



BL-2021-001519 & BL-2021 -001684

Neutral Citation Number: [2022] EWHC 45 (Ch)

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

Wednesday 12th January 2022

Before:

MR JUSTICE LEECH

B E T W E E N:

**SOLICITORS REGULATION AUTHORITY
LIMITED**

Claimant

- and -

**(1) SOOPHIA KHAN
(2) SOPHIE KHAN & CO LIMITED
(3) JUST FOR PUBLIC LIMITED**

Defendant

MR RUPERT ALLEN (instructed by **Capsticks Solicitors LLP**) appeared on behalf of the Claimant

MR TIMOTHY GREY (instructed by **Janes Solicitors**) appeared on behalf of the First Defendant.

Hearing dates: 17 December 2021

REVISED APPROVED JUDGMENT

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic

Mr Justice Leech:

Note: On Wednesday 12 January 2022 I read out and handed down an approved judgment in this action. I have now revised the judgment to take into account: (a) typographical and other minor errors which the parties identified after the hearing and hand down; and (b) the final order which I made after hearing further argument from the parties. I deal with (b) in the postscript at the end of this judgment (below).

A. The Application

1. This is the judgment of the court following the hearing of two applications for an order for the committal of the First Defendant on the basis that she failed to comply with two orders dated 7 September 2021 and 21 September 2021. It was a hybrid hearing with counsel, solicitors and the First Defendant present before the court in the Royal Courts of Justice. It was listed for hearing in the court list and access was also given by video link with an opportunity for any interested person to access the hearing by CVP link. It was accordingly a public hearing in conformity with CPR Part 81.8(1).

B. Background

2. The background to the present application is set out in the second and third affidavits of Ms Claire Crawford, a solicitor in the firm Capsticks Solicitors LLP (“**Capsticks**”), which I now summarise. The Claimant (the “**SRA**”) exercises the regulatory functions and powers conferred on the Law Society including its powers under the Solicitors Act 1974 to suspend solicitors and to intervene in their practices. Until June 2021 the SRA exercised those powers and functions as a delegated body. Since 1 June 2021, however, it has been a separate legal entity and has been entitled to exercise all of those powers in its own right.
3. The First Defendant, Ms Khan, was admitted to the Roll of Solicitors on 1 November 2006. Until the intervention of the SRA she was a solicitor advocate and the sole principal and director of the Second Defendant (the “**Firm**”). Until 17 September 2021 the Firm’s head office and registered address was at 9 Portland Towers Portland House Leicester LE2 2PG. It had also registered a branch office at Wimbledon Village Business Centre Thornton Road Wimbledon SW19 4NG. On 17 September 2021 the Firm moved its registered office to the First Floor Flat 8 Ridgway Wimbledon SW19 4QN. This address was recorded as Ms Khan’s residential address in her “My SRA Account”.
4. On 19 August 2021 an adjudication panel of the SRA (consisting of three members) issued a decision in which it recorded that it had decided to intervene in Ms Khan’s practice on the grounds: first, that there was reason to suspect dishonesty in connection with the Firm’s business; and, secondly, that she had failed to comply with the SRA Principles 2011 and 2019 and the SRA Accounts Rules 2011 and 2019. In particular:
 - (1) The panel exercised the power under paragraphs 6(1) and 6(2) of the Solicitors Act 1974, Schedule 1, Part II to direct that the right to recover and receive money in connection with the Firm should vest in the Law Society.

- (2) It also exercised the power under paragraph 9(1) to appoint a person to take possession of documents and otherwise to act as the Law Society's agent in relation to the intervention.
 - (3) It also suspended Ms Khan's practising certificate.
5. Paragraph 9(1) is of particular importance in the present case. It provides that where the Law Society's powers to intervene are exercisable, it may give notice to the solicitor or her firm requiring the production or delivery to any person appointed of "all documents in the possession or under the control of the solicitor or his firm in connection with his practice or former practice or with any trust of which the solicitor is or was a trustee". Paragraph 9(4) also provides that the High Court may, on the application of the Society, order a person required to produce or deliver documents under paragraph 9(1) to produce or deliver them to the person appointed by the Society.
6. By letter dated 19 August 2021 the SRA wrote to Ms Khan giving her notice of the intervention and requiring her to provide all practice documents to the appointed agent, who was identified at that stage as Ms Victoria Davey of Gordons LLP. The letter also drew Ms Khan's attention to her right to apply to the High Court for the intervention to be withdrawn. Ms Crawford exhibits an attendance note of a conversation which also took place on 19 August 2021 between Ms Heather Andersen, the SRA's Intervention Officer, and Ms Khan in which Ms Khan refused to attend the Leicester office the following day.
7. In the event Mr John Owen of Gordons was appointed by the SRA as the intervention agent. By email dated 19 August 2021 Ms Andersen wrote to Ms Khan confirming the content of their earlier conversation and notifying her that she would attend the Leicester office on 25 August 2021 to put the intervention into effect. By email dated 20 August 2021 Ms Anderson informed Ms Khan that the intervention would take place on 23 August 2021 and that she would be attending the Leicester office on that day to put the intervention into effect with Mr Owen and a small team from Gordons.
8. On 23 August 2021 Ms Andersen and Mr Owen went to the Leicester office and whilst they were waiting outside Ms Andersen sent an email to Ms Khan informing her that they were there. Gordons' attendance note of the visit also records that Ms Andersen and the team from Gordons waited for two hours at the Leicester office before leaving. By email dated 24 August 2021 Mr Owen wrote to Ms Andersen confirming that he and his team had also attended the Wimbledon office but found no sign of Ms Khan.
9. On 27 August 2021 Ms Khan issued a Claim Form under CPR Part 8 for an order directing that the SRA withdraw the intervention on the grounds that it was fundamentally flawed and disproportionate. In her witness statement in support of this application Ms Khan challenged the factual basis of the intervention as determined by the adjudication panel.

