



# ARDL

Association of Regulatory and Disciplinary Lawyers

Quarterly Bulletin Summer 2024

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### Chair's Introduction

There is an appropriately sober tone to the ARDL Summer Bulletin this year. Shortly before the Spring Bulletin was published an ARDL Member approached me at Southwark Crown Court to let me know that Mary O'Rourke KC had passed away. The Committee decided that, rather than rush, it would be right to place a small notice in the Spring Bulletin and then to have Mary's obituary in the Summer Bulletin. What has in fact been brought together is an illustration of the impact that Mary had, not only on the people she met and worked with, but also on the area and profession of regulatory and disciplinary law. I will not trespass upon the kind and fitting words that have been written by Martin Forde KC and Paul Ozin KC, who sit on the ARDL Committee, Clodagh Bradley KC and those at Old Square Chambers who have

been good enough to contribute to this Bulletin.

It may have only been a few weeks since the ARDL Spring Bulletin, but the summer has been filled with positive actions from ARDL.

In July ARDL marched for the first time at London Pride. The weather was excellent, the crowd was (for the vast majority) supportive, and those marching ranged from International Financial Institutions to Gay sports clubs. ARDL was marching between Sadlers Wells and the YMCA, presumably because the Pride organisers had heard that ARDL members were equally renowned dancers.

However, those marching could not avoid noticing that at two stations on the route the organisers had cleared a space for those who protest against the Pride march to air their views. These individuals were arguing against the very existence of the

**Sam Thomas**  
**2 Bedford Row**

march, but there will likely be a divergence of opinions on the different aspects which Pride represents as well. The ARDL Committee recognises that people disagree, but I hope we all agree that it must be positive that these differences can be discussed in a constructive and proactive way. And hopefully ARDL marching at London Pride allows for and facilitates these discussions while showing support for ARDL's LGBT+ members.

I would like to extend a special thank you to the Disabled Lawyers Association who chose to march with ARDL this year, and to their Chair, Daniel Holt, who showed a great enthusiasm to continue the partnership between ARDL and the Disabled Lawyers Association throughout the year and into Pride 2025.

ARDL has awarded the Dutton Bursary to three applicants to provide opportunities for career development in the area of regulatory and disciplinary law. The Dutton Bursary is provided to those who might not otherwise be able to take up the opportunity for education or career progression, and ARDL has awarded close to £5,000 this year. ARDL has also provided several smaller awards of ARDL conference tickets and travel expenses to applicants.

The 4<sup>th</sup> Annual ARDL Conference will take place on Friday 8<sup>th</sup> November at the Museum of London and tickets are now available on the ARDL Website. Topics this year include: The Judicial Review of the Regulators; Sport, Safeguarding and a Look to the Future; and Supporting Neurodiverse Clients and Witnesses. The Key Note Speech will be delivered by Her Honour Judge Deborah Taylor, Chair of the Medical Practitioners Tribunal Service.

Other events this Autumn include a joint seminar by ARDL and FreeBar – 'Acceptance without Exception' on 24<sup>th</sup> September 2024, the Manchester Late Summer BBQ on 11<sup>th</sup> September 2024, and the Scotland Winter Supper on 21<sup>st</sup> November 2024.

## Obituary. Mary O'Rourke KC by Martin Forde KC

I first met Mary at the General Medical Council in Hallam Street in the late 1980s. She approached me to inquire how much of a predicament my doctor was in. She was generous with her time and provided a razor-sharp analysis of the issues, identified deficiencies in the evidence and the Notice of Charge and gave me the confidence to go out and perform.

For the next 35 years, whenever I had a novel or difficult case, my first thought was "What would Mary do?"

She took a benevolent and kindly interest in my then fledgling career from that moment on for which I will always be grateful.

Mary was generous with her time – often I called her mid-hearing, knowing there was an authority which was relevant but not able to recall its name or citation. This was long before internet searches. Mary had a personal file of authorities but also an instant recall and, I suspect, a photographic memory. She also had the gift of instant recall and would not only give me the name of the authority, but her views on its application. She would then reel off better additional authorities, most of which she had appeared in.

Mary was the most thoroughly prepared advocate I have ever known and never stopped working. Her clients were indebted to her because of that thoroughness and analysis. She was a fearless advocate and a formidable cross examiner.

