

Determination by Consent report

Name of regulated person and call date

Gareth Edward Morley who was called to the Bar of England and Wales by Middle Temple Inn in July 1982 and is currently a barrister at Farringdon Chambers.

Case Reference

2020/0777/DC

Charges

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

Gareth Edward Morley 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 23 November 2019 he drove a motor vehicle on a public place after consuming so much alcohol that the proportion of it in his breath, namely 55 microgrammes of alcohol per 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath, for which conduct he was convicted contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Merthyr Magistrates Court on 13 March 2020. Mr Morley was ordered to comply with any instructions of the Responsible Officer to attend appointments or to participate in any activity as required by the Responsible Officer up to a maximum of 10 days, ordered to undertake an unpaid work requirement of 80 hours, ordered to pay a victim surcharge of £90, ordered to pay Crown Prosecution Service costs in the sum of £85 and was disqualified from holding or obtaining a driving licence for 3 years.

Statement of Facts

1. On 23 November 2019 Mr Morley arrived at Griffin Mill Fiat garages in Pontypridd to have his car serviced. A member of staff at the garage noticed empty gin bottles in Mr Morley's vehicle and that he smelt strongly of alcohol. The police were called.
2. According to the MG5, on arrival the police officer spoke with Mr Morley who he reported as smelling strongly of intoxicating liquor. The police officer explained to Mr Morley that he had been witnessed by garage staff driving on the garage

premises and given this was a public place he would be asked to undergo a roadside breath test. Mr Morley agreed and a roadside breath test was carried out which, according to the MG5, gave a reading of 72 microgrammes of alcohol per 100 millilitres of breath. Mr Morley was arrested on suspicion of driving a vehicle on a public place whilst over the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath.

3. Mr Morley refused to make any comment as regards driving the vehicle or his involvement in the offence. Mr Morley confirmed that he was at the garage but would not confirm who he attended with or how he arrived at the garage.
4. On 25 November 2019, the Bar Standards Board was notified of Mr Morley's arrest by virtue of a Common Law Notification of Police Involvement issued by South Wales Police. At the time of the notification, Mr Morley had not been charged having been released under investigation.
5. On 3 February 2020, South Wales Police updated the Bar Standards Board to confirm that a charging decision was imminent.
6. On 16 March 2020, South Wales Police advised the Bar Standards Board that Mr Morley had been charged with the offence of driving a motor vehicle with alcohol concentration above the prescribed limit and that he had subsequently appeared before Merthyr Magistrates Court on 13 March 2020.
7. Whilst appearing before Merthyr Magistrates Court on 13 March 2020, Mr Morley pleaded guilty to the charge and was sentenced as follows:
 - a. Ordered to comply with any instructions of the Responsible Officer to attend appointments or to participate in any activity as required by the Responsible Officer up to a maximum of 10 days.
 - b. Ordered to undertake unpaid work for 80 hours within 12 months under the supervision of the Responsible Officer.
 - c. Ordered to pay a surcharge to fund victim services in the sum of £90.
 - d. Ordered to pay costs to the Crown Prosecution Service in the sum of £85.
 - e. Disqualified from holding or obtaining a driving licence for 3 years.
8. During the course of the Bar Standards Board's investigation, Mr Morley responded to the investigation by apologising for letting himself and the Bar down and explaining that he had attended a family celebration the night before his arrest and was unaware that he was still over the limit at the time he took his car for a pre-booked service on the morning of his arrest.
9. Mr Morley further commented that:
 - a. The evidential breath test was considerably lower than the figure quoted in the MG5 prepared by the police; and
 - b. As regards the reference in the MG5 to empty bottles of gin in his car, although there were empty bottles of gin there were rather more empty bottles of tonic and these had all been gathered to be taken for recycling and represented approximately a month's content of his family.

10. The Bar Standards Board concluded its investigation and determined that the matter was suitable for referral to the Determination by Consent (“DBC”) procedure. The Bar Standards Board wrote to Mr Morley on 22 September 2020 seeking his agreement to DBC, which he provided by telephone on 28 September 2020 and in writing by letter also dated 28 September 2020.

11. By letter dated 5 November 2020, Mr Morley admitted the charge and by way of brief mitigation:

- a. Repeated his apologies;
- b. Emphasised that the offence was “*negligence and sheer folly*”, rather than premeditated; and
- c. Confirmed that his unpaid work requirement was complete.

Decision of the IDP

Charges found proved.

Reasons for the decision on why charges are proved

Charges found proved on admission by Mr Morley of the charge and given the Certificate of Conviction.

Sanction

In considering sanction on Charge 1, the Panel considered the enforcement strategy as well as the Sanctions Guidance (version 5 – October 2019). Section B1 of the Guidance suggests a starting point of a reprimand and low-level fine for a first-time offence for drink driving only. A low-level fine is a fine of up to £1000.

In terms of mitigation, the Panel noted that Mr Morley admitted the charge, apologised and expressed remorse. The Panel considered that there were no aggravating circumstances.

The Panel decided to impose a reprimand and a fine of £500, which the Panel reduced to £250 due to representation from the barrister as to the impact of the Covid pandemic on his earnings.