



Neutral Citation Number: [2024] EWHC 1619 (Admin)

Case No: AC-2023-LON-002983;
AC-2023-LON-003342

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25 June 2024

Before :

The Honourable Mrs Justice Thornton DBE

Between :

**SOLICITORS REGULATION AUTHORITY
LIMITED**

Appellant

- and -

GEORGE FAHIM SA'ID

Respondent

Rory Dunlop KC (instructed by **Capsticks Solicitors LLP**) for the **Appellant**
Giles Wheeler KC (instructed by **Weightmans LLP**) for the **Respondent**

Hearing dates: 23 April and 17 June 2024

Approved Judgment

This judgment was handed down remotely at 2:00pm on Tuesday 25 June 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HON. MRS JUSTICE THORNTON

Mrs Justice Thornton :

Introduction

1. The Solicitors Regulation Authority (“the SRA”) appeals against the decision of the Solicitors Disciplinary Tribunal (“the Tribunal”) to dismiss four allegations of professional misconduct against the Respondent, a solicitor, in relation to the management of the risk of money laundering. The professional misconduct is said to have arisen from two property transactions for the purchase of a hotel in London, worth approximately £27 million and a house, also in London, worth approximately £8.5 million. The transactions were conducted by the Respondent’s firm for a wealthy Iraqi family.
2. The SRA also appeals against the decision of the Tribunal to refuse to anonymise individuals, locations, companies and the country featuring in the case. This appeal is the subject of a separate judgment annexed to this judgment.
3. An SRA report on money laundering titled “Cleaning up Law Firms and the Risk of Money Laundering” (2014), explains that law firms are a key target for those wishing to launder money because a law firm provides legitimacy to the funds. Property transactions are said to be particularly attractive to money launderers as they can legitimise a large amount of money in one transaction.
4. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (2017/692) (“the Money Laundering Regulations”) require a solicitor to conduct enhanced due diligence in relation to business relationships or client transactions which give rise to the risk of money laundering. Appropriate procedures must be in place to determine whether a client or beneficial owner is a “Politically Exposed Person” (“PEP”) or connected to a PEP, and the consequential risks must be managed.

The allegations against the Respondent

5. The four allegations of professional misconduct against the Respondent are as follows:
 - (1) Between around 1 November 2017 and 30 November 2018 and in relation to the purchase of a hotel in London, the Respondent failed to carry out adequate Enhanced Customer Due Diligence in respect of the transaction, contrary to regulation 33(1) of the Money Laundering Regulations. In doing so he:
 - breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011; and
 - failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.
 - (2) Between around 1 November 2017 and 30 November 2018 and in relation to the purchase of a hotel in London, the Respondent failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to regulation 35 of the Money Laundering Regulations. In doing so he:

- breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011; and
 - failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.
- (3) Between around 12 October 2017 and 1 November 2019 and in regard to the purchase of a house in London, the Respondent failed to carry out adequate Enhanced Customer Due Diligence in respect of the transaction, contrary to regulation 33(1) of the Money Laundering Regulations. In doing so he:
- breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011; and
 - failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.
- (4) Between around 12 October 2017 and 1 November 2019 and in relation to the purchase of a house in London, he failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to regulation 35 of the Money Laundering Regulations. In doing so he:
- breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011; and
 - failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.

Background

6. The Tribunal did not set out its own summary of the relevant factual background in its decision. The background is not however in dispute and the following summary is taken from the skeleton arguments of the parties.
7. The Respondent practices as a solicitor. He is a sole practitioner, operating as George Anthony Andrews (“the Firm”).
8. For many years he has acted for a wealthy family, whose members include an individual who was, for a period of time, a Minister in the Iraqi Government (“the Minister”) and who was therefore classed as a “Politically Exposed Person” under the Money Laundering Regulations. Other relevant family members include the Minister’s brother and his son. The family owns extensive land in Iraq, a country identified as a high risk country for the purposes of the money laundering regulatory framework.
9. In July 2017, the SRA conducted an assessment of the firm’s money laundering systems. No deficiencies were identified.

The hotel transaction

10. The Respondent was instructed in relation to the purchase of a London hotel in October 2017. The hotel was owned by a company registered in Guernsey. The Respondent was instructed by the Minister’s brother, on behalf of the Minister’s son, to acquire the shares of the Guernsey company. Subsequent to the acquisition (in November 2019), the ownership of the hotel was restructured such that it was held by a newly

incorporated English company. The Minister's brother became a director of the company. The Minister's son was its beneficial owner. A firm of tax advisors worked with the Respondent on the transaction. The purchase of the property was largely financed by the cousin of the Minister's son, who was based in Iraq, and partly from the sale of property in Iraq. The funds were transferred through a Dubai company owned by the Minister's brother.

The house transaction

11. In November 2017, the Respondent made an offer for the purchase of a London house on behalf of the Minister's brother and family. In February 2018, the Respondent was then instructed by the Minister's brother to act in relation to the purchase of the house which was to be funded from the proceeds of the sale of a large plot of land in Iraq, which was being bought by a business associate of the family. The Minister's son was to become the ultimate beneficial owner of the house, through holding the shares in the company which owned the property.
12. The way in which the transaction was structured subsequently changed. The business associate proposed that he would use funds from his UAE company to purchase the house, which would then be exchanged for the land being sold by the family in Iraq. At some stage during the transaction, he became the Respondent's client. During the period of time between the business associate purchasing the house and selling it on to the Minister's son, the house was to be held on trust and the Minister's brother was to be appointed as a director of the company which owned the property. After the purchase of the house had completed, the business associate of the family withdrew from his intended purchase of land in Iraq. A settlement was eventually reached between the family and the business associate with the latter retaining the house. The Respondent was not involved in the negotiation of that settlement.

The SRA investigation

13. In late 2020, the SRA commenced an investigation into the Respondent's firm.
14. In early 2021, the firm provided the SRA with a list of 14 transactions conducted for the family between 2011 – 2019. The monies received and paid out by the firm on behalf of the family during that period totalled approximately £95.8 million. Seven of the transactions took place during the period whilst the Minister was a member of the Iraqi Government. The seven transactions generated approximately 73% of the total money received and paid out by the firm on behalf of the family.
15. The SRA's investigation focussed in on two of the transactions; the purchase of the hotel and house in London. The hotel purchase was the highest value transaction of the seven transactions, accounting for 29% of the monies received and paid out. The house accounted for 10% of the total monies.
16. The Respondent was interviewed by the SRA in April 2021.
17. In June 2021, the SRA produced a detailed report by a forensic investigation officer identifying failings in the Respondent's due diligence.

18. In November 2022, the SRA decided to refer the matter to the Solicitor's Disciplinary Tribunal.
19. In April 2023, the SRA issued a statement setting out its case (a Rule 12 statement) which was based on the forensic investigation report.
20. On 30 May 2023, the Respondent provided a written response to the SRA's statement of case.
21. The hearing before the Tribunal took place over 3 days in August 2023. The SRA did not call evidence and relied on the forensic investigation report and submissions from Counsel. The Respondent and one of his clients gave evidence. At the end of the hearing, the Tribunal dismissed the allegations against the Respondent. Written reasons were subsequently provided, dated 17 October 2023.

The Tribunal's written reasons

22. The allegations against the Respondent are set out at ¶1 – 4 of the decision. An executive summary records that the allegations against the Respondent are dismissed on the basis the Tribunal did not find the alleged relevant SRA principles or relevant part of the Code of Practice proved on the balance of probabilities.
23. ¶9 sets out two preliminary applications in relation to the SRA's Rule 12 statement. ¶10.1 – 10.32 set out the Tribunal's decision on anonymity which is considered in a separate judgment, annexed to this judgment.
24. ¶13.1 – 13.9 summarise the oral evidence given by the Minister's brother.
25. ¶16.1 – 16.82 set out the SRA's case against the Respondent. ¶16.1 records that the SRA relied on a forensic investigation report analysing the Respondent's involvement with the family. Details of the family are set out. ¶16.6 explains that the Respondent's firm was instructed on seven transactions totalling £70,765,689.33, whilst the Minister was in government. This amounted to 73% of the total money paid out by the firm for the family during their working relationship.
26. Details of the two transactions are set out at ¶16.9 – 16.17 for the hotel, and ¶16.37 – 16.42, for the house. The due diligence conducted by the Firm in relation to the hotel is summarised at ¶16.18 – 16.22 and in relation to the house at ¶16.42 – 16.45.
27. ¶16.28 – 16.30 set out relevant parts of the Respondent's firm's risk assessment and policy in relation to money laundering.
28. The SRA's case against the Respondent in relation to the purchase of the hotel is set out at ¶16.31 – 16.37. Features of the transaction that are said to require enhanced due diligence are identified at ¶16.32. At ¶16.32 (11th bullet point) it is said that amongst other steps, the Respondent should have carried out the enhanced due diligence specified.
29. The SRA's case in relation to the house is summarised at ¶16.46 – 16.51. Features of the transaction said to give rise to the need for enhanced due diligence are identified at ¶16.47. The due diligence failings are set out at ¶16.48.

30. ¶17.1 – 17.24 and ¶18.1 – 18.12 set out the Respondent’s case. ¶17 of the decision summarises the oral evidence of the Respondent. ¶18.1 – 18.12 of the decision summarises the closing submissions on behalf of the Respondent.

31. The Tribunal’s Findings are set out at section 19 of the decision and are repeated in full as follows:

“19.1 The Tribunal reviewed all the material before it and considered the submissions made by Mr Scott and Ms Heley with great care.

19.2 The Tribunal had due regard to Mr Sa’id’s rights to a fair trial and to respect for his private and family life under, respectively, Articles 6 and 8 of the ECHR.

19.3 The Tribunal applied the civil standard of proof, as it was required to do. The burden of proof lay with the Applicant.

19.4 The Applicant had relied entirely on hearsay documentary evidence and the submissions of its counsel. It had not called any witnesses.