C. The First Order

10. On 27 August 2021 the SRA issued a Claim Form itself under CPR Part 8 and an Application Notice seeking a final order requiring Ms Khan and the Firm to deliver up practice documents and for a search and seizure order in relation to the Leicester office. On 7 September 2021 that application was heard by Adam Johnson J remotely and Ms Khan attended it by telephone. Whilst on the call she stated that she was at her residential address. Pages 8 and 9 of the transcript of the hearing on 7 September 2021 also record that when questioned by the judge Ms Khan informed him that there was another organisation with which she was connected conducting reserved activities and that she identified that organisation as the Third Defendant which I will call “**JFP**”.
11. The judge made the final order sought by the SRA and I will refer to it as the “**First Order**”. The front sheet of the order as sealed contained a penal notice in the standard form addressed to Ms Khan personally and also addressed to any director or officer of the Firm. It also contained the following notice to both Defendants:

“This Order is made, in part, pursuant to paragraphs 9(4), 9(5A) and 9(6) of Schedule 1 to the Solicitors Act 1974 (‘Schedule 1’) and paragraph 32(1) of Schedule 2 to the Administration of Justice Act 1985 and requires you, the Defendants, to deliver up to the Claimant’s appointed Agent the articles specified in the Order and to allow the persons mentioned in the Order to enter the premises described in the Order and to search for, examine and remove the articles specified in the Order.....If any of you, the Defendants, disobey this Order you may be found guilty of contempt of court and may be sent to prison or fined or your assets may be seized.”

12. Paragraphs 1 to 6 of the First Order were headed “Delivery Up of Documents and Other Items” and I should set them out in full:

“1. Within 3 working days of service of this Order, the First and Second Defendants must produce or deliver up to the Agent all Listed Items in their possession or control (including, for the avoidance of doubt, any emails which are Listed Items that are held by the account for the following email addresses: sophiek@sophiekhan.co.uk and any other email addresses used in connection with the Practices in the past 12 months). Unless otherwise agreed in writing with the Agent, the items must be delivered to the Agent’s Address on a weekday between 9am and 5pm and the Agent must be given 24 hours’ notice of the date and time of delivery of the documents, by email to John.Owen@gordonsllp.com. 2. The First Defendant must provide all necessary usernames and passwords to give effective access to the Listed Items that she delivers up to enable them to be searched, accessed and the contents (or data accessible therefrom) imaged by the Claimant or on its behalf. 3. If she knows or believes that any of the Listed Items are in the possession or under the control of any person other than any of the Defendants, the First Defendant must notify the Agent by e-mail to John.Owen@gordonsllp.com, identifying such persons (together with (if known) their addresses and contact information). Further, the First Defendant shall, on the request of the Agent, deliver to any person in

possession of such Listed Item a letter of authority (in such terms as the Agent may reasonably require) instructing such persons to produce and deliver the Document to the Agent. 4. The First Defendant must use all reasonable endeavours to obtain and provide to the Agent all such usernames, passwords and other information, as may be necessary to enable the Agent or members of the Agent's Team to access the account relating to the following email address: enquiries@sophiekhan.co.uk. The Claimant has liberty to apply to request that further email addresses be added to this paragraph. 5. If the Defendants are unable to comply with paragraphs 1 to 4 above within 3 working days of service of this Order, the First Defendant must serve upon the Agent a signed witness statement with a statement of truth explaining the steps that she has taken to comply, why she has been unable to do so and when she will be able to do so. 6. For the avoidance of doubt, neither Defendant shall have any obligation to deliver Listed Items to the Agent if they have already been taken into the possession of the Agent pursuant to the Search and Seizure provisions below."

13. Paragraphs 7 to 27 of the First Order contained a search and seizure order, paragraphs 28 to 30 dealt with the redirection of communications and paragraphs 32 to 38 dealt with interpretation and effect of certain parts. Paragraphs 39 to 42 dealt with service and, again, I should set out the first three paragraphs of those provisions in full:

"39. The Claimant shall serve this order personally if it is practicable to do so within two working days of the making of this order. 40. Pursuant to CPR 6.27 and CPR 81.4, if the Claimant is unable to serve this order personally pursuant to paragraph 39 above on either or both of the Defendants, the Claimant shall not be required to serve this order personally and the Claimant shall instead serve this order: 40.1. By sending it by first class post (or other service which provides for delivery on the next business day) to the First Defendant's residential address registered with the Claimant under her 'My SRA' and to the Second Defendant's registered address; and 40.2. By sending a copy of this order by email to sophiek@sophiekhan.co.uk, which shall be effective as service on both Defendants. 41. If the Defendants are served pursuant to paragraph 40 above, they shall be deemed served on the same day as the e-mail is sent if it is sent on a business day before 4:30pm or in any other case, on the next business day after the day on which it was sent. If the Claimant is unable to serve by email or receives a notification that the transmission of the email has been unsuccessful, then the Defendants shall be deemed served on the second day after the order was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day."

14. Paragraph 46 of the First Order contained the definitions of defined terms which had been used in the body of the order. The term "**Listed Items**" was defined by reference to Schedule B which stated that the Listed Items should include the following:

“All Documents and Property including, without limitation: 1. Any files and the contents thereof relating to present or Former Clients of the Practices; 2. Any deeds or wills or other documents relating to present or Former Clients of the Practices; 3. Any ledgers relating to present or Former Clients of the Practices and all other accounting records relating to the Practices; 4. Any diaries or appointment books relating to the Practices and any other documents in which court dates and deadlines are recorded by or on behalf of the Defendants; 5. Any logs of telephone calls, incoming or outgoing correspondence or visits to the Premises relating to the Practices; 6. Any computer records relating to present or Former Clients of the Practices and accounting matters relating to their Practices. 7. Any Computer, hard disk or server used in connection with the Practice.”

15. On 8 September 2021 the Court sent the First Order to Ms Khan at the email address identified in paragraph 40.2 which she had used that day to communicate with the Court. On 9 September 2021 representatives of the SRA, Mr Owen, Capita and a locksmith went to the Leicester office to execute the First Order. No-one was there and a sign “Just for Public Limited” which had been identified as next to the door on their earlier visit on 23 August 2021 had now been removed. The locksmith gained entry to the premises and found that the office had been cleared. The SRA and Mr Owen found no practice documents. They also found that lever arch files which appeared to have contained client documents had been emptied. Having searched the premises, the party left after sealing the letterbox and taping a notice of the intervention to the front door. Ms Crawford exhibited a set of photographs showing the search and ending with the taped letterbox and notice on the front door.
16. On 10 September 2021 process servers attended both the Leicester office and Ms Khan’s residential address to serve Ms Khan personally. They received no reply at either address and at each address the process server posted the order through the letter box with a covering letter and a card with a contact address. Three days later, on 13 September 2021 a local resident, Mr Nick Farmer, wrote to Mr Owen stating that the notice and the tape on the letterbox had now been removed. He also enclosed a photograph confirming the position (which Ms Crawford also exhibited).
17. At the hearing of the contempt applications on 17 December 2021 Ms Khan, who was represented by both solicitors and counsel, did not challenge any of this evidence or that she had been properly served in accordance with the provisions of the First Order either by email or by posting it through the letter box at the Leicester office or her residential address. But if it is necessary for me to do so, I find that the First Order was deemed served on Ms Khan on 8 September 2021 by email or, alternatively, on 14 September 2021 which was the second day after the First Order was posted.