I had the pleasure of co-defending with her for forty-six days in the General Medical Council. She was representing Professor Richard Southall, a longstanding client and Charles Foster and I were representing two other doctors in a case about Continuous Extra Thoracic Pressure (CNEP), a new treatment for very premature babies which was a

novel treatment. Our clients were accused of overriding ethical concerns and one witness made the mistake of accusing the doctors of practising “Nazi style medicine”. Charles and I decided, as the allegations were eighteen years old, that we would argue abuse of process due to delay. Mary agreed to adopt a position of studied neutrality. After two and a half days of submissions, the Chair asked Mary, who had not participated in the application, if she had a view – “Bring it on!”, was her response.

She destroyed various witnesses in cross examination particularly on medical statistics – she clearly was a stellar mathematician, and we all made a successful submission at half time and our doctors were completely exonerated.

Mary was involved in several notable cases – I mention just two. In *Southall v The General Medical Council*, Mary acted as a junior to Stephen Miller QC and at first instance the case was lost. Permission to appeal to the Court of Appeal was denied. Professor Southall was struck off the register. Mary renewed the application, having taken Silk in the intervening period, and was successful in applying for permission to appeal.

She acted in the Court of Appeal, and I went to observe. Initially, her submissions were greeted with a degree of judicial hostility, but with great skill and a mastery of the facts, the science, and a minute examination of the legal principles. Mary prevailed with her customary tenacity, winning the Appeal based upon the inadequate reasons given by the Tribunal.

Mary was not just a regulatory lawyer – she was also a very fine employment lawyer acting for the former Chelsea F.C. team doctor Eva Carneiro. The case was fought to trial, but before Mary was to cross examine José Mourinho, an encounter which she was relishing, a settlement was reached.

Mary paid me the greatest professional compliment of my career when she asked me to act for her veterinarian partner, Dr John Gunn, in a two-week

RCVS Disciplinary Committee hearing, where she appeared as a witness, on John’s behalf. She was a measured and consistent witness and contributed greatly to a justifiably favourable outcome.

Mary had time for everybody. She was a generous host, great company and secured many of us qualified in England and Wales, including myself, rights of audience to appear in Northern Ireland by helping with the required documentation.

The obituary published by her Chambers, Old Square Chambers, makes specific reference to her being “a wonderfully supportive champion of junior members of chambers over many years”. I can vouch for the fact that her support extended to those junior to her from outside her Chambers, including myself.

Mary bore her final illness with great fortitude and stoicism and only a very limited number of people knew quite how ill she was. That was typical of Mary.

I will miss Mary and I am very proud to be able to call her a true and loyal friend.

**Martin Forde KC**  
**Temple**

## Mary Remembered

I appeared in a number of cases against Mary, in tribunals and in the Court of Appeal. She was a member of that small class of advocates, rarer still at the Regulatory Bar, who are sufficiently identifiable by their first name. If that makes you a legend, she was one. She was a formidable opponent, capable of being forensically devastating in her advocacy, but not without a glint of humour beneath the steel, for those with eyes to see it. That tied in with her personality outside of court: always a doughty fighter for her client, but on a personal level, generous with her time, capable of acts of great kindness, and a source of good advice. I speak as the beneficiary of both. She will be mourned and remembered.

**Paul Ozin KC**  
**23es Chambers**

## Reflections

I am writing to offer a few words about the late Mary O'Rourke KC, as I gather that ARDL is intending to draw together contributions from various people who knew Mary prior to her untimely death in May of this year.

Mary was my cousin. Even when I was a young child and Mary came to stay with my family in Brussels, while she was studying in Bruges, it was evident that her intellect operated on another level, which lofty heights the rest of us could only aspire to, but never really reach. Her generosity of time, knowledge, and enthusiasm for everything that she was passionate about was something that so many people benefitted from.

Throughout the football season, she'd collect my young nephew and drive him up to Manchester to see their beloved United play at Old Trafford. Her legacy lives on in his fervent support of The Red Devils and no doubt his children's once they're old enough to kick a ball! Likewise in her professional life, she was constantly on hand to anyone and everyone who needed advice on tricky points of law or tactical considerations, most especially in regulatory cases, where I reaped the benefit of her vast knowledge and memory on many an occasion. Mary encouraged and supported countless individuals to join and remain at the Bar, particularly those who knew no one in our 'world'. She made it accessible and seem achievable long before 'inclusion' and 'diversity' became part of our vocabulary for attracting the best to the Bar. She had a reputation as the fiercest of opponents, who epitomised fearless advocacy, but being the kindest of individuals outside the adversarial arena of the hearing room or court.

