

Application for entry into the profession, dishonest behaviour and the right to an oral hearing

Published 26 April 2018

Yussouf v Solicitors Regulation Authority [2018] EWHC 211 (Admin)

In the case of *Yussouf v Solicitors Regulation Authority*, in February 2018, the High Court in London allowed the appeal against the decision of the Solicitors Regulation Authority (the “SRA”) refusing to admit Ms Yussouf as a solicitor. The High Court held that Ms Yussouf, who had been denied an oral hearing by the SRA, should have been given an oral hearing in relation to the issues arising regarding her honesty in completing her application for admission to the Roll of Solicitors.

Background

In Ms Yussouf’s first application to the SRA to be admitted to the Roll, she responded “No” to the question in the application as to whether she had had a County Court Judgment issued against her, when she knew she had such a judgment issued against her in 2009. This formed the basis for the SRA’s refusal of Ms Yussouf’s application for admission to the Roll.

Ms Yussouf argued that she had not been dishonest and that she had mistakenly believed that the judgment did not need to be disclosed as it had been discharged. She argued that she had read the questions quickly and without the care and attention to detail required, but that she had not been dishonest. On review of the decision to the SRA’s Adjudication Panel (the “Panel”), Ms Yussouf asked the Panel for the opportunity to be heard in person if they were minded to refuse her application. The Panel considered the matter and refused the application for Ms Yussouf to be given an oral hearing. The Panel decided that her explanation for why she did not disclose the 2009 judgment was inconsistent with her previous explanations and was not credible, and that her failure to disclose it was dishonest. The Panel decided that she did not have the necessary character and suitability to be admitted to the Roll.

Judgment

On appeal, the judge summarised the law as follows: *“...when the SRA are deciding whether it is satisfied as to an applicant’s character and suitability as a solicitor, fairness requires an oral hearing when material facts are in dispute which cannot fairly be resolved on the basis of the documentation available or when a significant explanation or mitigation is advanced which needs to be heard orally in order fairly to determine its credibility. When considering whether the applicant has acted dishonestly, if such factual issues arise or such an explanation is advanced, fairness requires that an opportunity should be provided to give evidence on such matters orally except when oral evidence could truly make no difference. An applicant may decide not to take advantage of such an opportunity but it is one that he or she should be offered.”*

In considering whether an oral hearing was necessary as regards Ms Yussouf’s case, the judge stated that *“...to determine the credibility of that explanation depends on whether an oral hearing could truly have made no difference given what the documents disclosed.”*

He stated *“...the crucial question is whether the Adjudication Panel could fairly draw the inferences they did against her from these statements without giving Ms Yussouf the opportunity to respond to them. On this my judgment has wavered. Ultimately, and with some considerable hesitation, I have concluded that they could not do so.”*

The judge allowed the appeal and remitted it to the Adjudication Panel of the SRA for its reconsideration.

A link to the judgment can be found [here](#).

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