

High Court concludes that Regulator overstepped the mark into Solicitor's private life in ***Beckwith v. Solicitors Regulation Authority [2020] EWHC 3231 (Admin)***

By [Sunyana Sharma](#)

3PB Barristers

What is the role of the Regulator? To protect the public and maintain the public's trust in the profession. But how far will the Regulator stray into an individual's personal life?

Mr Beckwith was a Partner at Freshfields who following a night out with colleagues engaged in a 'sexual encounter' with a junior member of his team. Both individuals were considerably intoxicated. Although the Tribunal rejected the allegation that this former Partner had acted in a manner which abused his position of seniority or authority, it nevertheless found that he had acted inappropriately. Mr Beckwith's actions were deemed to be a breach of Principle 2 (under the then prevailing 2011 SRA Principles), which was the obligation to act with integrity and a breach of Principle 6 the requirement to behave in a way that maintains the trust the public places on solicitors and in the provision of legal services.

The SDT fined Mr Beckwith £35,000 and ordered him to pay SRA's costs in the sum of £200,000. Mr Beckwith appealed the SDT's findings under s.49 of the Solicitors Act 1974 on the basis that the Tribunal had wrongly concluded that his conduct amounted to breaches of Principles 2 and 6.

The High Court accepted the Tribunal's conclusion that Mr Beckwith had acted 'inappropriately'. However on the facts of the case, the Court concluded that he did not breach Principles 2 and 6 as these Principles had derived from the ethical standards drawn from the rules that regulate the profession. In this case, the rules were the 2011 Principle and the 2011 Code of Conduct found in the Handbook. They took the view that Mr Beckwith's actions were not capable of being characterised as showing a lack of integrity or behaving in a manner which affected the reputation of the profession.

The Court highlighted three specific points when considering the issue of integrity: *"The first is that in the context of the regulation of a profession there is an association between the notion of having integrity and adherence to the ethical standards of the profession. This is*

consistent with the ordinary meaning of the word, namely adherence to moral and ethical principles. The second is that on matters touching on their professional standing there is an expectation that professionals may be held to a higher standard than those that would apply to those outside the profession. The third is that a regulatory obligation to act with integrity “does not require professional people to be paragons of virtue” [paragraph 30].

Regulators were given a stark warning that they could only reach into a person’s private life when that conduct within someone’s private life realistically touched upon the practice of the profession or the standing of the profession.

Another matter upon which the Court concluded was that there was no requirement in the Handbook for the Tribunal to first consider whether the conduct amounted to ‘professional misconduct’ before considering whether the Principles set out in the Handbook applied. Mr Beckwith’s appeal succeeded, the fine was quashed and the costs were set aside. The SRA has decided not to appeal the High Court’s decision.

Whilst solicitors up and down the country will breathe a sigh of relief in the knowledge that not every aspect of their private lives will be liable to scrutiny by the SRA, Regulators will now need to strike a fair balance between the two competing interests: the public interest in regulating the profession versus a professional’s private life.

This document is not intended to constitute and should not be used as a substitute for legal advice on any specific matter. No liability for the accuracy of the content of this document, or the consequences of relying on it, is assumed by the author. If you seek further information, please contact the [3PB clerking team](#).

22 January 2021



Sunyana Sharma

Barrister
3PB

0330 332 2633

sunyana.sharma@3pb.co.uk

3pb.co.uk