19.5 The report of the Applicant’s Forensic Investigation Officer (FOI) had not been supported by a statement of truth by the FOI and it had been annexed as an exhibit to the Rule 12 Statement, which in turn had been signed off (with an incorrect version of the declaration which had been corrected subsequently) by a solicitor with no direct knowledge of the case. The FOI had not given sworn evidence and by failing to give oral evidence had deprived the Respondent of the opportunity to cross examine him. It was significant in this regard given that Mr Sa’id had said that the FOI had viewed 7 other files and raised no concern with Mr Sa’id’s AML checking system.

19.6 Whilst the Tribunal found the factual matrix proved to the required standard, it did not find the Respondent’s failure on the two transaction was of a degree which brought the failure within the ambit of professional misconduct as a breach of the relevant Principles and Codes of Conduct and therefore the Applicant had not proved its case in that regard to the required standard.

19.7 It was clear that Mr Sa’id recognised his system let him down on the two transactions as it did not identify the presence of a PEP. He accepted that had the PEP been identified the risk would have been marked at a higher level.

19.8 This was entirely regrettable, however, Mr Sa’id was not in a position of having no system at all or indeed that his system should be considered inadequate based on a single failure.

19.9 The Tribunal found that the AML regime is based on assessment of risk and that there is scope for professional judgment. Mr Sa’id had carried out CDD and proceeded in an otherwise cautious manner relying on his knowledge of his clients and the source of their substantial wealth, accrued over 20 years of business in which. He therefore did not ‘fly blind’ into a situation where he was oblivious the risk.

19.10 The Tribunal considered that issues relating to money laundering must be treated with utmost seriousness for reasons of preventing crime and the encouragement of terrorism, however, this case revealed an element of the ‘counsel of perfection’ on the Applicant’s part. The Tribunal recognised that Mr Sa’id had taken steps to strengthen and improve his AML systems.

19.11 The Tribunal dismissed all the allegations.”

The regulatory framework

The SRA Principles

32. The reference in the allegations to Principles 6, 7 and 8 of the SRA Principles 2011 is a reference to the list of principles set out in the SRA Handbook, as in force at the time of the events that were complained of. At that time, the Handbook set out 10 principles of which the relevant ones are as follows:

“SRA Principles

These are mandatory Principles which apply to all.

You must:

.....

6. behave in a way that maintains the trust the public places in you and in the provision of legal services;

7. comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner;

8. run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles.”

The Code of Conduct for solicitors

33. The 2011 Code of Conduct explains the application of the 2011 Principles. Outcome 7.5 provides that:

“You comply with legislation applicable to your business, including anti money laundering and data protection legislation”.

The Money Laundering Regulations

34. Regulation 33 of the Money Laundering Regulations provides in relevant part as follows:

“33.— Obligation to apply enhanced customer due diligence

(1) A relevant person must apply enhanced customer due diligence measures and enhanced ongoing monitoring, in addition to the customer due

diligence measures required under regulation 28 and, if applicable, regulation 29, to manage and mitigate the risks arising—

(a) in any case identified as one where there is a high risk of money laundering or terrorist financing—

(i) by the relevant person under regulation 18(1)...

(b) in any business relationship with a person established in a high-risk third country or in relation to any relevant transaction where either of the parties to the transaction is established in a high-risk third country ;

.....

(f) in any case where—

- (i) a transaction is complex or unusually large,
- (ii) there is an unusual pattern of transactions, or
- (iii) the transaction or transactions have no apparent economic or legal purpose, and

(g) in any other case which by its nature can present a higher risk of money laundering or terrorist financing.

.....

(4) The enhanced customer due diligence measures taken by a relevant person for the purpose of paragraph (1)(f) must include—

- (a) as far as reasonably possible, examining the background and purpose of the transaction, and
- (b) increasing the degree and nature of monitoring of the business relationship in which the transaction is made to determine whether that transaction or that relationship appear to be suspicious.

(5) Depending on the requirements of the case, the enhanced customer due diligence measures required under paragraph (1) may also include, among other things—

- (a) seeking additional independent, reliable sources to verify information provided or made available to the relevant person;
- (b) taking additional measures to understand better the background, ownership and financial situation of the customer, and other parties to the transaction;
- (c) taking further steps to be satisfied that the transaction is consistent with the purpose and intended nature of the business relationship;
- (d) increasing the monitoring of the business relationship, including greater scrutiny of transactions.

(6) When assessing whether there is a high risk of money laundering or terrorist financing in a particular situation, and the extent of the measures which should be taken to manage and mitigate that risk, relevant persons must take account of risk factors including, among other things—.....”

35. Regulation 35 provides in relevant part as follows:

“35.— Enhanced customer due diligence: politically exposed persons

(1) A relevant person must have in place appropriate risk-management systems and procedures to determine whether a customer or the beneficial owner of a customer is—

- (a) a politically exposed person (a “PEP”); or
- (b) a family member or a known close associate of a PEP,

and to manage the enhanced risks arising from the relevant person's business relationship or transactions with such a customer...”

.....

(3) If a relevant person has determined that a customer or a potential customer is a PEP, or a family member or known close associate of a PEP, the relevant person must assess—

- (a) the level of risk associated with that customer, and
- (b) the extent of the enhanced customer due diligence measures to be applied in relation to that customer.

.....

(4) In assessing the extent of the enhanced customer due diligence measures to be taken in relation to any particular person (which may differ from case to case), a relevant person—

- (a) must take account of any relevant information made available to the relevant person under regulations 17(9) and 47; and
- (b) may take into account any guidance which has been—
 - (i) issued by the FCA; or
 - (ii) issued by any other supervisory authority or appropriate body and approved by the Treasury.

(5) A relevant person who proposes to have or to continue a business relationship with a PEP or a family member of a known close associate of a PEP must in addition to the measures required by regulation 33

- (a) ...
- (b) take adequate measures to establish the source of wealth and source of funds which are involved...and
- (c) where the business relationship is entered into conduct enhanced ongoing monitoring of the business relationship with that person.

.....

(12) In this regulation—

- (a) “*politically exposed person*” or “*PEP*” means an individual who is entrusted with prominent public functions, other than as a middle-ranking or more junior official;
- (b) “*family member*” of a politically exposed person includes—
 - (i) a spouse or civil partner of the PEP;
 - (ii) children of the PEP and the spouses or civil partners of the PEP's children;
 - (iii) parents of the PEP;
- (c) “*known close associate*” of a PEP means—
 - (i) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a PEP;
 - (ii) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a PEP.”

Professional practice, conduct and discipline of solicitors

- 36. Section 46 of the Solicitors Act 1974 provides for the Solicitors Disciplinary Tribunal to hear complaints about professional misconduct in relation to solicitors (s46(1)). Members of the Tribunal are approved by the Master of the Rolls (s46(2)). The Tribunal consists of practising solicitors of not less than ten years' standing and lay members (s46(3)).
- 37. By s.47(2) the Solicitor's Disciplinary Tribunal has the power, on the hearing of an application to answer allegations in an affidavit, to make “such order as it may think fit”. Section 49(1) of the Act provides for a right of appeal from the Solicitor's Disciplinary Tribunal to the High Court.

The grounds of appeal

- 38. The SRA advances three grounds of appeal:

1. The Tribunal misdirected itself that there was an additional or threshold requirement for the SRA to prove, namely that the Respondent's due diligence failings were serious enough to amount to "professional misconduct".
2. The Tribunal failed to make any findings on (a) whether there was a breach of the SRA Principles 2011, (b) whether there was a failure to achieve outcome 7.5 of the Code of Conduct 2011, or (c) whether there was a breach of the Money Laundering Regulations.
3. The Tribunal failed to give adequate reasons for its decision to dismiss the allegations.

Submissions

Submissions on behalf of the SRA

39. Ground 1: The SRA submitted that the Tribunal misdirected itself that there was an additional or threshold requirement for the SRA to prove, namely that the Respondent's failings were serious enough to amount to "professional misconduct". The error is said to be apparent at ¶19.6 of the decision. Having found the factual matrix proved, the Tribunal asked itself whether those facts were serious enough to amount to professional misconduct thereby introducing a 'seriousness' requirement. This approach is inconsistent with the Court's decision in Beckwith v SRA [2020] EWHC 3231 (Admin) at ¶14 – 24 which is authority for the proposition that the Tribunal should not ask itself, as a free-standing, additional or threshold question, whether any factual allegations they find proven are sufficiently serious to amount to "professional misconduct". Instead, the Tribunal's function is to determine whether the SRA Principles or the 2011 Code of Conduct were breached as alleged. In oral submissions, the SRA sought to develop an argument that the phrase "factual matrix" used in ¶19.6, is a term of art by which the Tribunal was stating that it had found the allegations against the Respondent proved. As the allegations were that the Respondent had breached the Money Laundering Regulations, it necessarily followed that by finding "the factual matrix proved" the Tribunal had found the Respondent to be in breach of the regulations. In turn, breach of the Money Laundering Regulations necessarily entails breach of the relevant Principles and Code of Conduct. Accordingly, for the Tribunal to have nonetheless found the Principles and Code of Conduct had not been breached it followed that the Tribunal had impermissibly imported a threshold or additional test of seriousness into its assessment. In this regard, the SRA produced additional authorities on the day of the hearing, in which the Chair of the Tribunal in the present case had made similar references to the term "factual matrix" in other cases. It was said by the SRA to be obvious that the Chair had used the term as shorthand for finding the relevant allegations proved.
40. Ground 2: The Tribunal accepted the factual matrix alleged by the SRA but did not make any findings on whether that factual matrix amounted to a breach of the SRA Principles, Code of Conduct or the Money Laundering Regulations. Instead, the Tribunal determined a different question, that was not part of the allegations, namely whether any breaches were serious enough to amount to professional misconduct. By failing to make findings on the allegations, the Tribunal failed to perform its statutory function.