Our Irish roots played a central part in Mary's life, from beginning to end. She celebrated her Silk's Day at the Irish club in London, which was a stone's throw from the Temple at the time. I have no doubt that she will have drawn some comfort from the fact

that she was back in her beloved Ireland in her final days. The church where her funeral was held was packed with those who had known her over the decades; a reflection of her loyalty to so many. She will be missed by everyone who was privileged to have been counted as one of her family or friends (of which she had a huge number). May she be remembered for her great talents, her generosity and, most of all, her immense kindness. *Suaimneas síoraí di.*



*Mary on her Silk's Day in 2009 with her brother, John, and her cousin, Michele Griffin*



*Mary at her nephew's wedding in August 2022*

**Clodagh M Bradley KC**  
**1 Crown Office Row**

## Dear Mary

We write following the death of our dear friend and colleague, Mary O'Rourke KC.

Mary's phenomenal professional successes will be well known to many readers of the ARDL bulletin.

A fearless advocate in every way, she never shied away from taking difficult and challenging points on behalf of her clients and her roll call of successful appeals and judicial reviews are a testament to her tenacity, judgment, and courage. Her case load is already and will continue to be for many years to come, essential reading for those studying and practising professional regulation and disciplinary law.



Less known perhaps are her qualities as a friend and colleague.

Mary joined Old Square Chambers in early 2012. She arrived as a force of nature, quickly taking on the lead role of Head of the Professional Regulation Group and transforming it into a successful and busy group.

She led very much by example. Her workload and dedication were second to none. She was often to be observed dashing in and out of Chambers, often going from one jurisdiction to another, with a practice encompassing London, Manchester, Belfast and even, on occasion, the Caribbean. Her schedule of consultations was no less frantic. To sit in a room with Mary whilst she did call after call was to be given an education in disciplinary law.

Despite her busyness, she always had time for her colleagues. She was happy to give advice to anyone who needed it. She was always available on the end of the phone if members (both junior and not so junior) needed advice at a hearing. She was a listening ear when things were not going as planned.

She had an unparalleled commitment to supporting juniors, taking an interest in our careers, making introductions, and genuinely caring about us. She remembered every detail of our family lives and requested updates. She was not only hugely encouraging and supportive of those who junioried for her but was also great fun to work with. Working with Mary was certainly never boring!



She was also good fun outside of work. She was an avid Manchester United fan and proud season ticket holder at Old Trafford. We have no doubt that a standout moment in her career was the remarkable opportunity she had to cross-examine Sir Alex Ferguson. She also attended many social events both within and outside of Chambers. In her characteristically generous way, she opened her lovely house in Donegal to celebrate her 60<sup>th</sup> birthday which was attended by many of us from Chambers and beyond. The celebrations continued all night and into the next day.

Even when her health started to decline, she remained not only committed to her clients but to her colleagues. She continued to appear in Court and to attend Chambers, with the unstinting support of her partner "JTV" (John the Vet), who on

numerous occasions accompanied her to hearings enabling her to complete her final high-profile cases before the MPTS and the Privy Council. Even at those times, she continued to provide advice and support to us all.

She was, right to the end, a kind and generous friend, font of knowledge and fantastic colleague.

Mary once said that one of her greatest moments was a victory in the Court of Appeal that meant that a doctor whom she hugely respected and viewed as being responsible for saving many, many lives, would be returned to practice. She said that, when she got to the Pearly Gates and was asked what good she had done with her life, she would be relying on getting this doctor back into practice.

Whilst there can be few of us who would wish our performance in the Court of Appeal to impact upon what happens to us in the afterlife, it is a testament to Mary's commitment and passion to get the right result for her client that she was happy to be so judged. We are sure that her success, kindness, and faith were enough to get her through those Pearly Gates.



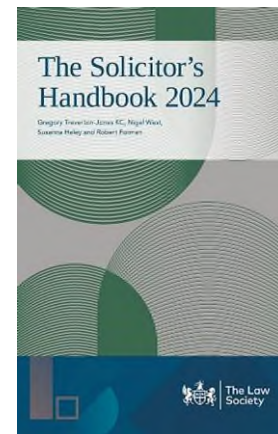
Mary – thank you.

