
Recent SDT decisions relating to solicitors' mental health

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As society has become more aware of mental health issues, many employers have responded by introducing well-being measures to help identify and support colleagues who may be struggling.

In 2016, the SRA launched a new initiative to help solicitors experiencing mental health issues.

These issues have increasingly arisen in the context of disciplinary proceedings.

In *SRA v Naylor*, an assistant solicitor in the corporate department of a large, national firm told a client that certain applications had been made, when that was not the case. Medical evidence obtained on behalf of Mr Naylor confirmed that he had been suffering from an adjustment disorder, exacerbated by work-related stress. This meant that he had a "pre-disposition to avoidance and denial". Although Naylor was found to have acted dishonestly, he avoided strike off, the usual sanction. The misconduct was repeated, took place over a considerable period and was considered serious. The tribunal concluded, however, that a two year suspension including restrictions such as bi-annual medical reports confirming fitness to practise, should be imposed.

In *SRA v Smith*, a solicitor at an international firm was suspended for 12 months for fabricating an email which had apparently been sent to a client and for misleading the firm when this issue was discovered. A medical report confirmed that Mr Smith had been suffering from a medical condition, the details of which were not disclosed publicly. In that case the SRA, having accepted the medical evidence, chose not to pursue dishonesty charges. The SDT accepted the sanction agreed between the parties.

The case of *SRA v Duxbury-Tetley* involved a solicitor who dishonestly backdated a document in litigation proceedings. Ms Duxbury-Tetley avoided strike off in favour of a reprimand. Medical evidence concluded that Ms Duxbury-Tetley was suffering from severe mental health issues. The Tribunal commented that her misconduct had been "extremely grave and had it not been for the strong medical evidence, the outcome would have been quite different and far more serious".

The SRA's appeal of Tribunal's decision in *SRA v Sovani James* is expected to provide guidance on the extent to which health issues should be considered as a mitigating factor. Ms James had previously worked at McMillan Williams Solicitors and was found to have been dishonest, but the SDT allowed her to continue to practice. Ms James alleged that she was experiencing mental health issues and relied on evidence relating to her former employer's working practises. There are calls for compassion in the circumstances. We will report on the High Court decision in due course.

These recent decisions represent a change in attitude towards those experiencing mental health issues. It remains important, however, for firms to take steps to address health issues before problems arise.

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