41. Ground 3: The Tribunal failed to give adequate reasons. It is unclear from its decision whether the Tribunal found that the Respondent did not breach the Principles or Code of Conduct or whether he did do so but the breach was not serious enough to amount to professional misconduct. The Tribunal failed to provide adequate reasons for the findings it did make – in particular the finding that, although the factual matrix was proved, the failings were not serious enough to fall within professional misconduct and that the SRA was relying on a “counsel of perfection”. The reasons given indicate the Tribunal considered that the Respondent’s only failing was to fail to identify the PEP connection, but this was only part of the SRA’s case. Whilst there might be scope for professional judgment as to what kind of enhanced due diligence might be required in a given case, on the proven (and admitted) facts, the Respondent conducted no enhanced due diligence of any kind in relation to the relevant transactions. The Tribunal’s reasoning, in relation to Allegations 2 and 4, was internally inconsistent and insufficiently clear. It is unclear how the Tribunal could have thought that there is just “a single failure”. The allegations against the Respondent related to multiple failures in relation to two separate transactions. The reasoning at ¶19.9 of the decision was so unclear as to be unintelligible. The Tribunal appears to have excused the Respondent’s failure to conduct enhanced due diligence based on “his knowledge of his clients and the source of their substantial wealth, accrued over 20 years of business in which [sic].” The syntax of this sentence has broken down. It is not clear what was meant to follow the words ‘in which’. It is also ambiguous what is supposed to have been “accrued over 20 years of business” – whether it was (a) the Respondent’s knowledge of his clients or (b) their substantial wealth.

Submissions on behalf of the Respondent

42. Ground 1: The Respondent accepts that the SRA was not required to prove any independent or threshold requirement of “professional misconduct” but ¶19.6 of the judgment does not contain any such requirement. ¶19.6 is a straightforward finding that the Respondent did not breach the Principles or the Code of Conduct. In attempting to identify an independent or threshold requirement of professional misconduct, the SRA is driven to adopt a strained reading of the decision.
43. Ground 2: The short answer to this ground of appeal follows from the correct analysis of ¶19.6 of the judgment. The Tribunal did make the necessary findings as to whether there was a breach of the Principles or the Code of Conduct. ¶19.6 contains those findings, and clearly states that the alleged breaches of the Principles and the Code of Conduct were found not to have been established. The rationale for that conclusion is explained subsequently in terms which make clear that the Tribunal did not find any breaches of the Money Laundering Regulations.
44. Ground 3: The Tribunal’s reasons for its decisions are adequate. Whilst something has plainly gone wrong with the drafting of the second sentence in ¶19.9, the intended meaning is sufficiently clear. The Tribunal found that the Respondent’s approach to his money laundering obligations was adequate and did not give rise to a breach of the Money Laundering Regulations, the Principles, or the Code of Conduct. This was an evaluation of professional conduct of the kind that the Tribunal is particularly well equipped to carry out. The Court should always be slow to interfere in such an evaluative exercise by the Tribunal and there is no basis for doing so in the present case.

Analysis and conclusions

The approach on appeal

45. The relevant principles were common ground.
- a. An appeal is by way of review, not rehearing. The Court will allow an appeal only if the decision of the Tribunal was “wrong” or “unjust because of a serious procedural or other irregularity in the proceedings in the lower court” (CPR 52.21(3)(a) and (b)).
 - b. Findings of fact, and decisions on evaluation of the facts are primarily questions for the Tribunal and are only to be revisited if the conclusion reached by the Tribunal rested on an error of principle or fell outside the bounds of what the Tribunal could properly and reasonably have decided. This general caution, which applies to all appeals is heightened in the present case because the decision under appeal is a decision of a specialist tribunal (Beckwith v SRA [2020] EWHC 3231 (Admin) at ¶13).
 - c. The standards in the SRA Principles and Code of Conduct are not formulated by reference to any defined notion of “professional misconduct”, whether as a threshold requirement for disciplinary action before the Tribunal or otherwise. There is no basis in law to interpose any additional requirement to the effect that before the Tribunal could act it had to be satisfied that the conduct which amounted to a breach of one or other of the SRA Principles or Code of Conduct also amounted to professional misconduct (SRA v Beckwith at ¶17).
 - d. At common law, the approach of an appellate court to a challenge to a judgment on the ground that it contains inadequate reasons is laid down by the Court of Appeal in English v Emery Reimbold & Strick Ltd [2002] 1 WLR 2409 at ¶26:

“The appellate court should first review the judgment, in the context of the material evidence and submissions at the trial, in order to determine whether, when all of these are considered, it is apparent why the judge reached the decision that he did”.
 - e. In the context of an appeal from a specialist tribunal, the principles which emerge from the case law are that a tribunal's reasons need not be elaborate nor lengthy, but they should be sufficiently detailed so as to inform the parties, who are familiar with the evidence and submissions made at the hearing, of the panel's conclusions on the main issues and why they reached the conclusions which they did. The reasons should also be sufficient to enable an appellate court to ascertain whether the panel has committed an error of law (Meek v City of Birmingham District Council [1987] IRLR 250 at ¶8; Flannery & Anor v Halifax Estate Agencies Ltd [2000] 1 WLR 377 at ¶381–382; English v Emery Reimbold & Strick Ltd [2002] 1 WLR 2409 at ¶19; R (C) v Financial Services Authority [2012] EWHC 1417 (Admin)).

The task for the Tribunal - evaluating compliance with the Money Laundering Regulations

46. Allegations 1 and 3 against the Respondent allege that in relation to each of the two transactions the Respondent failed to carry out adequate enhanced due diligence contrary to regulation 33(1) of the Money Laundering Regulations. In doing so he breached SRA Principles 6, 7 and 8 and failed to achieve Outcome 7.5 of the Code of Conduct (underlining is the Court's emphasis).
47. Allegations 2 and 4 are that he failed to have appropriate risk management systems and procedures in place, to take adequate measures to establish the source of wealth and source of funds which were involved in the transaction and to conduct enhanced ongoing monitoring contrary to Regulation 35. In doing so he breached SRA Principles 6, 7 and 8 and failed to achieve Outcome 7.5 of the Code of Conduct (underlining is the Court's emphasis).
48. As put, the case against the Respondent required the Tribunal to assess firstly whether the Respondent had breached regulations 33 or 35 of the Money Laundering Regulations and then to consider any consequential breach of the Principles/Code of Conduct.
49. As its name suggests, the "enhanced due diligence" required by regulation 33 of the Money Laundering Regulations is an extension of the more usual requirement for a solicitor to conduct "customer due diligence". Regulation 3 defines "Enhanced customer due diligence measures" as "the customer due diligence measures required under Regulations 33 to 35."
50. Regulation 28 sets down the requirements for customer due diligence. A client's identity must be established and verified. The purpose and intended nature of the business relationship or transaction must be assessed (regulation 28(2)(a)-(c)). Regulation 28 does not, however, specify how the requirements are to be discharged, which is left to the professional judgment of the solicitor. Regulation 28(12)(b) provides that the ways in which a relevant person complies with the requirement to take customer due diligence measures, and the extent of the measures taken may differ from case to case.
51. Similarly, there are no specific requirements which must be satisfied to fulfil the requirement to undertake enhanced due diligence, except for those measures specified by regulation 33(4) which are themselves unspecific in nature. Regulation 33(5) lists measures which "may" be required, "depending on the requirements of the case".
52. A similar exercise of professional judgment is required in relation to Regulation 35 which requires a solicitor to have appropriate risk-management systems and procedures in place to determine whether a client is a politically exposed person or has a close connection to a such a person (regulation 35(1)). Regulation 35(4) acknowledges that the extent of the enhanced customer due diligence measures to be taken in relation to any particular person "may differ from case to case". By its wording, regulation 35(5) leaves the extent of the due diligence required to the professional judgment of the relevant person, requiring that a solicitor takes "adequate" measures to establish the source of wealth and source of funds involved and conducts "enhanced" ongoing monitoring of the business relationship.

53. Guidance on the Money Laundering Regulations, issued by the Legal Sector Affinity Group, confirms a risk-based approach to customer due diligence:

“You cannot avoid conducting CDD, but you can use a risk-based approach to determine the extent and quality of the information required and the steps to be taken to meet the requirements.” (Chapter 4).

54. The same guidance in relation to enhanced due diligence makes clear the scope for professional judgment when explaining, in unspecific terms, that:

“In applying the risk-based approach to the situation you should consider whether it is appropriate to:

- seek further verification of the client or beneficial owner’s identity from independent reliable sources;
- obtain more detail on the ownership and control structure and financial situation of the client;
- request further information on the purpose of the retainer or the source of the funds, and/or ;
- conduct enhanced ongoing monitoring.”

(underlining is the Court’s emphasis).

55. Accordingly, the Money Laundering Regulations permit a risk based approach to compliance with its obligations and leave scope for the exercise of professional judgment in the discharge of the obligations. This point was emphasised on behalf of the Respondent in closing submissions (as recorded at ¶18.1.2 and ¶18.1.4 of the Tribunal’s decision) and recognised by the Tribunal itself at ¶19.9 of its decision. The task, therefore, for the Tribunal was to conduct an evaluative exercise as to the ‘adequacy’ of the Respondent’s due diligence in the two transactions and, more broadly, the ‘appropriateness’ of his firm’s procedures for managing the risk of money laundering.

The hearing before the Tribunal

56. Before the Tribunal there was no dispute about the underlying facts. The SRA relied on a forensic investigation report about the transactions and on submissions from Counsel. The SRA opened its case before the Tribunal by reference to the content of the forensic investigation report. The SRA did not call witnesses. In particular, it did not call the author of the forensic investigation report to give evidence, a decision to which the Tribunal attached significance in its findings (¶19.5) (see further below).
57. The Respondent gave evidence to the Tribunal, as did one of his clients – the Minister’s brother. Both were cross examined. It is apparent from the summary of the Respondent’s evidence in the Tribunal’s decision that the Respondent explained the due diligence he had undertaken and responded to the SRA’s case as to the additional

due diligence it was said he should have undertaken. The Respondent's representative then made closing submissions.