D. The Second Order

18. On 16 September 2021 the SRA issued a second Claim Form under CPR Part 8 and a second Application Notice for a final order against all three Defendants requiring them to deliver up the practice documents and property and also for a search and seizure order in relation to the Wimbledon office and Ms Khan’s residential

address. On 21 September 2021 that application was heard remotely by Miles J and without notice to Ms Khan or the other Defendants.

19. Miles J also made the final order requested by the SRA and I will refer to it as the “**Second Order**”. The sealed copy contained a penal notice in the same form as the First Order and addressed to Ms Khan personally and to the directors or officers of both the Firm and JFP. It also contained the same notice as I have quoted in paragraph 11 (above) and paragraphs 1 to 6 of the Second Order were in the same or substantially the same form as the corresponding paragraphs in the First Order. Paragraphs 37 to 39 of the Second Order contained the same service provisions as paragraphs 39 to 41 of the First Order, which I have quoted in paragraph 13 (above), although the Second Order also permitted service at a second and alternative email address: legal@justforpublicltd.org.uk. The Listed Items in Schedule B were defined in the same terms (although they included Listed Items in the possession or control of JFP).
20. On 23 September 2021 two teams of representatives of the SRA and of Mr Owen went to the Wimbledon office and Ms Khan’s residential address both to execute and to serve the Second Order. The first team was given access to the Wimbledon office which was found to be completely empty of anything relating to clients of the Firm. The second team could not get access to the residential address but could see that the flat was unoccupied and a local resident informed the party that Ms Khan lived in Leicester.
21. On 23 September 2021 Capsticks sent the second order by post by special delivery to the Wimbledon office and to the residential address to comply with its alternative service provisions and on 24 September 2021 the order and accompanying documents were delivered and signed for. On 23 September 2021 Capsticks also sent the second order by email to the email addresses identified in the alternative service provisions. Ms Crawford’s evidence is that the documents were accessed using the email account enquiries@sophiekhan.co.uk.
22. Again, at the hearing on 17 December 2021 Ms Khan did not challenge any of this evidence or that she had been properly served in accordance with the provisions of the Second Order either by email or by post using the special delivery service at both the Wimbledon office or her residential address. At the subsequent hearing of her applications to set both orders aside on 11 January 2022, Ms Khan argued that the Second Order had not been properly served. In a witness statement dated 30 December 2021 she accepted that she had been notified of the Second Order by email on 28 September 2021 but denied that it had been properly served because neither she nor the Firm accepted service by email. She did not dispute that the Order had been delivered by post or that it had been signed for.
23. I am satisfied that the Second Order was served on the Defendants in accordance with paragraph 38 of the Second Order and if it is necessary for me to do so, I find that the Second Order was deemed served on Ms Khan on 28 September 2021 by email or, alternatively, on 27 September 2021 which was the second day after the Second Order was posted by special delivery.

E. The First Set Aside Application

24. By Application Notice dated 16 September 2021 Ms Khan applied to set aside or vary the First Order. The basis for her application (which I will call the “**First Set Aside Application**”) was that on 10 August 2021 Ms Khan had sold her shares in the Firm and its assets to JFP which had taken over all case matters, the goodwill and the practising name “Sophie Khan & Co Solicitors and Higher Court Advocates”. It was also her case that JFP was a not for profit organisation. I heard the First Set Aside Application shortly before handing down this approved judgment and dismissed it for the reasons which I gave in a short ex tempore judgment.

F. The Contempt Applications

25. By Application Notice dated 1 October 2021 the SRA applied to commit Ms Khan for breach of the First Order made by Adam Johnson J. The SRA relied only on the breach of paragraph 1 of the Order and the failure by Ms Khan to deliver up all Listed Items both personally and in her capacity as a director of the Firm. The SRA did not rely on any breaches of the section of the First Order relating to the search of the Leicester office and in this judgment, therefore, I ignore any breaches of those provisions in considering both whether Ms Khan was in contempt and in assessing any sanction.
26. By a second Application Notice also dated 1 October 2021 the SRA applied to commit Ms Khan for breach of the Second Order made by Miles J. Again, the SRA relied on the breach of paragraph 1 of the Order and the failure by Ms Khan to deliver up all Listed Items both personally and in her capacity as a director of the Firm and of JFP. Again, the SRA did not rely on any breaches of the section of the Second Order relating to the search of the Wimbledon office or the residential address and in this judgment, therefore, I also ignore any breaches of those provisions in considering both whether Ms Khan was in contempt and in assessing any sanction.
27. In her second affidavit sworn on 1 October 2021 Ms Crawford confirmed that Ms Khan and the Defendants had delivered up no items within the definition of Listed Items in either the First or Second Order. Ms Khan did not challenge that evidence. I also note that at no stage before the final hearing of the applications on 17 December 2021 did Ms Khan make a witness statement complying with paragraph 5 of each order explaining the steps which she had taken to comply with it, why she had been unable to do so and when she would be able to comply.
28. In her third affidavit sworn on 21 October 2021 Ms Crawford dealt with the attempts made by the SRA to serve the contempt applications. She exhibited a witness statement made by Mr Philip Richards, a process server, who confirmed that he had served Ms Khan personally at the Carmarthenshire Coroner’s Court with a covering letter from Capsticks, the two Application Notices, Ms Crawford’s second affidavit and the Skeleton Argument in support of the applications. Again, Ms Khan did not contest this evidence.
29. On 22 October 2021 both the two contempt applications and the set aside application were listed before Fancourt J. At the hearing the judge informed Ms Khan of her right to apply for legal aid and to obtain representation. But Ms Khan declined to exercise that right on the basis that she intended to represent herself.

The judge also proceeded to list all the three applications for a hearing with a combined time estimate of one day in a three day window beginning on 23 November 2021.

