

# Determination by Consent Report

## Name of regulated person and call date

Mr Keith Stuart Yardy was called to the Bar by Inner Temple in July 1988. He is currently an employed barrister at Maidstone Chambers, 51 Earl Street, Maidstone, ME14 1PD.

## Case reference

PC 2020/0884/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

Mr Yardy 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 25 January 2020 he drove a motor vehicle after consuming so much alcohol that the proportion of it in his breath, 77 microgrammes of alcohol in 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 Maidstone Magistrates' Court on 14 February 2020. Mr Yardy was sentenced to a fine of £373, ordered to pay a victim surcharge of £37, ordered to pay CPS costs in the sum of £85 and he was disqualified from holding or obtaining a driving licence for 18 months (to be reduced by 139 days if by 26 January 2021 he satisfactorily completed a course approved by the Secretary of State).

## Statement of Facts

**This section has been redacted as the original content is confidential**

1. At 9.15pm on 25 January 2020, Mr Yardy was stopped in his car by police due to the manner of his driving. The police officer that stopped Mr Yardy instructed him to exit the vehicle and required him to provide a roadside breath sample. Mr Yardy complied. The results showed a reading of 77 microgrammes of alcohol per 100 millilitres of breath. Mr Yardy was arrested and taken into custody to Maidstone Police Station for a station breath test.

2. At Maidstone Police Station, Mr Yardy provided two samples of breath for the station breath test, and both samples showed 77 microgrammes of alcohol per 100 millilitres of breath. As a result, Mr Yardy was charged with the offence of driving with excess alcohol on 26 January 2020.
3. On 14 February 2020, at Maidstone Magistrates' Court, Mr Yardy pleaded guilty to the charge. He was convicted and sentenced on the same day:
  - Fine of £373
  - Ordered to pay a victim surcharge of £37
  - Ordered to pay £85 CPS costs
  - Disqualified from holding or obtaining a driving licence for 18 months (to be reduced by 139 days if by 26 January 2021 he satisfactorily completed a course approved by the Secretary of State).
4. Mr Yardy self-reported the charge to the BSB on 27 January 2020 and self-reported the conviction in a letter dated 14 February 2020 but received on 13 March 2020.
5. The BSB wrote to Mr Yardy on 2 April 2020 to confirm that the matter would be investigated, and Mr Yardy was invited to provide a response and any further comments.
6. Mr Yardy responded the same day, providing a further copy of the plea and mitigation which had not previously been received by the BSB. In his plea in mitigation, Mr Yardy stated (inter alia):
  - His actions were stupid and irresponsible.
  - He accepts that the offence is his fault but would never have driven his car if he knew how high his alcohol level was.
  - He has already been impacted by the offence, being in police detention for 11 hours.
  - He has been driving for 37 years and has no previous history.
  - He felt ashamed having to tell his friends, family and colleagues about the offence.
  - He has had to notify the BSB and CPS Advocacy Panel which may result in an impact on his career.
  - Disqualification of his licence will impact his ability to attend to personal matters and may impact his ability to take on work.
7. Mr Yardy also made the following comments:
  - He has booked his driving course but it has been postponed until Autumn due to COVID-19.

- He would honour all of his commitments to his clients even if he is unable to complete the course and has to serve the full 18 month disqualification.
  - The impact of this matter on him has been more severe due to COVID-19. He has had to decline briefs outside of Maidstone because of reduced public transport.
  - He has remained on the CPS Advocate Panel but is unable to prosecute motoring offences until his licence is returned.
  - Details of his income between April and August 2020 were provided.
8. The BSB concluded that this case was suitable for referral to the Determination by Consent ('DBC') procedure. A letter was sent to Mr Yardy on 10 July 2020 seeking his agreement to DBC. Mr Yardy responded on 11 July 2020 to confirm his agreement.

### **Previous disciplinary findings**

None.

### **Decision of the IDP**

Charges found proved: Charge 1

### **Reasons for the decision on why charges are proved**

The Panel noted that that Mr Yardy had been convicted of the offence at Central Kent Magistrates' Court on 14 February 2020. The Panel also noted Mr Yardy's admission of guilt. The Panel was therefore satisfied that Mr Yardy's conduct might properly be viewed as a breach of Core Duty 5.

### **Sanction**

The Panel noted that the starting point for sanction was a reprimand and a low level fine.

The Panel decided a starting point of a fine of £1,000 was appropriate.

In mitigation, the Panel noted:

- that Mr Yardy self-reported promptly and admits the charges;
- that Mr Yardy pleaded guilty at the earliest opportunity;
- Mr Yardy has shown genuine remorse;
- Mr Yardy's previous good character and that this is a single incident;
- Mr Yardy has been adversely affected by Covid-19, both as to his earning capacity and the delay he faces in complying with the Secretary of State's approved course.

In aggravation, the Panel noted:

- that Mr Yardy had been stopped by the Police as a result of his driving; it was not a random stop;
- That Mr Yardy had a high level of alcohol in his system.

Having considered the mitigating and aggravating factors, and the evidence from Mr Yardy as to his financial circumstances, the Panel decided to impose a fine of £500, together with a reprimand.