The SRA's case before the Tribunal

58. A detailed summary of the SRA's case against the Respondent is set out in the Tribunal's decision at ¶¶16.1 – 16.82. The due diligence conducted by the Respondent in relation to the hotel was summarised by the Tribunal as follows:
- a) The money laundering risk from the transaction was identified as medium (¶16.18).
 - b) The person instructing the firm in relation to the transaction and the ultimate client is identified. The source of funds are identified (¶16.19 and 16.20).
 - c) The customer due diligence form confirmed the Respondent had made enquiries and was satisfied that neither the client nor beneficial owner was a PEP, family member of a PEP or close associate of a PEP. The PEP questionnaire was conducted by a company called "Veriphy". A Veriphy printout showed the client as a "Pass" (¶16.21).
 - d) The file contained uncertified copies of passports and other identity documents for the Minister, his son and his brother. There was no Veriphy search or other PEP search document or enquiry in relation to them (¶16.21).
59. The due diligence conducted in relation to the house was summarised by the Tribunal as follows:
- a) The customer due diligence form states that the firm was instructed by the Minister's son (¶16.42).
 - b) The form confirmed that the Respondent had made inquiries and was satisfied that neither the client nor beneficial owner was a PEP, a family member of a PEP or a close associate of a PEP. The PEP questionnaire had been conducted by a company called Veriphy and a Veriphy print out showed the Minister's son as a "Pass" (¶16.42 and ¶16.43).
 - c) The due diligence form also stated that the person instructing the firm acted entirely on their own account and the money laundering risk was assessed as medium (¶16.44).
 - d) The funds were provided by the son and the form noted "Property sale in Iraq money in [company] [Minister's brother] to provide the document for the property sale" (¶16.44).
 - e) The file contained an uncertified copy of the son's passport and an uncertified copy of the Minister's brother's passport driving licence and bank statement (¶16.45).

60. ¶16.28 – 16.30 of the decision set out relevant parts of the Respondent’s firm’s risk assessment and policy in relation to money laundering.
61. The SRA’s case against the Respondent in relation to the purchase of the hotel is set out at ¶16.31 – 16.37 of the decision. Features of the transaction that are said to require enhanced due diligence are identified at ¶16.32, including that the identity of the client and seller changed during the course of the transaction. The Tribunal records the SRA’s case on the enhanced due diligence which should have been conducted by the Respondent, but which was not, from the 11th bullet point of ¶16.32 of its decision as follows:
- Amongst other steps, Mr Sa’id should have carried out the following Enhanced Due Diligence
 - Further enquiries made to establish the identity of the ultimate client and beneficial owner.
 - An explanation obtained and, if appropriate, supporting documentation for the change in the identity of the client
 - Further enquiries made as to the connection between the business associate and the ultimate beneficial owner.
 - Further enquiries made to establish the source of wealth of the ultimate client and beneficial owner and source of funds for the transaction.
 - Adequate explanations and supporting documentation obtained as to the reasons for the structure of the transaction and the change in structure post-completion.
 - Documentary evidence requested to support the explanations as to the source of funds including documents relating to the purchase of land by the business associate in Iraq from the family.
 - Conducted additional enquiries to confirm the PEP status of the Minister and his son.
 - Further enquiries made and an adequate explanation obtained in light of an email from the client’s assistant to the Respondent asking to see the original documentation for the hotel purchase and describing the documents as key to satisfying the Money Laundering Regulations.
62. The SRA’s case in relation to the house is summarised at ¶16.46 – 16.51. Features of the transaction said to give rise to the need for enhanced due diligence are identified at ¶16.47 and included that the Minister’s son was a family member of a PEP; the transaction had a substantial connection to a high risk third country, namely Iraq; and the source of wealth and/or source of funds for the transaction appeared to originate in a high-risk third country, namely Iraq.
63. At ¶16.48 the Tribunal records the enhanced due diligence that the SRA said should have been taken but was not:
- “16.48 Amongst other steps Mr Said should have carried out the following Enhanced Due Diligence:
- Taken steps to identify the ultimate client and beneficial owner.
 - Made further enquiries to establish the source of wealth of the ultimate client and beneficial owner and source of funds for the transaction.

- Asked for documentary evidence to support the explanations he had as to the source of funds including documents relating to the sale of property in Iraq.
- Obtained adequate explanations and supporting documentation as to the reasons for the structure of the transaction including the involvement of the Minister’s brother and a particular company involved.
- Made further enquiries and obtained an explanation of and supporting documentation in relation to the involvement of a particular company involved.
- Other than the Veriphy result for the Minister’s son dated 13 October 2017, conducted further enquiries to confirm the PEP status of the Minister and his brother.”

The Respondent’s case before the Tribunal

64. ¶13.1 – 13.9 of the Tribunal’s decision summarises the oral evidence given by the Minister’s brother. He is a British citizen. His family own a lot of land in Iraq and they have invested in properties in the UK. All the family assets have been honestly earned. He and his family have had a professional working relationship with the Respondent since 1999. The Respondent has a lot of knowledge about the family and the source and use of its wealth. He did not mention to the Respondent that his brother had become a Minister in the Iraqi Government because it was not important to him or something he knew much about. He was aware of some of the details of the purchase of the London hotel. His family had made a deal in Iraq to sell some land and to exchange it for the hotel in London but the deal did not go through. He did not think there would have been any documents about the deal in Iraq to send to the Respondent as it did not complete. In cross examination he denied that the Respondent had not asked him for the documents relating to the Iraqi land sale. He was aware that his nephew had provided the funds for the purchase of the house and that the Respondent had done due diligence on the transaction.
65. ¶17.1 – 17.24 of the decision summarise the oral evidence of the Respondent. He accepted he had made errors in connection with due diligence in relation to the transactions, in failing to identify the connection with a PEP and in recording the transactions as being of medium instead of high risk in relation to money laundering (¶17.1 – 17.2 and ¶17.4 – 17.8). He had understood that the Veriphy search undertaken should have revealed the PEP status of the subject matter of the search. He had also known the family for many years and was unaware of any political involvement, ambition, or interest (¶17.2 and ¶17.3). He had factored into his risk assessment that there was a longstanding business relationship, that the transaction was consistent with his knowledge of the family and commercial reality of business dealings in the Middle East (¶17.4). The source of the wealth of the family was known to him (¶17.5). The sale of land in Iraq fitted with his knowledge of the client’s wealth and substantial land ownership in Iraq (¶17.5). It was not unusual for the Minister’s brother to act as an agent for the family. The business associate involved in the transactions was known to the family (¶17.9). The identity of the ultimate client and beneficial owner was clear from the start of the transaction. The Respondent explained how and why the structure of the hotel transaction changed during the course of the transaction (¶17.10). Further, he had made enquiries of the client and the family about the change in structure. He

questioned every piece of information that was given to him and weighed it against the clients' background and in his professional judgement there were no signs of wrongdoing or money laundering. The transaction as proposed made commercial and logical sense when set against the backdrop of the economic conditions in Iraq and was in accordance with his understanding of the family's investment strategy to purchase property in the UK (¶17.12 and ¶17.13). He obtained adequate explanations and supporting documentation as to the reasons for the structure of the transaction and the change in structure post-completion (¶17.14). The instructions from the Minister's brother had all the marks of a decent, honest business dealing which fitted with the profile known to him about the client over so many years namely, integrity, honesty, and fair dealing (¶17.14).

66. It was put to the Respondent in cross-examination that he should have been on his guard as the transactions were unusually complex and involved sums of money which were larger than the earlier transactions he had been asked to deal with. The Respondent responded by saying that he had not considered the transactions to be particularly complex within the context of his dealings with the family. The sums of money were not significantly more than those he had dealt with in the past and there was nothing about the transactions which caused him to suspect that, potentially, there would be any higher risk of money laundering (¶17.21).
67. He said he had shown the SRA seven other files in which he had used the same system to carry out money laundering and due diligence checks. The SRA had reviewed them and raised no concerns in relation to these files (¶17.23).
68. ¶18.1 – 18.12 of the decision summarise the closing submissions on behalf of the Respondent. This included submissions that:
 - There is no statutory or otherwise definitive definition of the requisite “adequacy” of due diligence. The relevant guidance made clear the significant scope for professional judgment in this regard. As such, the fact that a different solicitor or the SRA may have sought additional information or taken a different view did not mean that the Respondent's approach was incorrect, let alone so incorrect as to amount to serious misconduct (¶18.1.2 and ¶18.1.4).
 - The Respondent's long association with the family of his clients, dating back more than 20 years; his understanding of their business affairs and long-term intentions in relation to the UK and family assets within the jurisdiction and the specific due diligence he undertook in relation to the transaction were relevant factors to take into account in assessing the overall risk associated with the transaction as part of assessing the measures necessary to comply with the money laundering requirements (¶18.1.5).
 - Whilst the Respondent accepted that he made some errors, he denied that his due diligence measures were sufficiently inadequate for the Tribunal to find a breach of the SRA Principles or Code of Conduct.
 - “Appropriate” risk management systems were in place and he undertook electronic searches using a third-party provider (¶18.2 and ¶18.4). Whilst it unfortunately failed in this instance that failure did not, of itself, indicate that his systems were not “appropriate” for the size and nature of his firm (¶18.4).

- The SRA had conducted a money laundering assessment of the firm in July 2017 which found no issues with the firm’s systems (¶18.6). The SRA was not suggesting that the transactions were, in fact, improper.

Ground 1 - the Tribunal misdirected itself on the legal test at ¶19.6.

69. At ¶19.6 the Tribunal found that

“Whilst the Tribunal found the factual matrix proved to the required standard, it did not find the Respondent’s failure on the two transactions was of a degree which brought the failure within the ambit of professional misconduct as a breach of the relevant Principles and Codes of Conduct and therefore the Applicant had not proved its case in that regard to the required standard.”

(underlining is the Court’s emphasis).