G. The Third Order

30. On 2 November 2021 the SRA issued a third application, this time to restrain Ms Khan and JFP from unlawfully carrying on reserved legal activities under the Legal Services Act 2007. The application was originally listed to be heard on 8 November 2021 but Fancourt J granted a short adjournment. In a witness statement dated 9 November 2021 Ms Khan opposed that application. She gave evidence that JFP was a not for profit body within the meaning of section 207 of the Legal Services Act 2007 and asserted that she was entitled to carry on reserved legal activities personally in reliance upon the transitional provisions for not for profit bodies contained in s.23 of the Legal Services Act 2007. She also gave evidence that on 10 August 2021 the Firm had been sold to JFP including its client portfolio. Finally, she gave evidence of the client matters which she was continuing to carry out.
31. On 10 November 2021 Fancourt J heard the application and Ms Khan was represented by counsel. On 11 November 2021 the judge gave judgment granting an injunction forbidding Ms Khan to carry out any reserved legal activity whether in her own name or through JFP. She was also forbidden to hold herself out as being entitled to act as a solicitor or as being authorised to conduct any reserved legal activity. This order (to which I will refer as the “**Third Order**”) is not the subject of the contempt applications either. Again, I ignore any breaches of the Third Order in considering both whether Ms Khan was in contempt and in assessing any sanction. But I add that Mr Grey referred me to the witness statement of Ms Khan which she made in answer to these applications and that it is important for a reason which I explain (below).

H. The hearing on 23 November 2021

32. On 23 November 2021 the contempt applications were listed for hearing before Fancourt J. Ms Khan applied for an adjournment on medical grounds. The judge refused that application but he stood over the substantive hearing until the following day. On 24 November 2021 Ms Khan did not appear and sought to vacate the hearing on the basis that she needed to attend hospital for an urgent scan on her hand. Fancourt J issued a bench warrant for Ms Khan’s immediate arrest.
33. On 1 December 2021 Ms Khan surrendered to the bench warrant and the two contempt applications were listed before me on an urgent basis. At the hearing Ms Khan was represented by solicitors and counsel and I was told that she had only obtained legal aid that morning and that she now accepted that she could not represent herself. I made it clear that I would not hear the substantive applications that day because Ms Khan’s new legal team had only just been instructed and needed time to prepare and to take instructions and I gave directions for the hearing of both liability and sanction on 17 December 2021 with a time estimate of one day. I directed that Ms Khan file any evidence upon which she wished to rely by 4.30 pm on 8 December 2021.

I. Janes’ Letter dated 9 December 2021

34. By letter dated 9 December 2021 Janes Solicitors (“**Janes**”), who were now acting for Ms Khan, wrote to Capsticks stating that on 7 December 2021 they had met Ms Khan and that her instructions were that she accepted that there had been non-compliance with both the First and Second Orders and that she did not currently intend to offer any evidence in her defence. They suggested, however, that the hearing on 17 December 2021 should be used as a directions hearing for two reasons: first, because Ms Khan challenged the intervention and had applied to set aside the first order dated 7 September 2021; and, secondly, because Mr Livingston, her solicitor, and Mr Grey, her counsel, had concerns about her mental health and had applied for legal aid to instruct an independent expert consultant psychiatrist.
35. On 15 December 2021 the parties exchanged Skeleton Arguments for the hearing on 17 December 2021. In his first Skeleton Argument Mr Tim Grey, who now appeared for Ms Khan, submitted that the court should give further directions rather than hear the two substantive applications. The primary reason which he advanced for that submission was that solicitors and counsel had formed the view that Ms Khan was unable to fully comprehend the issues before the court, that evidence should be obtained from a psychiatric expert and that the impact of the evidence might be profound.

J. Dr Choudry’s Letter dated 16 December 2021

36. On 16 December 2021 Ms Khan provided the court with a letter which Dr Choudry of the Al-Waqas Medical Centre in Leicester had addressed to concerned parties. In the letter he confirmed that Ms Khan was a patient of the practice, that she was suffering from work related stress and anxiety due to the ongoing litigation with the SRA and that it was continuing to have a profound effect on her mental and psychological well-being and affecting her comprehension and understanding of that litigation. He also stated that she was unlikely to be in a mental state to be able to fully evaluate and comprehend the issues before the court in relation to the contempt applications. Finally, he stated that she was being referred to a private psychiatrist in view of her current mental health condition.

K. The Hearing on 17 December 2021

37. On 17 December 2021 the contempt applications came on for hearing. Mr Rupert Allen appeared for the SRA instructed by Capsticks and Mr Grey appeared for Ms Khan instructed by Janes. I am grateful to both counsel and their teams for their written and oral submissions and the assistance which they gave the court. Although no Application Notice had been issued, I permitted Mr Grey to apply to adjourn the hearing of the contempt applications as he had trailed in his first Skeleton Argument. Having heard detailed argument, I dismissed the application with reasons. In particular, I held that Dr Choudry’s letter did not justify an adjournment but that I would give full weight to Ms Khan’s mental health and Dr Choudry’s concerns in determining the appropriate sanction (assuming that I found liability).
38. At the conclusion of the hearing on Friday 17 December 2021 I indicated to the parties that I would deliver judgment on Tuesday 21 December 2021. I had originally intended to deliver judgment on Monday 20 December 2021 but Mr Grey stated that Ms Khan was willing to comply with both orders but wanted to be present when the SRA executed them. I therefore gave her an additional 24 hours

within which to arrange for compliance with the orders. On Monday 20 December 2021, however, I was informed that Mr Livingston, Ms Khan's solicitor, had tested positive for Coronavirus and that Ms Khan was currently self-isolating whilst she took a PCR test. Both counsel submitted by email that I should either deliver judgment remotely or hand it down in the absence of the parties. In the event, I decided to reserve judgment until Tuesday 4 January 2022 to ensure that Ms Khan was present but also legally represented. In email exchanges with the parties, I made it clear that I would receive evidence of compliance with the two orders in the meantime. However, no evidence of compliance was filed with the Court between 20 December 2021 and hand down on 4 January 2022.

L. The Second Set Aside Application

39. On 31 December 2021, which was the last working day before the hand down, Ms Khan issued the Application Notice to set aside the Second Order supported by a witness statement also dated 30 December 2021 and I will refer to it as the “**Second Set Aside Application**”. On 4 January 2022 Ms Khan chose to represent herself although her former counsel, Mr Tim Grey, was present for the hand down. Despite the lateness of the application, I decided to hear it before delivering judgment in relation to the committal applications and, if necessary, to re-consider the judgment which I was ready to deliver and hand down. I, therefore adjourned it to be heard on 11 January 2022 and gave further directions for the exchange of further evidence and Skeleton Arguments. On 11 January 2022 I heard both applications and disposed of them in an ex tempore judgment which I gave before the hand down of this judgment.