**Nadia Motraghi KC, Nicola Newbegin,  
Victoria Webb, Tara O'Halloran  
Old Square Chambers**

## Book review. *The Solicitor's Handbook 2024: A Tribute to Gregory Treverton-Jones KC*

*First published in the Solicitor's Journal*

The *Solicitor's Handbook 2024* is *the* handbook for solicitors and legal practitioners. When Gregory Treverton-Jones KC conceived the idea of a solicitor's handbook in 2006, following a case that had gone surprisingly well for his client, who succeeded in a challenge to an intervention at first instance (normal service was resumed in the Court of Appeal!), little did he realise that he would be the author and maestro to 10 editions of *The Solicitor's Handbook*, now published by The Law Society.



For generations of solicitors, *The Guide to the Professional Conduct of Solicitors* (first published as a slim volume in 1960 and given free to all practising solicitors), was the source of all knowledge in relation to the rules that controlled the profession. The last edition was in 1999, and with the advent of the Solicitors' Code of Conduct 2007 and much else the gap needed to be filled. When Gregory Treverton-Jones and the late Andrew Hopper QC brought out *The Solicitor's Handbook* in 2008, Sir Anthony Clarke, Master of the Rolls, writing the Preface to the first edition, confidently predicted that the authors' hopes of a new book to prove to be a valuable resource for regulator and regulated alike and contribute to good practice by identifying areas of particular concern and risk, would be fulfilled. Those hopes and that prediction have indeed been fulfilled with each successive edition.

*The Solicitor's Handbook* remains a comprehensive and user-friendly guide to the common law and regulations governing the conduct of solicitors. The 2024 edition has been updated to take account of all

key developments which have taken place since the publication of the last edition in 2022, and once again is a masterpiece. The book is divided into eight parts: Overview, the SRA Principles and Codes, other rules, the regulatory system in practice, the disciplinary system in practice, the regulation of alternative business structures, fraud and money laundering, and appendices. The chapters are clear, concise, and remarkably informative. The new edition has 20 appendices giving the reader the relevant rules and regulations at his or her fingertips. In all the book runs to over 800 pages, and in it you will find everything you want. The law is stated as of 20 December 2023 but also incorporates some SRA and SDT policy changes which postdate that.

The authors Gregory Treverton-Jones KC (General Editor), Nigel West, Susanna Heley and Robert Forman have substantially rewritten the chapters on the Code for Individuals and the Code for Firms, combining them into one chapter, and dealing with the contents of the Codes as subject matter rather than by rule numbers. They have added a new chapter dealing with economic crime, have included revisions to the SRA's powers of investigation and the Legal Ombudsman Scheme Rules, and have also incorporated the dramatic increase in written guidance from the SRA in recent years. Over the last two years, there has been increasing concentration by the SRA upon matters which fall outside the solicitor-client relationship. Sexual misconduct, toxic workplaces, and inappropriate use of social media by solicitors have all led to sanctions being imposed by the SDT. The SRA is not alone in this and we have seen similar updated guidance from other professional bodies including the Bar Standards Board, the General Medical Council and the Institute of Chartered Accountants in England and Wales.

This is to be last edition of *The Solicitor's Handbook* with which Gregory Treverton-Jones KC will be associated. He says that when Andrew Hopper QC and he embarked in 2006 on the project of replacing *The Guide to the Professional Conduct of Solicitors*,

they did not foresee the tremendous growth in regulatory law and practice that has occurred in the 17 years since. As he tells me, he and Andrew Hopper contributed on seven editions with many laughs and much red wine. Gregory Treverton-Jones went on to write the 2019, 2022 and 2024 editions with three new solicitors named on the cover. The profession is indebted to him and with Nigel West, Susanna Heley and Robert Forman the *Solicitor's Handbook* remains in good and skilled hands. I have no doubt that like Sir Anthony Clarke's prediction at the time of the first edition, *The Solicitor's Handbook* will continue to go from strength to strength.