70. I am not persuaded that the Tribunal misdirected itself by reference to an impermissible threshold or additional test of “professional misconduct” (Beckwith v SRA at ¶15). Read fairly, the Tribunal concludes at ¶19.6 that the Respondent’s due diligence failures do not amount to a breach of the relevant Principles and Code of Conduct (“as a breach of...”). The preceding reference to “professional misconduct” in the sentence is by way of a descriptive term. It is not being used to connote the relevant standard of behaviour (Beckwith v SRA at ¶15). It is noteworthy in this respect that the SRA itself expressed its case in the Rule 12 statement under a descriptive heading of professional misconduct.
71. In oral submissions, the SRA sought to develop a submission that by finding the “factual matrix” proved the Tribunal was necessarily finding the Respondent in breach of the Money Laundering Regulations and thus, the SRA Principles and Code of Conduct. This was said to be because “factual matrix” is a term of art and breach of the Money Laundering Regulations automatically entails breach of the SRA Principles and Code of Conduct.
72. There was some dispute between the parties in this regard as to the extent to which breach of the Money Laundering Regulations necessarily entails a breach of all three SRA principles relied on by the SRA. It is not, however, necessary for the Court to address this dispute because I do not accept the reference to “factual matrix” has the significance suggested by the SRA. The term “factual matrix” is not a defined term within the regulatory framework. I was not shown any guidance indicating the term has a particular status or meaning in the context of regulatory proceedings against solicitors. References by the Tribunal Chair to the term in other decisions do not assist. Tribunal decisions are not to be read as if they were statutes or contracts.
73. In any event, the SRA’s submission in this regard ignores the evaluative judgment required under the Money Laundering Regulations which was the central issue for the Tribunal. The Respondent’s case before the Tribunal was that the due diligence and systems required were a matter of professional judgment and the Money Laundering Regulations are not prescriptive in this regard. Whilst he acknowledged there were

additional steps he could have taken in relation to due diligence, his risk management was “appropriate” and “adequate”.

74. The Tribunal’s evaluation in this regard required it to assess the Respondent’s money laundering procedures and the due diligence conducted on the particular transactions, in the context of a regulatory regime which adopts a risk based approach to discharge of the money laundering obligations and permits the exercise of professional judgment as to the nature and extent of action required. The risk based framework and the scope for professional judgment permitted by the Money Laundering Regulations are explained above.
75. Whilst ¶19.6 does not state in express terms its finding that the Respondent had not breached the Money Laundering Regulations, this conclusion is apparent when the decision is read, as required, as a whole in the context of the allegations, submissions and evidence advanced before it (English v Emery Reimbold & Strick Ltd [2002] 1 WLR 2409 at ¶26. ¶19.6 is to be read as the precursor conclusion to ¶19.8 – 19.9 of the judgment. In those paragraphs, the Tribunal makes clear that it did not regard the Respondent’s money laundering systems as inadequate (and therefore that allegations 2 and 4 were not made out), and it concluded that the due diligence conducted by the Respondent was sufficient in the light of the Respondent’s prior knowledge of his clients and the source of their wealth (such that allegations 1 and 3 were not made out).
76. It was therefore entirely consistent for the Tribunal to find the primary facts to be established as alleged by the SRA’s case - namely the money laundering system in place, the due diligence conducted and the admitted failings in due diligence - but then to conclude that those primary facts did not establish that the Respondent’s systems were inappropriate or that the due diligence conducted had been inadequate. Accordingly, the more obvious explanation for the Tribunal’s finding that the factual matrix was proved is because the underlying facts were not in dispute.
77. Although I have arrived at the view that Ground 1 is not made out on the basis of a straightforward reading of ¶19.6 – 19.9 of the decision, the Tribunal’s position was put beyond doubt in an intervention during submissions on costs. A submission on behalf of the SRA referred to the Tribunal having “taken a different view from the SRA as to the seriousness of the breaches”, to which the Chair of the Tribunal responded as follows:

“It is not true that we have taken a different view to the SRA as to the seriousness of the breaches, in our view, there have not been any breaches... The SRA has not proved, to the requisite standard required, that there have been any breaches. It is not that we have taken a different view of the seriousness of the breaches, the view on the record is that there have been no breaches.”

78. Ground 1 fails.

Ground 2 - the Tribunal failed to make findings in relation to breach of the Principles, Code of Conduct and Money Laundering Regulations.

79. The Tribunal’s findings are set out in full at ¶31 above. They may be summarised as follows:

- The SRA had established the relevant factual background to the requisite standard (¶19.6).
- As the Respondent accepted, his money laundering systems had let him down on the two transactions in failing to identify the PEP connection. In turn, this failure meant the money laundering risk was categorised as medium when it should have been high (¶19.6).
- However, it was significant that the Respondent had said the SRA had viewed another seven of the files on transactions conducted for the family and had raised no concern about the money laundering processes in those files (¶19.5). The SRA had deprived the Respondent of the opportunity to cross examine the forensic investigation officer on these other files (¶19.5)
- The Respondent had a system which, in general, worked adequately (¶19.8).
- The money laundering regime is based on assessment of risk and there is scope for professional judgment (¶19.9).
- In relation to the two transactions, the Respondent had carried out customer due diligence and proceeded in an otherwise cautious manner relying on his knowledge of his clients and the source of their substantial wealth, accrued over 20 years of business. He therefore did not ‘fly blind’ into a situation where he was oblivious to the risk (¶19.9).
- The case brought by the SRA revealed an element of the ‘counsel of perfection’ (¶19.10).

80. Counsel for the Respondent took the Court to the following extract from the transcript of the hearing which provides context for the significance attached by the Tribunal at ¶19.5 for the Respondent not being able to question the author of the SRA’s forensic investigation report about the seven other files on the family which had not raised any due diligence concerns. At page 133 of the transcript, the Respondent explains that the other files contain financial due diligence documents about the family which the SRA had not put before the Tribunal:

“Respondent:

... It seems the SRA have disclosed some documents from these two files but they have had seven files, entirely of seven files, of which some documents were, you know, on various files.

This particular one would not have been on this file.....

SRA Question:

Okay, well, I'll, maybe, try and clarify that in a moment, but can I just ask you this then, we've been through the client due diligence documentation, which is on the file, I accept you say that some of it may not have been on this file, may have been on another file, but we'll, maybe, return to that, but there was, on this file, there was no other client due diligence documentation. Would you accept that?

Respondent:

No, there were financial due diligence documents that are not on this file. Not been produced here.

SRA Question:

Yes, what financial due diligence document?

Respondent:

As I explained earlier, the transfer towith full explanation to the bank of what they are. These were all on the files.

Let me just explain one more point here, very important here, for the court to understand. During the investigation, I produced the paper files to the investigator, he looked at them both [inaudible], but not in details, and he asked me, "How difficult is it for you to scan and send me a copy of...?" the four files, to start with, then they've asked for other files, which I did send. And I said, "Look...", you know, "...if you give me a few days, I can do that", and I, literally, spent two evenings in the office scanning the files, the entirety of the correspondence files and the documents that were on file. That's why I'm saying that, I accept that the due diligence documents, they were, at that time, we didn't put everything in one folder, if you like, so you could open the file and you could see things with the documents, things at the start of the file, things during the file, so we are putting them there, you know, with the correspondence file. So when I get, you know, [the] assistant telling me that "We're going to send another payment", I ask him for a copy of the set-up instructions to the bank, so he would send me that. So you'll find that, either at the back of the file, or it could be in the correspondence. Now we do different system where we, everything to do with a transaction, we put it all together so you can find, on each file, the due diligence documents together. But, there were other documents on these files that hasn't been produced here."

(underlining is the Court's emphasis).

81. Before the Court, the SRA acknowledged the Tribunal’s finding at ¶19.8 could be read as a finding the Respondent had a system which, in general, worked adequately. I accept the Respondent’s submission that ¶ 19.8 is plainly such a finding. The Respondent drew the Court’s attention in this regard to the SRA’s assessment of the Respondent’s money laundering system in July 2017, shortly before the conduct complained of, which found nothing of concern. The Court was also taken to guidance in force at the time which indicated that the Respondent had gone beyond the requirements of the guidance in subscribing to an external search service. Before the Court, it was common ground that the error in failing to identify the PEP connection was an error on the part of the external search service, not the Respondent.
82. The Tribunal’s reference to “counsel of perfection” at ¶19.10 is to be read as a reference back to the Respondent’s written response to the SRA’s Rule 12 statement in which the Respondent summarises his defence against the allegations as follows:
- “For the avoidance of doubt, the Respondent acknowledges – and has always acknowledged - that there were additional steps he could have taken in relation to due diligence. The Tribunal is however, reminded that due diligence measures are inherently a matter of professional judgment and there is no definition of “adequacy”. Although there were things that the Respondent could have done better– and indeed, now does do better – the question for this Tribunal is one of “adequate” risk management; we must guard against a counsel of perfection.”
- (underlining is the Court’s emphasis).
83. Contrary to the SRA’s submissions, the Tribunal did make relevant findings. It is apparent from those findings that the Tribunal accepted the Respondent’s defence in relation to the Money Laundering Regulations, reaching the conclusion that the Respondent had not breached the regulations and, as a consequence, had not breached the SRA principles or failed to comply with the Code of Conduct. The SRA does not seek to challenge the substance of this evaluation, which falls squarely within the remit of the specialist Tribunal (Beckwith v SRA [2020] EWHC 3231 (Admin)).
84. Ground 2 fails.

Ground 3 - adequacy of reasons

85. The relevant framework for assessing the adequacy of reason was common ground and set out at ¶45(e) above.
86. This was not a case where the underlying facts were in dispute and detailed factual findings were required. The SRA relied on its forensic investigation report, which the Tribunal summarises in its decision. The Respondent and his client gave evidence which is also summarised in the decision. The Tribunal understood the nature of the evaluative exercise required of it by the Money Laundering Regulations (¶19.9). The standard of reasons required depends upon the nature of the tribunal, the task it is performing and the provisions requiring it to give reasons (Adesemowo v SRA [2013] EWHC 2020 (Admin)).