M. Liability

40. I turn therefore to the question of liability. In his first Skeleton Argument dated 1 October 2021 Mr Allen submitted that in order to establish a contempt of court arising from breach of a court order it was necessary for the SRA to prove the following three elements, namely, that:

- (1) The Defendant had notice of the terms of the order;
- (2) The Defendant has acted, or failed to act, in a manner which involved a breach of the order; and
- (3) The Defendant knew of the facts which made that conduct a breach.

41. Mr Allen also reminded me that the the standard of proof on each element was the criminal standard, i.e. beyond reasonable doubt. Although there was an issue between Mr Allen and Mr Grey about the precise state of mind required to satisfy element (3) (which I consider below), Mr Grey did not challenge the test put forward by Mr Allen. I therefore adopt it and deal with each element in turn. I begin with notice.

(1) Notice

42. Ms Khan was present at the hearing on 7 September 2021 and heard Adam Johnson J make the First Order. It was Ms Crawford's evidence that on 10 September 2021

it was not possible to serve Ms Khan personally at the Leicester office or at her residential address, that the SRA complied with paragraph 40 by posting it through the letter box of each address and that the Court sent it by email to Ms Khan (at the address specified in that paragraph). It was also Ms Crawford's evidence that it was not possible to serve Ms Khan personally with the Second Order and that the SRA complied with paragraph 38 by sending it and the accompanying documents both by post by special delivery and also by email to Ms Khan. Finally, it was also her evidence that at both addresses the documents were delivered and signed for.

43. Mr Grey did not challenge any of this evidence and I am satisfied that the SRA complied with both orders and tried to serve Ms Khan personally before invoking the alternative service provisions. I am also satisfied that Ms Khan received and saw both orders by email. She admitted this in paragraph 18 of her witness statement 30 December 2021 and paragraph 29 of her witness statement dated 10 January 2022. Finally, Ms Khan did not challenge Ms Crawford's evidence and the evidence of Mr Richards that he served Ms Khan personally with the contempt applications at the Carmarthenshire Coroner's Court. I am satisfied, therefore, to the criminal standard that Ms Khan was given notice of both the First and Second Orders and that the SRA has complied with CPR Part 81.5(1). This provides that unless the court directs otherwise a contempt application and the evidence in support must be served on the defendant personally.

(2) *Breach of the Order*

44. In their letter dated 9 December 2021 Janes wrote to Capsticks stating that Ms Khan's instructions were that she accepted that she had failed to comply with both orders dated 7 and 21 September 2021 and Mr Grey confirmed those instructions orally. I treat Janes' letter and Mr Grey's oral confirmation as clear and unequivocal admissions by Ms Khan that she had failed to deliver up any of the Listed Items and that the SRA had been unable to locate any of the Listed Items when they sought to execute the search and seizure orders. Finally, Ms Khan made no witness statement in compliance with paragraph 5 of either Order explaining what steps she had taken to comply with them.
45. At the hearing of the First and Second Set Aside Applications Mr James sought to persuade me on behalf of Ms Khan that the Listed Items were not in her possession or control or the possession or control of the Firm because she had transferred her shares in the Firm to JFP and the Firm had transferred its assets to JFP. I dismissed those applications for the reasons which I gave. I am satisfied, therefore, to the criminal standard that Ms Khan committed the breaches of both orders specified in the Application Notices dated 1 October 2021.

(3) *Knowledge*

46. Finally, I turn to the mental element required for a finding of liability for contempt. Mr Allen submitted that it was not necessary for the SRA to prove that Ms Khan knew or believed that she was committing breaches of the orders and in support of this proposition he relied on the decision of the Court of Appeal in *Varma v Atkinson* [2020] Ch 180 where Rose LJ (as she then was) considered the position taken by the editors of *Arlidge, Eady and Smith on Contempt* 5th ed (2017) and in

Irtelli v Squatriti [1993] QB 83. Having considered those authorities, Rose LJ then stated this at [54]:

“In my judgment, *Irtelli v Squatriti* cannot stand in the light of the many earlier and later cases which establish that once knowledge of the order is proved, and once it is proved that the contemnor knew that he was doing or omitting to do certain things, then it is not necessary for the contemnor to know that his actions put him in breach of the order; it is enough that as a matter of fact and law, they do so put him in breach.”

47. Mr Allen also submitted that where an order is made against a company, its directors may be held liable if they “wilfully” fail to take reasonable steps to ensure that it is complied with. He relied upon the decision of Henshaw J in *Dell Emerging Markets (Emea) Ltd v Systems Equipment Telecommunications Services* [2020] EWHC 561 (Comm) in which the judge explained what is meant by a wilful failure in the following passage at [25]:

“Where a company is guilty of contempt, CPR 81.4(3) provides that a committal order may be made against “any director or other officer of that company or corporation”. The requirements for a director’s liability in contempt under that provision were set out in *Attorney General for Tuvalu v Philatelic Distribution Corporation* [1990] 1 WLR 926 (Woolf LJ). In particular: i) A director is under a duty to take reasonable steps to ensure that the court’s order is obeyed. If he or she wilfully fails to take such reasonable steps and the order is breached, he or she is liable in contempt: p. 936F. ii) The word “wilful” is intended to distinguish the situation in which a director reasonably believes that some other director or officer is taking the reasonable steps required to ensure that the court’s order is obeyed: p. 936F. iii) There must be culpable conduct on the part of a director: mere inactivity is not sufficient. However, it is not necessary for the director to have actively participated in the breach of the order in order to be culpable. A failure to supervise those to whom a director has delegated responsibility can be regarded as sufficiently culpable: p. 938A-G.”

48. Mr Grey did not challenge either of these tests as such. However, he submitted that in the absence of psychiatric evidence, the court should give Ms Khan the benefit of the doubt in assessing her ability to understand the two Orders. He relied upon two authorities in urging the court to adopt this approach. First, in *P v P* [1999] WL 477824 the Court of Appeal considered the mental element for contempt where a defendant had severe physical disabilities and a limited ability to understand the importance of an injunction which required him to stay away from the former matrimonial home. Butler-Sloss LJ considered that the court needed to be satisfied that the alleged contemnor “understands what he must not do”. Sedley LJ adopted a similar test. He considered that: “What is necessary that a potential contemnor should understand is that an order has been made forbidding him to do certain things and that if he does them he may well be punished”.