Copies of the Solicitor's Handbook 2024 can be ordered from:

<https://bookshop.lawsociety.org.uk>

**Kenneth Hamer  
Henderson Chambers**

## Legal Update

### ***Kearney v. Bar Standards Board* [2024] EWHC 924 (Admin), [2024] ICR 853**

*Bias - role of tribunal member – chair writing to BTAS between hearings – improper disclosure of panel discussions – apparent pre-determination of sanction*

On 1 October 2022, the appellant admitted allegations of sexual harassment involving a mini-pupil and two pupils at a chambers function. The matter was adjourned to 7 December 2022, when the appellant was suffering from Covid, and the matter was further adjourned to 5 January 2023 for sentence. After the hearing in December 2022 was adjourned, the chair of the tribunal, His Honour Judge Carroll, sent an email on 9 December 2022 to the chair of the Inns of Court, copied to the Director-General of the Bar Standards Board and the Registrar of the Bar Tribunals and Adjudication Services drawing attention to a lacuna in the regulations that the tribunal had no power to make an interim suspension order. The chair said,

amongst other things, that “it was indicated within the tribunal hearing, that both cumulatively and individually the current guidance points to disbarment”; that whilst the tribunal “could not go behind the Covid sick note”, given the appellant’s past history, there was a high likelihood of him committing further offences; that in the public interest and in the interests of young females at the bar he ought to be suspended until the sanction hearing can be concluded; and that the tribunal were “dismayed” to find they had no power to make such an order. At the hearing on 5 January 2023 the appellant’s application for the tribunal to recuse themselves was refused and the appellant was disbarred.

Allowing the appellant’s appeal on the basis of apparent bias and remitting sanction to a differently constituted panel for re-determination, His Honour Judge Stephen Davies (sitting as a judge of the High Court) said an examination of the transcript of the proceedings showed that no such comment was made at the December 2022 hearing that the current sanctions guidance pointed to disbarment. Moreover, the chair’s email of 9 December 2022 contained a clear indication that a decision had already been made by the panel in private that the sanctions guidance pointed to disbarment. Not only was this wrong because the guidance pointed either to a lengthy suspension or to disbarment, but also the email amounted to an indication of an apparent view as to where the appropriate sanction lay in this case. The email appeared to be a clear indication of confidential panel discussions and indicated in no uncertain terms that the panel had already formed a clear view of the case before evidence and submissions on mitigation. The panel ought to have recused itself on 5 January 2023. The fact that it subsequently made what was, undoubtedly, an extremely conscientious, thorough, and detailed final determination was not sufficient to remove the appellant’s concern that the panel had already in December 2022 formed a view in private. It was important to note that at the hearing in January 2023 the appellant put in a reflective statement

giving evidence of the concrete steps he had taken to deal with what he recognised as wholly unacceptable behaviour and providing a series of character references. If there may reasonably be perceived to be a real risk that this evidence was not treated in the fair way that it deserved, due to minds already being closed, then that perception supports the conclusion that the panel ought to have recused itself beforehand.

***R (Dalton) v. Chair of Police Appeals Tribunal and Chief Constable of Hertfordshire Constabulary [2024] EWHC 1116 (Admin)***

*Independent panel member questions – degree of latitude*

During the hearing before the police misconduct panel the claimant, a police officer facing disciplinary charges, applied for the independent panel member to recuse herself on the ground that her questioning of him indicated a concluded view of the evidence and the allegations, which led to a perception of bias. The legally qualified chair refused the application. The chair of the Police Appeals Tribunal dismissed an appeal on paper under rule 11(2) of the Police Appeals Rules 2012 on the grounds that it had no real prospect of success. Refusing permission to apply for judicial review following an oral hearing Lang J said, at [61], that on reading the transcript, it was plain that the independent panel member was asking the claimant a series of questions, at the appropriate time in his evidence, which she was entitled to do. The claimant responded to them as if they were questions. The independent panel member was not a trained lawyer or judge, and so formulated her questions as a lay person would do. She was entitled to some latitude in this regard. Exactly the same points could have been put to the claimant by a judge or a barrister, with rather more finesse, which would not have given rise to any challenge on the grounds of a settled view of bias.