87. Unless there is a compelling reason to the contrary, it is appropriate to take it that a Tribunal has fully taken into account all the evidence and submissions before it (Ali v SRA [2021] EWHC 2709 (Admin) at ¶94).
88. In the present case, there is ample evidence that the Tribunal had taken account of the evidence and submissions. Before the Court, the SRA spent some time setting out the background facts and explaining the case it advanced before the Tribunal. It did so, not by reference to the summary of its case set out in the Tribunal’s decision, but by reference to its own chronology; the original transaction documents and the transcript of the hearing before the Tribunal. The Respondent also took the Court to further extracts from the transcript. A comparison of my note of the submissions before me with ¶11 – 18.12 of the Tribunal’s decision indicates the Tribunal understood and acknowledged the evidence and submissions before it. Neither party suggested to the Court that the Tribunal had failed to summarise its case adequately. Further evidence that the Tribunal had taken account of submissions made comes from the reference to “counsel of perfection” at ¶19.10. This reflects the Respondent’s reference to “we must guard against a counsel of perfection” in his written response to the SRA’s Rule 12 statement.
89. The SRA criticised the Tribunal’s reference to a “single failure” on the part of the Respondent at ¶19.8 on the basis it was unclear how the Tribunal could have thought that there was just “a single failure” when the SRA’s allegations related to multiple failures in relation to two separate transactions. However, read fairly, the Tribunal’s reference at ¶19.8 is made in the context of its assessment that the Respondent had a money laundering system which worked in general.
90. Something has plainly gone wrong with the drafting of the second sentence in ¶19.9 which concludes by stating “in which”. Nonetheless, the intended meaning is sufficiently clear. The Tribunal made an evaluation, in accordance with the terms of the allegations against the Respondent (allegations 1 and 3) that the due diligence had been adequate. The Respondent had conducted the basic due diligence required and had then proceeded in a cautious manner relying on his knowledge accrued over 20 years of business with the family.
91. The SRA criticised the brevity of the Tribunal’s findings at ¶19.1 – 19.15. However, the decision must be read as a whole (Ali v SRA [2021] EWHC 2709 (Admin) at ¶94 citing SRA v Martin [2020] EWHC 3525 (Admin) at ¶33)). The Tribunal gave a detailed account of the evidence and representations, put to it. These are summarised at ¶58 – 68 above. Having done so, the Tribunal then set out its conclusions very succinctly. This is a style of decision-making which is often used and cannot be described as inadequate or insufficient (Adesemowo v SRA [2013] EWHC 2020 (Admin)).
92. For the reasons given above in relation to Grounds 1 and 3, it is clear from the Tribunal’s decision that it concluded the Respondent had not breached the Money Laundering Regulations and was not therefore in breach of the SRA Principles or Code of Conduct.
93. Accordingly, when the Tribunal’s succinct findings are read alongside the evidence and submissions summarised in detail by the Tribunal it is apparent why the Respondent won and the SRA lost. The reasons given enable the Court to be satisfied the Tribunal

did not misdirect itself in relation to ¶19.6 (English v Emery Reimbold & Strick Limited at ¶16-19 and Adesemowo v SRA at ¶71 – 73). The Tribunal’s decision is not expected to be the product of elaborate legal drafting and it is not reasonable to expect it to elaborate on its reasoning in the way courts and professional judges may frequently be expected to do (SRA v Day [2018] EWHC 2726 (Admin) at ¶78).

94. Ground 3 fails.

Conclusion in relation to the SRA’s substantive appeal

95. For the reasons set out above, the SRA’s appeal against the decision of the Tribunal to dismiss four allegations of professional misconduct against the Respondent is dismissed.

Annex: The SRA's appeal against the Tribunal's decision on anonymity

Introduction

1. By way of a separate, but linked appeal, the SRA challenges the decision of the Tribunal to refuse its application to anonymise the Respondent's clients, as well as the wider family name; properties; companies and the country connected with the family. The underlying factual background is explained in the judgment on the substantive appeal to which this judgment is annexed. The SRA's anonymity appeal is supported by the Respondent but he has played no part in it.
2. Decisions on anonymity are decisions against which an appeal lies under s 49(5) of the Solicitors Act 1974 (Lu v SRA [2022] EWHC 1729 (Admin) at ¶66 – 69). The test is the usual test on appeal pursuant to CPR r 52.21(3). An appeal court will allow an appeal where the decision of the lower court was wrong or unjust because of a serious procedural or other irregularity.
3. It is the SRA's practice to seek anonymisation in cases of this nature to protect legally privileged communications which have been disclosed by a solicitor to the SRA by reason of the SRA's statutory powers and as an exception to the absolute nature of legal professional privilege. Anonymity is said to ensure that the disciplinary proceedings can be held in public and the communications between the solicitor and clients assessed by a Tribunal without identifying the clients, thereby respecting the privilege to which they are entitled 'so far as is possible' (Simms v the Law Society [2005] EWHC 408 (Admin) at ¶53). By this appeal, the SRA asks the court to continue the practice.
4. The SRA began its submissions on anonymity late in the Court day after the hearing of the substantive appeal. A member of the press, a reporter from the Law Society Gazette ("the Law Society Gazette"), who was present in Court indicated a wish to make representations. It was approaching 5:00pm by the time the SRA had completed its submissions and the Law Society Gazette had responded. This left insufficient time for the SRA's reply. Accordingly, I adjourned the appeal part heard. After the hearing, I received written submissions from the Law Society Gazette. In response I requested further written submissions from the SRA to clarify its position in particular respects. The Law Society Gazette made further written submissions in response and the SRA applied to adduce further evidence. Both the SRA and the Law Society Gazette made further submissions at the resumed hearing.

Procedural background

5. The procedural background may be stated briefly. In accordance with its usual practice, the SRA applied to the Tribunal for an anonymity order in advance of the substantive hearing. The application was granted at a case management hearing. On the first day of the substantive hearing (22 August 2023), the Tribunal decided, of its own motion and without advance notice to the parties, to set aside the anonymity order. The Tribunal gave short oral reasons for doing so.
6. After the substantive hearing, on 14 September 2023 the SRA, renewed its application for anonymity relying on the judgment of Knowles J in SRA v Williams [2023] EWHC 2151 (Admin) which was handed down on 31 August 2023 after the substantive hearing.

7. By a written determination dated 19 September 2023, the Tribunal refused the renewed application and supplemented its reasons in its written decision on the substantive appeal, dated 17 October 2023. The SRA indicated its intention to appeal, and the Tribunal agreed not to publish its decision, pending the outcome of the appeal.

The Tribunal's decision to refuse to anonymise its decision

8. In the reasons for its initial decision to revoke the anonymity order, the Tribunal explained it was troubled by the extent of anonymisation proposed by the SRA. It cited extracts from the judgment in AB/X v MOJ [2023] EWHC 1920 (KB) as to the significant weight to be attached to open justice even where refusing anonymity is likely to significantly impact on an individual's private rights (¶19-20). No cogent evidence had been presented as to the need for anonymity other than a vague assertion of public policy. The Tribunal criticised the SRA for a lack of consistency in its approach to the extent of anonymisation before stating that anonymity, absent privilege, remained an exercise in balancing Article 8 and Article 10 rights, both of which were clearly engaged in this case (¶10.29). It concluded it was reasonable and proportionate to name the relevant individuals and entities. The case involved cross jurisdictional property purchases involving a family of wealth and influence from within a high risk third country. It was therefore a matter of public interest that the public could understand more readily the case rather than being confronted with "a plague of initials." The Tribunal went on to say that:

"The Tribunal noted that LPP, where asserted, attaches to advice and communications passing between solicitor and client. Naming a client without referring to the advice or communications was not a breach of LPP. This case did not involve an examination of the underlying advice covered by LPP but was concerned with an alleged failure on Mr Sa'id's behalf to carry out Enhanced Due Diligence ("EDD") on his client and much of the information regarding the transactions were available from open-source documents e.g., H.M. Land Registry." (¶10.31)

9. The Tribunal's reasons for refusing the renewed application for anonymity were as follows:

"1. The SRA relies upon the judgment of Knowles J. in *SRA v Williams* which was handed down on 31/08/2023, after the Tribunal's decision, made on 25/08/2023, to refuse anonymisation. It asserts that Legal Professional Privilege is an absolute right.

2. Knowles J. based his judgment on dicta in three cases which predate the Human Rights Act 1998 - *Anderson v Bank of British Columbia* (1876) 2 Ch D 644, *R v Derby Magistrates' Court ex parte B* [1996] AC 487 and *Balabel and another v Air India* [1988] Ch 317.

3. The dicta, set out below, of Lord Hobhouse in the seminal case of *Medcalf v Mardell* [2022] 3 WLR 172 does not appear to have been referred to him.

4. In *Medcalf v Mardell* Lord Hobhouse observed, at paragraph 60, “It may be that, as in the context of Articles 6 and 8 of the European Convention on Human Rights, the privilege may not always be absolute and a balancing exercise may sometimes be necessary. (*Campbell v UK* (13590/88) 15 EHRR 137 and *Foxley v UK* (33274/96) 31 EHRR 25).

5. At paragraph 23-04 of *Phipson on Evidence* it is stated “Articles 6 and 8 thus both protect confidential communications between lawyers and clients but privilege is not to be regarded under the HRA as an absolute right. Thus, in *Niemietz v Germany* 30 [1992 16 EHRR 97] the ECtHR held that a search of a lawyer’s office was a breach of art.8 rights but took into account all the circumstances and in particular the broad terms of the warrant and lack of procedural safeguards, holding that the search impinged on professional confidence to an extent that was in the circumstances disproportionate. The court has recognised that in appropriate cases interference with privileged communications may be justified. In *General Mediterranean Holdings v Patel* [1999] EWHC 832 Toulson J held that the then current version of CPR r.48.7(3) was ultra vires because there was no express statutory authority to override the fundamental right of legal professional privilege. The case related to the CPR power to override privilege in wasted costs matters. His conclusion as a matter of English domestic law (the decision in fact predated the coming into force of the HRA) was unexceptionable and those drafting the CPR withdrew the rule shortly thereafter.”

6. It is unclear whether Knowles J. had his attention drawn to the duty of the Tribunal under the Human Rights Act 1998. It is notable that his judgment is devoid of any mention of the Human Rights Act 1998 or the European Convention for the Protection of Human Rights and Fundamental Freedoms.