49. Secondly, Mr Grey also relied upon the decision of Teare J in *Marketmaker Technology (Beijing) Co Ltd v CMC Group Plc* [2009] EWHC 1445 (QB) which involved the breach of an undertaking. Teare J stated this at [14]:

“It was common ground that proof of a breach of the undertaking did not equate to a contempt. For a contempt to be established it has to be shown that the conduct which breached the undertaking was intentional or deliberate and that the alleged contemnor had knowledge of the facts which made his conduct a breach. It is unnecessary to establish that the alleged contemnor appreciated that his conduct was a breach of the undertaking. The law on this point was summarised by Warrington J in *Stancomb v Trowbridge Urban District Council* [1910] 2 Ch 190 at p.194: “In my judgment, if a person or a corporation is restrained by injunction from doing a particular act, that person or corporation commits a breach of the injunction, and is liable for process for contempt, if he or it in fact does the act, and it is no answer to say that the act was not contumacious in the sense that, in doing it, there was no direct intention to disobey the order.””

50. In my judgment, there is no inconsistency between *Varma v Atkinson* and either *P v P* or the *Marketmaker Technology* decision. It is not necessary for the SRA to prove that Ms Khan was consciously aware that she was acting in breach of the order or that she appreciated what the consequences might be if she failed to deliver up the Listed Items in each Order. It is enough that she was aware of its terms and that her failure to comply with them was deliberate rather than inadvertent. But in any event, I am satisfied beyond a reasonable doubt that Ms Khan deliberately failed to comply with the orders knowing that she might be held in contempt of court as a consequence. I say this for the following reasons:

- (1) Ms Khan failed to comply with the First Order between 8 September 2021 and 17 December 2021 and the Second Order between 28 September 2021 and 17 December 2021. Although Janes admitted that she had not complied with both orders in their letter dated 9 December 2021 and Mr Grey admitted this at the hearing, Ms Khan offered no explanation for her failure to comply with either Order for such sustained periods of time. Moreover, she offered no explanation even though paragraph 5 of each Order required her to provide such an explanation.
- (2) The only inference which I am able to draw, therefore, is that Ms Khan failed to comply with both orders deliberately and understanding full well what the consequences might be. I draw that inference from the period during which she was in breach of each Order, the absence of explanation and the additional matters set out in sub-paragraphs (3) to (7) (below).
- (3) Until the suspension of her practising certificate, Ms Khan was a litigation solicitor with Higher Rights of Audience. Because of her background, training and employment I am satisfied that on both 8 September 2021 and 28 September 2021 she fully understood the importance of court orders and the consequences of a failure to comply with them.

- (4) Ms Khan attended the hearing on 7 September 2021 and was present when Adam Johnson J made the First Order. It contained a prominent penal notice. It also contained the notice which I have set out in paragraph 11(above), which expressly stated that if Ms Khan or the Firm failed to deliver up the Listed Items and disobeyed the order, they might be found guilty of contempt and sent to prison.
- (5) The Second Order contained the same provisions. It was made without notice but Ms Khan accepted that she was notified of its terms on 28 September 2021. I am satisfied that Ms Khan was fully aware of those terms.
- (6) Ms Khan continued to represent herself at the hearing before Fancourt J on 22 October 2021 even though the judge pointed out that she was entitled to legally aided representation. Mr Grey also drew my attention to her witness statement dated 9 November 2021 in answer to the SRA's third application to restrain her from carrying out any reserved legal activities. In my judgment, that witness statement demonstrates quite clearly that Ms Khan understood what the consequences would be of a finding or admission that she was acting in breach of the First and Second Orders. In particular, she stated this at paragraph 44.6: "The SRA Ltd has adequate powers to enforce any alleged non-compliance of orders by bringing contempt proceedings against me (as it is doing)."
- (7) Finally, Dr Choudry's letter dated 16 December 2021 did not suggest that Ms Khan had been unable to comprehend the effect of the Orders when they were made or, indeed, on 22 October when she appeared before Fancourt J or on 9 November 2021 when she made that witness statement. At its highest, the letter suggested that Ms Khan might be unable to follow the issues and argument on the hearing of the contempt applications given the recent deterioration of her mental health.

(4) *Proof*

51. I am satisfied, therefore, that Ms Khan is liable for contempt for breach of paragraph 1 of the First Order and paragraph 1 of the Second Order on the grounds set out in each Application Notice dated 1 October 2021. I am also satisfied that in both cases the SRA has met the criminal standard of proof. I therefore turn to consider the question of sanction.

N. Sanction

(1) *Legal Principles*

52. The parties cited a number of authorities to the court in relation to sanction. In his second Skeleton Argument Mr Grey summarised the applicable legal principles by reference to a series of ten propositions (supported by authority) which I understood Mr Allen to accept as a reasonably accurate summary of the law. I therefore adopt those submissions here:

- (1) There are no formal sentencing guidelines for sentence/sanction in committal proceedings.

- (2) Sentences/sanctions are fact specific.
 - (3) The Court should bear in mind the desirability of keeping offenders and, in particular, first-time offenders, out of prison: see *Templeton Insurance Ltd v Thomas* [2013] EWCA Civ 35 and *Otkritie International Investment Management Ltd v Gersamia* [2015] EWHC 821 (Comm).
 - (4) Imprisonment is only appropriate where there is “serious, contumacious flouting of orders of the court”: see *Gulf Azov Shipping Company Ltd v Idisi* [2001] EWCA Civ 21 at [72] (Lord Phillips MR).
 - (5) The key questions for the Court are the extent of the Defendant’s culpability, and the harm caused by the contempt: see *Otkritie International Investment Management Ltd v Gersamia* (above).
 - (6) Committal to prison may serve two distinct purposes: (a) punishment of past contempt and (b) securing compliance: see *Lightfoot v Lightfoot* [1989] 1 FLR 414 at 414-417 (Lord Donaldson MR).
 - (7) It is good practice, for the Court's sentence to include elements of both purposes (punishment and compliance) to make clear what period of committal is regarded as appropriate for punishment alone, i.e. what period would be regarded as just if the contemnor were promptly to comply with the order in question: see *JSC Bank v Soldochenko (No 2)* [2012] 1 WLR 350.
 - (8) Committal may be suspended: see CPR Part 81.9(2). Suspension may be appropriate: (a) as a first step with a view to securing compliance with the Court’s orders: see *Hale v Tanner* [2000] 1 WLR 2377 at 2381; and (b) in view of cogent personal mitigation: see *Templeton Insurance Ltd v Thomas* [2013] EWCA Civ 35.
 - (9) The Court may impose a fine. If a fine is appropriate punishment it is wrong to impose a custodial sentence because the contemnor could not pay the fine: see *Re M (Contact Order)* [2005] EWCA Civ 615.
 - (10) Sequestration is also available as a remedy for contempt: see CPR Part 81.9(2)
53. One of the examples to which Mr Grey also took me was the recent decision of Miles J (who made, of course, the Second Order) in *Law House Ltd (In Administration) v Adams* [2020] EWHC 2344 (Ch). In that case the judge applied the following criteria (principally derived from the *Crystal Mews* case) in assessing the seriousness of the contempt in question:
- (a) whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy;
 - (b) the extent to which the contemnor has acted under pressure;
 - (c) whether the breach of the order was deliberate or unintentional;
 - (d) the degree of culpability;

- (e) whether the contemnor has been placed in breach of the order by reason of the conduct of others;
- (f) whether the contemnor appreciates the seriousness of the deliberate breach;
- (g) whether the contemnor has co-operated;
- (h) Whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.