***Balachandra v. General Medical Council [2024] EWHC 18 (Admin)***

*Dishonesty – circumstantial evidence – handwritten*



*clinical notes – inadequate evidence to draw inference of fraud – expert not qualified to opine on authenticity of clinical notes.*

The appellant was a dentist providing mainly NHS services in Fareham, Hampshire. In February 2023 the PCC erased the appellant's name from the dental register. The main reason for that decision was that the PCC found that the appellant had made handwritten clinical notes about eleven patients long after the treatments were provided and then sought to claim that the handwritten notes were contemporaneous. The appellant denied the assertion of post event note fraud. As a result of a complaint letter NHS England (NHSE) decided to review the appellant's clinical record keeping, both her electronic records (on her computers) and her handwritten record cards. The appellant gave evidence and the GDC accepted that she delivered the original records for the eleven patients to NHSE in Southampton in 2017 by recorded delivery. They were scanned by NHSE or their agents Capita, but no record was kept of the scanning process, and no copying protocol was put in evidence. The appellant asserted that she had sent the handwritten cards in their envelopes along with the electronic records. However, only the envelopes were scanned and the handwritten records or cards inside were overlooked. The electronic records were initially returned to the appellant and then sent back to NHSE and never again returned. They were shredded or lost. The GDC's case was that there never were any original cards in existence at the relevant time. Ritchie J said that the central issue was whether the appellant fraudulently wrote the cards. The GDC called two expert dental witnesses whose evidence was to the effect that the cards were created at a time long after the relevant treatment was provided. The PCC cited the reasoning of the GDC's experts that, amongst other things, the style of the notes was not contemporaneous; there were no gaps or headings; they resembled a commentary or were written in long-hand prose which the PCC considered to be an exceptional way to record clinical information; and they directly addressed the concerns of the NHSE's clinical adviser which the

PCC found to be more like a response to the concerns than a clinical record. A second fraud allegation was also found proved by the PCC in relation to further alleged back-dated clinical records.

Allowing the appellant's appeal and setting aside the PCC's fraud findings, Ritchie J said at [122]-[144] that the PCC's findings of post treatment creation of the handwritten cards were premised wholly on circumstantial evidence and the evidence of the GDC's expert witnesses about what they usually saw in handwritten notes from other dentists. The dishonesty charges relied on legal argument and opinions from the two experts based on their assessment of what they thought a dentist would have written contemporaneously in a busy practice, compared to what the appellant did write. Without being given the opportunity, which one of the expert's advised specifically that he needed, to compare the cards of the eleven patients with other cards written by the appellant, the expert was deprived of the comparable evidence necessary to enable him to make any comment on how the appellant usually wrote her notes. It was not safe or right for the PCC to rely on what they called the circumstantial evidence of the style of writing in prose; the comprehensive detailed notes; the lack of spaces or headings or the repetitions. Each dentist no doubt has his or her own style and none is set out as mandatory in the GDC guidance on making and keeping contemporaneous patient records, so long as the notes cover what is needed. There was inadequate evidence to draw the inferences the PCC drew. The GDC's dental expert witnesses were also not experts in handwriting or the authenticity of documents generally or in identifying allegedly fraudulent back-dated cards in the circumstances of this case. Whilst the experts had expertise in the necessary content of clinical notes neither were qualified to opine on whether their form, layout, handwriting, prose, and gaps indicated fraud. These were matters of pure fact for the tribunal and an expert in handwriting and document authenticity. The PCC's findings in relation to the second set of cards were wrong for lack of evidence and procedurally unjust. There were less serious charges

relating to clinical findings and poor or withdrawn billing which were found proved which were not appealed. Accordingly, the case was remitted to the PCC for determination of sanction on these matters.

***Ibrahim v. General Medical Council* [2024] EWHC 131 (Admin)**

*Dishonesty – locum doctor – time-sheets – finding that dishonest conduct was financially motivated – financial motive not pleaded – no unfairness.*

The appellant faced allegations of dishonesty in relation to timesheets. In its decision on the facts the tribunal found that the appellant had acted dishonestly in submitting inaccurate timesheets during the period March 2018 to March 2019 when working as a locum surgical registrar for the Maidstone and Tunbridge Wells NHS Trust. His name was erased from the medical register. On appeal the appellant submitted the tribunal was wrong to have found his conduct had been financially motivated when this had not been pleaded as part of the facts. Dismissing the appellant's appeal, Julian Knowles J said at [226]-[238] that in its determination on the facts, the tribunal referred to the fact that the appellant's dishonesty had resulted in illegitimate financial gain. The point was also picked up in the GMC's submissions at the impairment stage and accepted by the tribunal. The fact that the scale of any financial gain was modest was acknowledged at the sanction stage. The appellant relied on *Fish v. GMC* [2012] EWHC 1269 (Admin), which also concerned timesheets. However, as the respondent correctly identified, the problem in *Fish* was that the case put by the GMC to the doctor, and the findings made by the tribunal, did not match. The tribunal's conclusions were found to be illogical because it did not properly engage with the doctor's motive. In the instant case, the allegation that the appellant was motivated by financial considerations was clearly part of the GMC's case from the outset, notwithstanding the absence of an express averment to that effect in the allegations. No-one could have been in any doubt about the matter. First, by the time of the tribunal hearing, the