7. The Tribunal has a duty under section 6 of the Human Rights Act 1998 to act in a way which is compatible with a Convention right. Convention rights include Articles 6, 8 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

8. The Tribunal weighed in the balance the rights of all those who might be affected by an anonymisation order, including the press and the public, in the context of Articles 6, 8 and 10 of the Convention.

9. In the circumstances of this case, it considered that the rights of the press and public in relation to Article 10 prevailed.

10. The facts of this case differ from those in *Williams*. This case concerns issues of considerable national and international interest.

11. It would be difficult for members of the public and the press to follow the judgment, if anonymisation were to be ordered to the extent requested by the SRA.

12. Moreover, it is unclear whether the “jigsaw puzzle” argument advanced by the SRA in this case (but not in Williams) justifies the extension of the principle of legal professional privilege to the naming of the nation state in question.

13. It is also notable that Knowles J. only had the benefit of hearing arguments from one side - the SRA. The other parties did not appear at the hearing and made no submissions.

14. Whilst it is correct that *AB/X v Ministry of Justice*: [2023] EWHC 1920 (KB) does not refer expressly to Legal Professional Privilege, it is authority for the view that only in the most exceptional circumstances should there be a departure from the principle of open justice. That judgment is contemporaneous with Williams and, no doubt, for that reason, was not before Knowles J.

15. There is no evidence that the clients in question in this case have asserted legal professional privilege and it is unclear whether this has been asserted only by the SRA. The SRA has stated only that they have consulted the Respondent. There is no mention of any consultation with the clients.

16. Finally, the SRA is incorrect in stating “there were no members of the public or press at the hearing and, therefore, anonymity and LPP was effectively preserved.” At least one member of the public was present by video link at the hearing and all the matters in respect of which anonymisation is sought by the SRA were disclosed in open court.”

Submissions on appeal

10. Before the Court, the SRA submitted that the doctrine of precedent required the Tribunal to follow the decision in *SRA v Williams* which was binding upon it. The Tribunal did not do so and instead provided a number of erroneous reasons for not following the decision which translate broadly into reasons for treating the decision as not binding on it and distinguishing the case. In addition, the Tribunal was wrong to hold that the public interest in maintaining legal professional privilege was outweighed by the rights of the press and public under Article 10 of the ECHR. It is long established by highest authority that legal professional privilege is of fundamental importance to the administration of justice. That is still the approach of the courts, after the Human Rights Act came into force in 2000.
11. The SRA pointed to parts of the Tribunal’s decision discussing matters that are legally privileged. Privilege extends to non-litigious business and covers communications between a solicitor and client in relation to the handling of a conveyancing transaction where those communications are made in order to obtain advice (*Balabel and another v Air India* [1988] Ch 317 at ¶330D). It is not clear whether other material in the Tribunal’s decision is legally privileged or confidential but once there are some privileged communications recorded in the decision, the identities of the relevant clients need to be anonymised consistently throughout the decision because of the risk of jigsaw identification of privileged material.
12. The Law Society Gazette accepted the need to anonymise communications for the purpose of preserving privilege but submitted the scope of anonymity should be limited

to what was strictly necessary to protect privilege. The press may be unsure about what detail can be published when a reporting restriction is imposed on the basis of legally privileged material which may lead to delay in reporting, or self-censorship by the media. To the extent the material is not privileged but confidential and gives rise to a balancing act under Article 10/8 ECHR there is a public interest in alerting professionals to the risk factors for money laundering. There is also a public interest in professionals in the legal or financial services being aware of any businesses/individuals/properties which have been linked to activity which is suspected of being money laundering. Any professionals who have dealings with those businesses/individuals/properties in the future will know to be extra-vigilant. He submitted that it was likely, that if a solicitor had read an article mentioning any of those businesses/individuals/properties in an article about money laundering, that solicitor may decide that an enhanced risk assessment was definitely required if dealing with them in future. He submitted that the Court should identify the specific material raising legal privilege when determining the scope of the anonymity. The risk of jigsaw identification should not be overstated. It was not correct for the SRA to suggest that anonymisation has only a “minor impact” on open justice. As Lord Rodger in Re Guardian News and Media Ltd [2010] UKSC 1 at ¶63 said: “What’s in a name? ‘A lot’, the press would answer”. It was not clear that the extent of anonymisation proposed by the SRA could be justified, particularly in relation to Company A.

Discussion

Failure to apply the doctrine of precedent

13. The basis of the SRA’s renewed application for anonymity before the Tribunal was the decision in SRA v Williams [2023] EWHC 2151 (Admin) handed down shortly after the Tribunal’s decision in the present case to revoke anonymity. In SRA v Williams, the SRA appealed against a decision of a Tribunal refusing to make an anonymity order in respect of several former clients of a solicitor whose property affairs were involved in disciplinary proceedings against the solicitor. The grounds of appeal were that to publish an un-anonymised version of the Tribunal’s decision would lead to a breach of legal professional privilege and would be inconsistent with binding authority.
14. In upholding the SRA’s appeal, Knowles J concluded that the tribunal in question had plainly fallen into error in concluding that the public interest in open justice prevailed over the public interest in protecting privilege. Legal privilege is a fundamental condition on which the administration of justice as a whole rests (R v Derby Magistrates Court ex p B [1996] AC 487). Where it applies, it is absolute unless waived by the client. He concluded that the communications at issue in the case before him were obviously protected by legal privilege which had not been waived and that should have been the end of the matter (¶68). Legally privileged communications should be protected by anonymising the names of clients and other information that might be used to identify them, even if that makes the determination more difficult to read and thus impairs open justice.
15. The Tribunal in the present case did not follow the ratio in SRA v Williams. Instead, it emphasised the duty upon it to comply with the European Convention on Human Rights and went on to weigh in the balance the rights of all those who might be affected by an anonymisation order, including the press and the public, in the context of Articles 6, 8

and 10 of the Convention. It concluded that in the circumstances of this case, the rights of the press and public in relation to Article 10 prevailed.

16. In failing to apply the doctrine of precedent, the Tribunal fell into error. In a common law system, the doctrine of precedent is fundamental and SRA v Williams was the decision of a higher authority. The decision was binding on the Tribunal:

“In the hierarchical system of courts which exists in this country it is necessary for each lower tier... to accept loyally the decision of higher tiers.” (Broome v Cassell & Co Ltd [1972] AC 1027 at ¶1054)

“Decisions on points of law by more senior courts have to be accepted by more junior courts. Otherwise, the law becomes anarchic, and it loses coherence clarity and predictability.” (Willers v Joyce (No 2) [2018] AC 843 at ¶4).

17. Part of the Tribunal’s rationale for not following the decision in SRA v Williams was that Knowles J only had the benefit of hearing arguments from the SRA because the other parties did not appear at the hearing and made no submissions. This rationale perpetuates the anarchy that the doctrine of precedent seeks to avoid (Willers v Joyce at ¶4).
18. The Tribunal considered the facts of the present case to differ from the facts in SRA v Williams observing that the present case is of considerable national and international interest (¶10). However, in SRA v Williams, the SRA appealed, as here, against a decision of the Solicitors Disciplinary Tribunal refusing to make an anonymity order in respect of several former clients of a solicitor whose property affairs were, as here, involved in disciplinary proceedings against the solicitor. The grounds of appeal were, as here, that to publish an unanonymised version of the Tribunal’s decision would lead to a breach of legal professional privilege and would be inconsistent with binding authority. Whether or not the present case is of considerable national and international interest, cannot be a relevant distinction given the “absolute” nature of legal professional privilege, where it applies (SRA v Williams at ¶63).
19. For the purposes of determining this appeal, it is not necessary or appropriate for this Court to address the Tribunal’s criticisms of the judgment of Knowles J. Although one High Court Judge is not bound by the decision of another, the practice is to follow the decision of another High Court Judge unless satisfied that he or she is wrong. I have not heard full argument on Medcalf v Medcalf or the European authorities cited in *Phipson on Evidence* which are both cited in the Tribunal’s decision because the Law Society Gazette did not challenge the principle that legally privileged material is entitled to protection. Nor am I am satisfied that the decision was ‘per incuriam’, as suggested by the Tribunal (Young v Bristol Aeroplane Co Ltd [1944] KB 718). I observe in passing that the duty upon the Tribunal under section 6 of the Human Rights Act, emphasised by the Tribunal in its decision, may be discharged, in part at least, by considering the scope of any anonymisation (see further below).

Failure to identify the privileged material referred to in the Tribunal’s decision

20. In its first decision on anonymity the Tribunal appeared to conclude that the present case does not raise matters of legal professional privilege (¶10.31). It did not address the point in its second decision although it may be inferred from the balancing exercise

conducted in its second decision that it accepted the presence of legally privileged material.

21. The scope of legal privilege is broader than suggested by the Tribunal in its first decision (Balabel v Air India [1988] Ch 317 at 333D, citing Anderson v Bank of British Columbia (1876) 2 ChD 644, in turn cited by Knowles J in SRA v Williams). The purpose of legal privilege is to enable legal advice to be sought and given in confidence. The test therefore is whether the communication or other document was made confidentially for the purposes of giving legal advice. These purposes have to be construed broadly. Where a transaction involves protracted dealings, advice may be required, or appropriate, on matters great or small at various stages. There will be a continuum of communication and meetings between the solicitor and the client. Where information is passed by the solicitor or client to the other as part of the continuum aimed at keeping both informed so that advice may be sought and given as required privilege will attach. Of particular relevance, given the present case concerns property transactions and cited in SRA v Williams is the following:

“Once solicitors are embarked on a conveyancing transaction they are employed to ensure that the client steers clear of legal difficulties, and communications passing in the handling of that transaction are privileged (if their aim is the obtaining of appropriate legal advice) since the whole handling is experience and legal skill in action and a document uttered during the transaction does not have to incorporate a specific piece of legal advice to obtain that privilege.”
(¶332)

22. On inquiry by the Court, the SRA identified passages of the Tribunal’s decision which, it submitted, disclosed legally privileged communications.
23. At ¶16.9 of its decision, the Tribunal records that:

“On or around 1 November 2017 Person D provided information to the Respondent which was recorded by the Respondent as follows: “Transaction initially started in a new company’s name with the proceeds of sale of large business lands in Basra sold to [Person D’s], based in UAE. Later [Person D] suggested a purchase in his name and would hold on trust for the [Minister’s] family’s nominee company or trustee. Reason given that [Person D] wanted to withdraw the funds from his retained earnings and advances from [Company A].”