54. I find these criteria particularly useful in the present case and I adopt them in arriving at the appropriate sanction. I also add that in relation to the second point Miles J reminded himself (as do I) that the Court of Appeal has recently re-emphasised that a sentence of imprisonment should only be imposed if nothing other than a custodial sentence is justified: see *McKendrick v FCA* [2019] EWCA Civ 524. Miles J also took into account (as do I) the possible impact of the pandemic on an immediate custodial sentence and that an immediate custodial sentence is likely to be heavier and all the more burdensome because of conditions of detention, lack of visits and anxiety.

(2) *Application*

55. I turn now to the application of those principles. I consider Ms Khan's contempt of the court to be serious. She has committed breaches of two court orders for three months and fourteen weeks respectively. Both Orders were clear on their face and I have found that Ms Khan knew that she was acting in breach of both of them and understood the consequences of the failure to comply with them. Moreover, it was necessary for the SRA to obtain those Orders to compel Ms Khan to comply with her obligations to her regulator. Her failure to comply with the orders involved not only an attack on the administration of justice – as Miles J described it in *Adams* at [65] – but also defiance of her regulator. The powers of the SRA to intervene in a solicitors practice are intended to protect both members of the public and public confidence in the profession and there is a strong public interest in ensuring that solicitors co-operate promptly with the SRA. Finally, Ms Khan is a solicitor and should be held to a higher standard than an unqualified defendant. Against these general conclusions I turn to consider the criteria applied by Miles J in *Adams*.

(a) Prejudice or Harm

56. Against the seriousness of the contempts, I balance the fact that the SRA was unable to point to any prejudice or harm which the clients of the Firm have suffered because of Ms Khan's failure to co-operate with the intervention or comply with both Orders. Mr Allen pointed out that the SRA is unable to assess the prejudice or harm which those clients may have suffered until Ms Khan has delivered up the Listed Items. I accept that submission up to a point. However, if time limits had been missed or clients had been unrepresented, I would have expected complaints to have been made to the SRA already. I therefore accept Mr Grey's submission that some discount should be made for the absence of harm or prejudice.

(b) Pressure

57. Ms Khan did not act under pressure from third parties to commit the breaches of either Order. Indeed, she was the sole director of the Firm and a director of JFP and took all decisions on their behalf. I can give her no discount for this reason.

(c) Nature of the Breach

58. I have found that the breaches of the Orders were deliberate and that they continued for significant periods of time. On any view, these were serious breaches of not just one but two court orders.

(d) Culpability

59. For the same reasons the degree of culpability was high. Even if she had arguable grounds to challenge either of the Orders, Ms Khan was required to comply with them until they were set aside. Mr James accepted this without argument at the hearing of the Set Aside Applications and I am satisfied that Ms Khan appreciated this herself. The nature and length of the breach and the degree of Ms Khan's culpability suggest that an immediate custodial sentence is justified in the absence of any other mitigating factors.

(e) Third Parties

60. Ms Khan was not placed in breach of either order by the conduct of third parties. She was the sole director of the Firm and a director of JFP and responsible for both their and her own breaches of the Orders. I can therefore give her no discount for this reason either.

(f) The Seriousness of the Breach

61. Until Janes' letter dated 9 December 2021, Ms Khan did not accept that she had committed breaches of the two Orders. Moreover, until I had dismissed her application for a further adjournment on 17 December 2021 she gave no indication that she intended to comply with them. Even then, she did not accept that she had committed the breaches deliberately or that she was in contempt of court. Her failure to accept that she was in contempt or to recognise the seriousness of those breaches merits no discount.

(g) Co-operation

62. Until I had dismissed her application for a further adjournment on 17 December 2021, Ms Khan made no offer to co-operate with the SRA in locating and producing the Listed Items in each Order. Far from it, she had failed to co-operate at all. At the conclusion of that hearing Ms Khan offered through Mr Grey to deliver up the relevant documents at the Leicester office provided that she was present in person. However, she did not do so. Instead, she issued the Second Set Aside Application and renewed the First Set Aside Application. I can give her no discount for co-operation.

(h) Admission

63. In their letter dated 9 December 2021 Janes made an admission that Ms Khan had acted in breach of the Orders and Mr Grey repeated that admission on her behalf

both in his Skeleton Argument and orally and on 17 December 2021. However, Ms Khan did not admit that she was in contempt. Nor did she express any remorse or put forward any reasonable excuse for her conduct. I make no discount for the limited admissions which Janes and counsel made on Ms Khan's behalf because they led to no saving in time or costs. Indeed, having made the admission that she was in breach of the Second Order, Ms Khan immediately applied to set it aside.

(3) *Mitigation*

64. I turn therefore to consider personal mitigation. I accept that Ms Khan has no criminal record and no disciplinary findings against her. I also accept that she has suffered a serious hand injury which has impeded her and contributed to her fragile mental state. Finally, as I indicated on the adjournment application, I give full weight to Dr Choudry's assessment of Ms Khan's mental condition and that he has referred her to a specialist. This cannot excuse Ms Khan's conduct but it goes some way to explain why she adopted such a wrong-headed attitude to the intervention and to the subsequent court orders.
65. I also take into account the effect of this litigation on Ms Khan's personal and professional life. Intervention is a last resort but it is very intrusive and can effectively destroy a solicitor's practice. Ms Khan has no current source of income and is living with family who have had to provide personal assistance. I also make allowance for the fact that Ms Khan has no experience of prison and that a period of imprisonment will be extremely hard for her given her psychological condition and the current pandemic (especially with rising hospital admissions due to the current omicron variant).

