

## **Determination by Consent Decision**

### **Name of regulated person and call date**

Rupert John Bowers

Gray's Inn 12 October 1995

### **Case Reference**

2022/2872/DC

### **Charges**

#### **Charge 1**

##### **Statement of Offence**

Professional Misconduct contrary to Core Duty 5 of the Code of Conduct (Part 2 of the Bar Standards Board Handbook Version 4.6)

##### **Particulars of Offence**

Rupert Bowers, a barrister and BSB regulated individual, behaved in a way which is likely to diminish the trust and confidence which the public places in him or in the profession, in that, on 10 October 2022 he drove a motor vehicle in a public place after consuming so much alcohol that the proportion of it in his breath, namely 82 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, for which he was convicted of an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Sevenoaks Magistrates' Court on 10 November 2022.

#### **Charge 2**

##### **Statement of Offence**

Professional Misconduct contrary to rC8 (integrity only) of the Code of Conduct (Part 2 of the Bar Standards Board Handbook Version 4.6)

##### **Particulars of Offence**

Rupert Bowers, a barrister and BSB regulated individual, behaved in a way which could reasonably be seen by the public to undermine his integrity, in that, on 10 October 2022 he drove a motor vehicle in a public place after consuming so much alcohol that the proportion of it in his breath, namely 82 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, for which he was convicted of an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Sevenoaks Magistrates' Court on 10 November 2022.

## **Statement of Facts**

1. On 10 October 2022, Mr Bowers attended a meeting at the Blue Anchor Pub in Platt, Kent, to organise a charity fundraiser.
2. During the meeting, Mr Bowers consumed 5-6 pints of beer and one small glass of red wine. Mr Bowers left the pub at approximately 20:15, intending to walk the half mile to his home. However, Mr Bowers then decided that he would drive home instead, having parked his car at the pub upon arrival.
3. After travelling approximately 100m, Mr Bowers struck a row of parked vehicles.
4. Police attended the scene, and Mr Bowers was arrested and taken to Tonbridge Police Station. He was placed on the station breath test machine, which returned a reading of 82 microgrammes of alcohol in 100 millilitres of breath. Mr Bowers was charged with an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.
5. Mr Bowers first reported the incident and the charge to the BSB on 11 October 2022.
6. At Sevenoaks Magistrates' Court on 10 November 2022 Mr Bowers pleaded guilty to the above charge. Mr Bowers was sentenced to a fine of £1270, plus costs of £85 and a victim surcharge of £508. He was also disqualified from driving for 22 months (to be reduced to 22 weeks if by 8 February 2024 a driving course approved by the Secretary of State is completed).
7. Mr Bowers further reported the above conduct to the BSB on 10 November 2022 following his court appearance.
8. In his response to the BSB's allegations, Mr Bowers stated that 'I regret and sincerely apologise for my actions on this occasion. I acknowledge that in so acting I fell short of the standard of personal conduct expected of me by the profession.'
9. On 20 December 2022, Mr Bowers completed the Road Traffic Offenders Act 1988 Courses for Drink-Drive Offenders.

## **Previous disciplinary findings**

10. Mr Bowers has no previous disciplinary findings.

## **Plea and Reasons**

1. Mr Bowers admits Charge 1.
2. Mr Bowers denies Charge 2.
3. Mr Bowers contends that his integrity is not put in issue by the terms of the second charge. Further and/or alternatively, Mr Bowers also relies on paragraphs 5 and 7-9 above, his co-operation with and candid admissions to the police, his submission (dated 14 November 22), and the references of Mr Mellor, Ms Skelt, Dr Chesover, Mr Vallance and Mr Allewell as explanation as to why he denies Charge 2.

## **Decision of the IDP**

Charges found proved: Charge 1

Charges found not proved: Charge 2

## **Reasons for the decision**

The Panel noted that Mr Bowers had pleaded guilty to the criminal offence; it was in possession of the memorandum of conviction confirming the offence and sentence imposed. Mr Bowers was fined the sum of £1,270, ordered to pay a victim surcharge of £508, and to pay costs to the Crown Prosecution Service of £85.00. Mr Bowers was also disqualified from holding or obtaining a driving licence for 22 months (reduced to 22 weeks if Mr Bowers completed a drink driving course by 8th February 2024). The panel noted Mr Bowers' submissions of 14th November 2022 where he admitted the charge and his agreement to the DBC process on 30th January 2023. Mr Bowers did not dispute the facts of the matter.

In relation to Charge 1, the Panel was satisfied that there was sufficient evidence, on the balance of probabilities, of a breach of CD5. The Panel had regard to Mr Bowers' admission of facts set out in the allegations as well as the memorandum of conviction from Sevenoaks Magistrates' Court. The Panel considered that criminal convictions for offences of this nature were something which could reasonably be seen to diminish the trust and confidence which the public places in the profession, and accordingly found sufficient evidence of a breach of CD5. The Panel further considered that, in the circumstances, having been convicted of this offence, which has the potential to put members of the public at risk of harm, is serious enough to amount to professional misconduct.

The Panel dismissed Charge 2 on the basis of insufficient evidence of a breach of the Handbook. The Panel considered the test in *Wingate v. The Solicitors' Regulation Authority*, and considered that the concept of integrity there espoused related principally to the conduct of an individual's professional practice, and that, whilst being convicted of driving with excess alcohol undoubtedly undermines the trust and confidence that the public places in Mr Bowers and/or the profession, it does not amount to acting with a want of integrity (or conduct which a reasonable person could conclude amounts to acting with want of integrity).

## **Sanction**

In deciding on the appropriate sanction to impose, the Panel referred to the Bar Tribunal and Adjudications Service's Sanction Guidance, version 6 (the Guidance).

The Panel decided that the proved conduct breaches fell within 'Misconduct Group E – Criminal Convictions' of the Guidance.

It could not see that any of the factors indicating increased culpability or harm were engaged. Accordingly, it concluded the allegations fell into the lower range of seriousness, with an indicative sanction of a 'low to high level fine'.

In deciding on the appropriate level of fine, the Panel took in to account relevant aggravating and mitigating factors.

In terms of aggravating factors, the Panel noted that the proportion of alcohol in Mr Bowers' breath (82mg) was high, that the car driven by Mr Bowers at the time had collided with other vehicles and that an offence had been committed by Mr Bowers.

In relation to mitigating factors, the Panel considered a number were present: co-operation with the police, including a confession at the scene of the collision, a guilty plea at the earliest opportunity, taking steps to make amends to the individuals with whose cars the car that he was driving had collided, a prompt self-report to the BSB, completion of the drink drive rehabilitation course, limited harm, the lack of previous similar conduct, and taking full responsibility for the offence.

The Panel had not been given any information about Mr Bowers' means.

Considering all of the above, the Panel concluded that a low level fine (up to £5,000) would be appropriate and that, in the circumstances a fine of £2,000 would be proportionate. The Panel accordingly determined the sanction for this incident of professional misconduct to be a fine in the sum of £2,000.