appellant had already been through the Trust's internal disciplinary process which covered much of the same ground. Well before the tribunal hearing, the appellant knew what he was being accused of, which was fraudulently claiming for hours he had not worked, in order to dishonestly obtain a financial benefit. Indeed, the appellant's counsel before the tribunal understood the point. The Trust's general manager was cross-examined that the appellant was defrauding the Trust for money. Furthermore, the appellant clearly understood that his alleged dishonesty was directly linked to the allegation of fraudulently claiming for hours not worked. In *Yassin v. GMC* [2015] EWHC 2955 (Admin), Cranston J said:

25. Allegations of dishonesty need to be carefully formulated and specific allegations need to be made. That does not mean that a Panel cannot fairly consider someone's state of mind in relation to false claims, save by reference to the circumstances of a specific case. The key is fairness.

In the instant case, Julian Knowles J said he did not consider there was any unfairness to the appellant in the way the case against him was put. In all the circumstances of the case, the allegations against him provided sufficient information to enable him to know, with reasonable clarity, the case he had to meet, and he knew enough about the charges to prepare his defence.

**Kenneth Hamer**

Henderson Chambers



ARDL 4<sup>th</sup> Annual Conference

Friday 8 November 2024

Tickets now on sale

ARDL is pleased to announce details of its 4th Annual Professional Discipline and Regulation

Conference, which will take place on Friday 8 November 2024 at London Museum, 150 London Wall, Barbican, London, EC2Y 5HN. The Conference will be of interest to members of ARDL practising in all aspects of professional discipline and regulation.

**Keynote speech by Her Honour Judge Deborah Taylor** Chair of the Medical Practitioners Tribunal Service.

#### Sessions will include:

Regulatory Case Law Update with speaker **Kenneth Hamer** Henderson Chambers and Author of Professional Conduct Casebook. Chaired by **Joanne Harrison** Senior Associate at Carson McDowell LLP and Vice-Chair of ARDL.

**Judicial Review of the Regulators with Alexis Hearnden** 39 Essex Chambers and **Vikram Sachdeva KC** 39 Essex Chambers. Chaired by **Shannett Thompson** Partner at Kingsley Napley LLP.

**Sport, Safeguarding and a Look to the Future** with speakers including **Anne Whyte KC** QEB Hollis Whiteman, **Christopher Quinlan KC** Farrar's Building and **Louise Ravenscroft** Principal Associate at Capsticks LLP. Chaired by **Deborah Nicholson** Partner at Markel Law.

**Supporting Neurodiverse Clients and Witnesses** with speakers including **Jodie Blackstock** Garden Court Chambers and **Katie Maras** Reader in Psychology and Deputy Director of the Centre for Applied Autism Research. Chaired by **Rachel Birks**. Partner at Ward Hadaway LLP.

**Immediate Orders Across the Regulators and a Closer Look at Aga v General Dental Council** with speaker **Andrew Kennedy KC** 1 Crown Office Row and chaired by **Lauren Griffiths** Lawyer at MDDUS.

**Hot Topics Session – Regulation of Legal Services**

with speaker **Jessica Clay** Partner at Kingsley Napley LLP and chaired by **Catriona Watt**, Partner at Anderson Strathern LLP.

**Hot Topics Session – Regulation of Financial Services** with speaker **James Alleyne** Legal Director at Kingsley Napley LLP and chaired by **Rosemary Rollason**, Principal at RJ Rollason Law.

Refreshments and lunch will be provided, and we hope that delegates will join us for a drinks reception at the close of the event.

For details about purchasing tickets, please see the Events area on the ARDL website.

#### Request for Comments and Contributions

We would welcome any comments on the Quarterly Bulletin and would also appreciate any contributions for inclusion in future editions. Please contact either of the joint editors with your suggestions. The joint editors are:

Kenneth Hamer, Henderson Chambers  
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