having so registered on 17 May 2018.
2. On 2 May 2018, at Bishopsgate Police Station, Mr Keogh accepted a police caution for possession of one wrap of cocaine, contrary to s5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.
3. On 11 May 2018, the Bar Standards Board (“BSB”) raised a complaint against Mr Keogh for this conduct.
4. On 26 September 2018, the PCC considered the complaint and referred the matter for Determination by Consent (DBC). On 11 October, the BSB wrote to Mr Keogh informing him of the PCC’s decision and on 16 October, Mr Keogh responded via email stating *“I agree to Determination by Consent and I will be admitting the professional misconduct”*.

B. Charge(s)

5. As a consequence of the conduct outlined above, the BSB has charged Mr Keogh with 3 breaches of the Code of Conduct amounting to professional misconduct. The charges are:

Charge 1

Statement of Offence

Professional misconduct contrary to Core Duty 3 (CD3) of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Richard Keogh, a barrister, failed to act with integrity in that, on 10 April 2018, he was in possession of a Class A drug (cocaine) which he inadvertently sent to a Chambers, for which conduct on 2 May 2018, he accepted a police caution

for possession of a class A drug, contrary to Section 5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.

Charge 2

Statement of Offence

Professional misconduct contrary to Core Duty (CD5) of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Richard Keogh, a barrister, behaved in way which was likely to diminish the trust and confidence which the public places in B or in the profession in that, on 10 April 2018, he was in possession of a Class A drug (cocaine) which he inadvertently sent to a Chambers, for which conduct on 2 May 2018, he accepted a police caution for possession of a class A drug, contrary to Section 5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.

Charge 3

Statement of Offence

Professional misconduct contrary to rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition).

Particulars of Offence

Richard Keogh behaved in a way, which could reasonably be seen by the public to undermine his integrity, in that while in practice as a barrister, he was in possession of a Class A drug (cocaine) which he inadvertently sent to a Chambers, for which conduct on 2 May 2018, he accepted a police caution for possession of a class A drug, contrary to Section 5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.

C. Summary of Facts

6. On 10 April 2018, Mr Keogh was working in his office. Mr Keogh had been told that cocaine helped relieve stress and had therefore used a small quantity outside. He left the remainder of the cocaine in a small wrapper and placed it in an envelope, forgetting about it. Later that day, Mr Keogh crossed a cheque intended for a set of chambers, and inadvertently placed it into the same envelope in which he had previously placed the cocaine. Mr Keogh then sent that envelope to the set of chambers.
7. Upon receiving the envelope, chambers found the cocaine and notified the police. Mr Keogh's employers were also informed resulting in his immediate suspension. The following day Mr Keogh contacted both the police and self-reported to the Bar Standards Board (BSB).

8. On 2 May 2018, at Bishopsgate Police Station, Mr Keogh accepted a police caution for possession of one wrap of cocaine, contrary to s5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.
9. On 23 May 2018, in response to the BSB complaint, Mr Keogh provided the following explanation:
 - (a) He accepts the events as described in paragraphs 6-8 above;
 - (b) He went through periods which he had found difficult and had used a small quantity of cocaine on the day in question, having been told it helps with stress. He described the decision as a “grave mistake of judgment”;
 - (c) He contacted the police before they contacted him and self-reported to the BSB immediately, and self-suspended himself from practice until receipt of the police caution;
 - (d) He describes being ashamed and embarrassed by his actions;
 - (e) He wishes to continue to practise at the Bar to support self and family.
 - (f) He has not requested any references from colleagues as he is too embarrassed to but confirms that he has never been subject to any judicial or client complaints (he does have a previous disciplinary finding against him which was dealt with by DBC. See below for details);
 - (g) He admits the breach of professional conduct;
 - (h) In relation to the suggested breach of CD3 and rC8, Mr Keogh responded as follows:

“I have read CD3, RC8, gc16 and 25. I fully accept that my behaviour fell below the standard expected of me by my profession. I accept that public confidence may be diminished by my behaviour.

Whilst I accept that to break the law is by its nature ‘dishonest’, the offence was not profession related. The offence was committed as part of my personal life and in stressful times. I do not accept that it would in any way go to my honesty as regards my profession... I immediately self reported to both the BSB and the police, and I have not acted dishonestly. I acted very stupidly by accepting the package in a pub outside of my workplace. I then took the package into the workplace and left it in an envelope – forgetting about it; before placing a cheque in that envelope and posting it. With regards to integrity I can only repeat what I have already said regarding the circumstances that led to my self report.

I note that the guidance makes reference to ‘minor criminal offences’ (gc27.1) but do not attempt to diminish my actions in any way”.

D. Previous Disciplinary Findings

10. PC2016/0291: Mr Keogh has a previous finding of Professional Misconduct contrary to Core Duty 5 of the Bar Standards Board Code of Conduct (9th Edition). The Committee sanctioned him to a reprimand and a fine of £500, which he has paid.

E. Plea and mitigation

11. On 14 November 2018, Mr Keogh advised the BSB by email that he:
(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.
12. In mitigation, he wished the committee to consider his personal circumstances as detailed in paragraph 9 above and has provided his financial information.

F. Committee decision

13. On the material evidence and admissions before the committee, the Professional Conduct Committee find the charges proved.

G. Committee sanction

14. In sanctioning Mr Keogh, the Committee has had regard to the enforcement strategy as well as Version 4 (Revised) of the BTAS Sanctions Guidance (February 2018).
15. The sanctions guidance indicates under B.3, at page 38 that the starting point for conviction of drug possession (normally tried in the Magistrates' Court) should be a reprimand and a medium level fine. The sanctions guidance also states the level of fine at page 17 (paragraph 5.4) which is that "A fine of up to £50,000 (for acts or omissions that took place on or after 6th January 2014).
16. The Committee has considered that Mr Keogh received a Caution not a conviction but considered that the conduct occurred in his professional life as an aggravating factor.
17. With regards to mitigation the Committee has considered Mr Keogh's guilty plea, the misconduct involves a single incident, his cooperation with the BSB and has shown genuine remorse.
18. In all the circumstances Mr Keogh is sanctioned as follows:

A reprimand and fine of £750