

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Our Reference: 2021/4441/
(Attn Lindsay Young)

Private and Confidential

Mr J Holbrook

By email only to: [REDACTED]

09 August 2021

Dear Mr Holbrook

Report about Jon Holbrook

An Independent Decision-Making Panel (IDP) of the Bar Standards Board met on 2 August 2021 and considered the allegations against you in the light of your response and of all other evidence before it.

I am asked to tell you that the IDP decided that there was insufficient evidence of a breach of Core Duty 5 and rC8 of the BSB Handbook in respect of Allegation 1 and insufficient evidence of a breach of Core Duty 5 and rC8 of the BSB Handbook in respect of Allegation 2, save for tweet 14, dated 17 October 2020. In respect of tweet number 14, the Panel was satisfied that there is sufficient evidence of a breach of Core Duty 5 of the BSB Handbook, but not rC8.

Decision and reasons

Allegation 1: On 17 January 2021 at 9.34am you posted a tweet which was designed to demean or insult a teenager, Ms A, and which may be considered distasteful or offensive by others.

The Panel took into account the content of the tweet and the circumstances in which it was tweeted. You posted your tweet in response to a tweet from the Equality and Human Rights Commission which highlighted Ms A's case as an example of how the Equality Act 2010 operates. The Panel considered that the language of your tweet in describing Ms A as the 'stropky teenager of colour' was ill-advised and may give rise to offence. However, it accepted that you were expressing your personal political opinion on a piece of legislation rather than intending to demean or insult another. The Panel noted that you had posted other tweets criticising the Equality Act which did not form the basis of any allegation but were provided to the Panel for context. Taking all these factors into account and applying the test set out in *Diggins v BSB* [2020] and the guidance in gC25, the Panel concluded that your behaviour in posting this tweet was not seriously offensive or discreditable to amount to a breach of CD5 or rC8.

Allegation 2: Between 25 March 2019 and 1 November 2020, you posted seventeen tweets which were designed to demean or insult others including Muslims,

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homosexuals and women, and which tweets may be considered distasteful or offensive by others.

The Panel considered the tweets individually and collectively and took into account their contents, their origins and your explanations of them. The Panel noted that most or all of the tweets arose from articles that had appeared in social media and/or were in response to tweets that had already been posted on Twitter.

The Panel's decisions are as follows:

Tweet numbers 1 - 13 & 15-18:

The Panel noted that the tweets covered a variety of subjects in which you expressed your personal political opinions. Although the views expressed might have caused offence to others, the Panel did not consider that your behaviour in posting any of these tweets was seriously offensive or discreditable to amount to a breach of CD5 or rC8.

Tweet number 14:

This tweet states:

"Free speech is dying & Islamists & other Muslims are playing a central role. Who will lead the struggle to reinstate free speech as the foundation of all other freedoms?"

The Panel took into account the context in which the tweet was made, which was in response to a tweet dated 17 October 2020 calling for the Charlie Hebdo magazine to be shut down following the beheading of Samuel Paty by an Islamist. The Panel considered that the ordinary reasonable reader would understand the tweet to mean that the Muslim community was to blame for curtailing free speech. The Panel considered this would not only cause offence but could promote hostility towards Muslims as a group. The Panel considered that such behaviour was likely to diminish the trust and confidence that the public place in you or the profession and that there was therefore evidence of a breach of CD5 of the Handbook.

Administrative sanction

The Panel decided, in relation to allegation 2 regarding tweet number 14, that imposing an administrative sanction in the form of a warning and a fine was proportionate and sufficient in the public interest. In reaching its decision, the Panel had regard to the fact that you have no previous disciplinary findings against you and the evidence of a breach of CD5 is in relation to the posting of one tweet only.

The warning is as follows:

"You are warned to take care to consider how your public posts as a barrister may impact on you and/or the profession and take care to consider the standards set out in the BSB Handbook and any supporting guidance at the time."

In setting the appropriate level of fine, the Panel had regard to the aggravating and mitigating factors in this case. The aggravating factors were:

- Lack of remorse
- Lack of insight

The mitigating factors were:

- Previous good character

The Panel noted that the starting point for a fine is £400. The Panel determined that a fine of £500 should be imposed on you.

The Panel considered that the decision, warning and sanction imposed were a proportionate restriction on your right to freedom of expression under Article 10(2) for the purpose of protecting the reputation and rights of others.

Fine

In the circumstances summarised above, this letter constitutes notice that, in accordance with regulations rE27 and rE29 of the EDRs, you have been fined the sum of £500.

You are required, by **7 September 2021**, to comply with the requirements of the Handbook by paying the fine and confirming to this office in writing when this has been done.

Please ensure that payment is made by bank transfer to the following account:

The General Council of the Bar
Messrs Child & Co Bankers
1 Fleet Street,
London EC4Y 1BD

Sort Code: 15 80 00;
A/c No: 66 05 02 06;
(Ref: 2021/4441/ L Young)

Compliance

If you comply with the above requirements for payment of the relevant fine, on or by the due date, then the BSB will not take any further action and our file on this matter will be closed. However, you should note that, a failure to pay a fine within the relevant time is likely to be treated as potential professional misconduct and the BSB may be entitled to refer the matter to a disciplinary tribunal for disposal.

You must notify us of any changes to your financial circumstances in writing, in compliance with rC64.1 of the Conduct Rules.

Consequences of the imposition of an administrative sanction

The fact that an administrative sanction has been imposed will be recorded and taken into account if further breaches of the Handbook occur. However, the imposition of an administrative sanction does not constitute a disciplinary finding and the fact of its imposition will not be disclosed to any third parties except in accordance with regulations rE63 and rE64 of the EDRs

Appeal

You are entitled to appeal this decision in accordance with regulations rE54 – rE60 of the EDRs.

If you wish to lodge an appeal you should do so in writing within 28 days of the date of this letter by writing to me at the email address shown in this letter. When submitting an appeal, you should identify the decision appealed against, your grounds for appeal and indicate whether you wish the appeal to be disposed of at an oral hearing in accordance with rE55 of the EDRs. Regulation rE56 states that your appeal must be accompanied by a sum as prescribed by the BSB from time to time. This sum is currently set at £100, to cover expenses.

Payment of the appeal fee should be made using the payment details above.

If you wish to discuss the contents of this letter or have any queries, please feel free to contact me.

I look forward to receiving confirmation of payment of the fine.

Yours sincerely

A handwritten signature in black ink, appearing to read 'LY', with a large, stylized flourish extending from the bottom right.

Lindsay Young

Case Officer

Legal and Enforcement

E-mail: LYoung@BarStandardsBoard.org.uk