(anonymisation is as proposed/used by the SRA during the proceedings).

24. The SRA submitted in relation to the passage above that the information provided to the Respondent was provided by Person D, either as client or as agent of the family. It was provided in order to ensure that the Respondent would act as his legal adviser and handle the transaction in a way that steered clear of legal difficulties.
25. Secondly, at ¶16.15 – 16.16 of its decision, the Tribunal cites legally privileged communications between the Respondent and Person D (via Person D’s assistant) on 2 and 10 November 2018. The SRA submitted that the email exchange was all part of the Respondent’s handling of the conveyancing transaction. Person D, in particular,

appears to have been concerned about steering clear of the legal difficulties that arose from bank requirements and anti-money laundering regulations.

26. Thirdly, the table at ¶16.40 of the decision cites numerous communications from the Minister's brother explaining the source of the sums of money he was transferring to the Respondent. The SRA submitted that the information was provided by the Minister's brother in order to ensure the Respondent would be the family's legal adviser and handle the relevant transaction in a way that steered clear of legal difficulties.
27. I accept the SRA's submission that the communications referred to above are to be regarded as passing between solicitor and client as part of the continuum aimed at keeping both informed so that advice may be sought and given as required and are therefore privileged.
28. The SRA highlighted that there are documents and material referred to in the Tribunal's decision where it is not entirely clear whether the information or material is subject to legal privilege or merely confidential. It pointed to passages in the decision which refer to information about the family, which is likely to be confidential, but without making it clear when or from whom this information was obtained. A Declaration of Trust, referred to ¶16.14 of the decision, was expressly said to be a confidential document and was probably also privileged because it was likely to have been obtained by the Respondent from a client, or their agent, for the purposes of obtaining legal advice, although that is not made clear in the Tribunal's decision. Once there are some legally privileged communications recorded in the Tribunal's decision, the identities of the relevant clients would need to be anonymised throughout the decision. I accept the SRA's submission in this regard.
29. In refusing anonymisation the Tribunal relied on AB/X that departure from open justice should be exceptional. As the Tribunal itself acknowledged, AB/X is not about legal privilege. The Tribunal appeared to consider this distinction immaterial, but it is highly material. In addition, the Tribunal considered there was no evidence that the clients in the present case have asserted legal professional privilege. However, this cannot amount to any sort of justification for an inroad into the historic scope of legal privilege and the wider public interest policy arguments in play in its decision which extend well beyond the individual clients in question:

“Legal professional privilege is thus much more than an ordinary rule of evidence, limited in its application to the facts of a particular case. It is a fundamental condition on which the administration of justice as a whole rests.” (R v Derby Magistrates Court ex parte B [1996] AC 487 at ¶507)

Conflating concerns about the scope of anonymisation with the principle of protection for privileged material

30. It is apparent from its reasons that the Tribunal was concerned about the breadth of the anonymisation proposed by the SRA. It said so expressly at ¶10.2 and ¶10.32 (11). It also expressed scepticism about whether the “jigsaw puzzle” argument advanced by the SRA justified anonymizing the country of Iraq ¶10.32 (12). In its initial decision to revoke anonymity it referred to the public interest in the public being able to understand as opposed to being confronted with “a plague of initials.” (¶10.30).

31. The Tribunal’s scrutiny of the extent of anonymisation proposed by the SRA was legitimate but the Tribunal fell into error in conflating the principle of whether legally privileged communications are entitled to protection with the scope of any such protection.

Relief

32. The question then arises as to the appropriate order in this case. By s49(4) of the Solicitors Act, the High Court shall have power to make such order on an appeal under this section as it may think fit.

33. The Law Society Gazette focussed its submissions on the extent of the anonymisation proposed by the SRA. It took issue with the SRA’s suggestion that anonymisation has only a “minor impact” on open justice pointing to the statement of Lord Rodger in Re Guardian News and Media Ltd [2010] UKSC 1 at ¶63:

“What’s in a name? ‘A lot’, the press would answer.”

34. The Law Society Gazette warned against overstressing the risk of “jigsaw identification” as the SRA had done and questioned, in particular, the need to anonymise Company A, to which the SRA responded by adducing additional evidence which demonstrated that a google search on company A identifies Person D as its founder and director.

35. In its guidance on applications for anonymity, the Administrative Court Guide on Judicial Review explains that where the court is asked to make any such order, it will only do so on close scrutiny of the application and consideration of whether, assuming any restraint on publication is necessary, there is any less restrictive or more acceptable alternative than the order sought. The assessment of the imposition and extent of a reporting restriction is a fact sensitive exercise and that, if required, restrictions must be the least that can be imposed consistent with the protection to which a party may be entitled (7.12.5(5) Administrative Court Guide 2023).

36. The guide refers, in this respect, to the case of JIH v News Group Newspapers Limited [2011] EWCA Civ 42 in which the Court refers to alternative approaches to restraining the publication of private information. If a public judgment or order directly or indirectly discloses the nature of the information in question then it should be anonymised. Alternatively, if the claimant is named in the public judgment or order then the information should not be directly or indirectly identified (24).

37. The starting point for consideration of relief in the present case is the Tribunal’s decision, which has yet to be published. The Tribunal provides a detailed summary of the transactions under scrutiny including privileged material. There are multiple references to the family and to individual family members. Confidential information about the family’s wealth strategy and business dealings are revealed in the judgment. It is not therefore realistic or proportionate at this stage of the proceedings to consider the alternative approach suggested in JIH of publishing the names of individuals, but limiting the publicly available information.

38. Turning then to the scope of anonymisation. The SRA sought the following anonymisation: Person A, Person B, Person C, Person D, the AB Family, Country X, Property A, Property B, Company A, Company B, Company C and Company D.
39. In Lu v SRA, Kerr J observed that “open reporting is discouraged by what George Orwell once called a ‘plague of initials.’ Clarity and a sense of purpose are lost. Reading or writing reports about nameless people is tedious.”
40. I accept the submission of the Law Society Gazette that there is no justification for anonymising the country of Iraq as Country X, or at all. There can be no risk that identifying the country of Iraq is likely to lead to the identification of the Respondent’s clients (Her Majesty’s Attorney General for England and Wales v British Broadcasting Corporation [2022] EWHC 1189 (QB) at ¶18 and ¶19). The SRA conceded the point.
41. Person A was a Minister in the Iraqi Government. As such he was a Politically Exposed Person for a period of time, which in turn gave rise to the money laundering risks central to the substantive appeal. Describing Person A as a Minister of the Iraq Government highlights the significance of his role and makes the Tribunal’s decision easier to read and understand. On inquiry by the Court the SRA and Respondent agreed that this description did not risk identification of the individual concerned provided the Court did not indicate the dates of his political appointment.
42. Person B is the Minister’s brother and the client of the Respondent in relation to the purchase of the hotel. It was common ground that he was entitled to anonymity given legally privileged communications between him and the Respondent are disclosed in the Tribunal’s judgment. However, referring to him as the Minister’s brother rather than Person B makes the judgment easier to follow and conveys an understanding of the family relationships which form the backdrop to the Respondent’s due diligence, whilst not exposing the individual to the risk of identification.
43. The same applies to Person C who is the Minister’s son and Person D, the client of the Respondent in relation to the purchase of the house and a close business associate of the Minister’s family.
44. The SRA seeks anonymisation of Properties A and B and Companies A B C and D on the basis of the risk of ‘jigsaw identification’. By this is meant diverse pieces of information in the public domain, which, when pieced together, reveal the identity of an individual (A Local Authority v the Mother & Ors [2020] EWHC 1162 (Fam)).
45. I accept the Court should be astute not to allow the threat of jigsaw identification to justify a blanket prohibition on any piece of the jigsaw (Her Majesty’s Attorney General for England and Wales v British Broadcasting Corporation [2022] EWHC 1189 (QB)). A fact specific assessment is in any event necessary (JIH).
46. On inquiry by the Court the SRA explained that the publishing the address of Property A and B would lead to the identification of the Respondent’s clients via search engines; Companies House or the Land Registry. I accept the SRA’s submission in this regard but consider that using the descriptive terms “London hotel” and “London home” assists with the intelligibility of the judgment.

47. From the information available to the Court, the roles played by the four companies in the transactions was as follows. Company A was a proposed source of the funds for the purchase of the hotel, at least at the start of the transaction. Company B, when created, took over ownership of the hotel. The house was purchased in the name of the same company. Company C was the ultimate owner of the hotel and Company D the registered proprietor before ownership was transferred to Company B.
48. The SRA applied to adduce evidence showing that the identity of the close business associate of the family and client of the Respondent could be ascertained if the name of Company A is published as he is the owner and founder of the company. Having considered the evidence supplied by the SRA I accept the submission. I have considered the references to the three other companies in the ruling and consider that jigsaw identification will be possible were they to be published given the extent of the detail provided in the judgment about the transactions. I have considered whether descriptive terms could be applied to the companies but have decided not to do so given my information about their roles has been gleaned from various disparate sources of information in the Court's bundle and not confirmed by the Respondent who was not present at the resumed hearing of this appeal.

Conclusion in relation to the SRA's appeal on anonymity

49. For the reasons explained above I am satisfied that the Tribunal fell into error in failing to restrict publication of legally privileged communications between the Respondent and his clients. I have however reached the view that the schedule of anonymisation proposed by the SRA is more restrictive than necessary. My reasons and findings in this respect are set out above.
50. I conclude by emphasising that the extent of anonymisation required in this case is specific to this particular case and to thank the Law Society Gazette for its careful submissions.
51. I direct the SRA to draw up an appropriate order to reflect the extent of anonymisation permitted by this judgment.