(4) *Sentence*

66. I have carefully considered whether a fine would be a sufficient penalty and taken into account the fact that a custodial sentence should only be imposed as a last resort. But in my judgment Ms Khan's conduct amounts to "serious, contumacious flouting of orders of the court" and merits an immediate custodial sentence of a significant length. Given the various factors which I have considered, the minimum sentence which I can impose is six months. I impose three months for the breach of each order to run concurrently and three months to secure compliance with the orders in question.

(5) *Suspension*

67. I will suspend three months of the sentence conditional upon compliance by Ms Khan with both the First and Second Orders within six weeks of the date of this judgment as reflected in the draft order which I have circulated before handing down this judgment. If Ms Khan fails to comply with either order during that period, she will serve the second three months of the sentence. Ms Khan will be entitled to unconditional release after serving half the sentence under section 258 of the Criminal Justice Act 2003. In practice, this means that she will be released after serving six weeks in prison if she complies with the Orders before the end of that period and after three months if she fails to do so.

O. Striking Off

68. Mr Allen also submitted that it was appropriate for the court to order that Ms Khan should be struck off the Roll of Solicitors in the exercise of its inherent supervisory jurisdiction. In his oral submission Mr Allen made it clear that the only basis upon which the court should exercise this jurisdiction was Ms Khan's failure to comply with court orders in contempt of court rather than her failure to comply with her conduct obligations as a solicitor. By email dated 23 December 2021 Capsticks also wrote to the court to confirm this in response to additional written submissions which Mr Grey had also filed. They stated as follows:

“The SRA does not suggest that the Court should strike Ms Khan off the Roll on the basis of or by reference to the matters which form the basis of the decision to intervene (cf. para 9 of the supplemental submissions). The strike off is sought only on the basis of the findings of contempt. This too was made clear in the SRA's supplemental skeleton argument and the SRA's oral submissions.”

69. There was no issue between counsel that the court had jurisdiction to strike off Ms Khan. Mr Grey relied on the decision of the Court of Appeal in *R and T Thew Ltd v Alan Reeves (No.2)* [1982] QB 1283 for the proposition that it would usually be inappropriate for a judge to exercise this punitive jurisdiction of his own motion and that it should be avoided in all but the most exceptional cases. Mr Allen accepted that the court should only exercise the jurisdiction in exceptional cases and he properly drew my attention to the following statement by Hickinbottom J in *Coll v Floreat Merchant Banking Ltd* [2014] EWHC 1741 (QB) at [42]:

“The court's summary jurisdiction over solicitors is extraordinary, and therefore should only be exercised sparingly (i) if justice requires this procedure to be adopted, as opposed to some other procedure (e.g. disciplinary proceedings through the SRA, or an ordinary civil claim) (see *Geoffrey Silver & Drake (a firm) v Baines (trading as Wetherfield Baines and Baines) (a firm)* [1971] 1 QB 396 at page 405 per Megaw LJ) and (ii) in a clear case (ibid at page 402F-G per Lord Denning MR).”

70. Mr Allen relied, however, on the decision of Neuberger J (as he then was) in *Penna v Law Society* (unreported, 18 October 2000) to exercise the jurisdiction and strike off a solicitor. He summarised the law at page 4, line 17 of the transcript to page 5 line 20 in the following five propositions:

“An application to the court to strike a solicitor off the Roll of Solicitors is a rare application. As Mr. Dutton says, a complainant who wishes such an order should normally apply to the Solicitors' Disciplinary Tribunal under section 46 of the Act. However, in exceptional cases, it is appropriate for the application to be made to the court. In the present case, I am quite satisfied that the application is properly made to the court. First, it is not made with a view to avoiding a determination by the Disciplinary Tribunal which has the primary responsibility for control of solicitors in this connection. That is evident from the fact that the application is by the Law Society itself. Secondly, many of the points advanced for justifying the application concern Mr. Penna's

conduct during the trial before Jonathan Parker J. and his subsequent conduct in connection with the three court orders to which I have referred. Thirdly, although I am not in fact being asked to make any order on it, there is a perfectly proper application for a committal order for Mr. Penna's contempt. If that application is to be made it can only be made to the court and it is sensible to combine it with the application under sections 50 and 51 of the Act. Fourthly, it is cost-effective to apply to the court. Particularly in light of the seriousness of the allegations, if the matter had gone before a tribunal they may have had to start again, which would have involved a great deal of cost and effort. Fifthly, the nature of this case is such that the specialist knowledge or expertise which the tribunal might have would not lead them to a different or differently-reasoned conclusion from the reasoned conclusion that I have reached. That view is perhaps assisted by the fact that Mr. Penna has accepted that he must be disqualified.”

71. Finally, Mr Allen relied on the following statement by Sir Brian Leveson P in *SRA v Farrimond* [2018] EWHC 321 (Admin) at [35] (where the court struck off a solicitor who had been convicted of the crime of attempted murder):

“In my judgment, it is beyond argument that a solicitor sentenced to any substantial term of imprisonment should not be permitted to remain on the Roll even if suspended indefinitely. The difference between indefinite suspension and strike off might be limited to the period of time before which an application to restore (or resume) can be made and it may be that the conditions suggested by the Tribunal, if satisfied, might permit Mr Farrimond to make an application to be restored to the Roll if he feels that such an application is appropriate and sensible given the mental state into which he had descended prior to the attack. It is simply inconceivable that a prisoner, serving a sentence of 6 years’ imprisonment, should be able to describe himself as a solicitor and officer of the court albeit suspended from practice.”

72. I am not satisfied that this is an exceptional case in which the court should exercise its jurisdiction to strike a solicitor off the Roll. In particular, I am not satisfied that justice requires the court to exercise its inherent jurisdiction to adopt a summary procedure on the hearing of a committal application. In my judgment, it is more appropriate for the SRA to take proceedings before the SDT in the normal way if it wishes to secure an order that Ms Khan should be struck off. I have reached this conclusion for three principal reasons:

- (1) Ms Khan’s application to set aside the intervention has not yet been heard. I cannot determine that her application is bound to fail and the SRA did not ask me to do so. It is possible, therefore, that the court may set it aside. Although this does not excuse Ms Khan’s contempt, for all I know it may have a significant effect on any sanction imposed by the SDT.
- (2) There may be other, wider grounds of mitigation bearing on the conduct of her practice which Ms Khan may be able to put before the SDT but which would have no bearing on the applications before me.

- (3) Finally, I am satisfied that *Penna* was exceptional and clearly distinguishable from the present case. In *Penna* the Law Society did not ask the court to impose a prison sentence or other sanction for contempt and the solicitor accepted that he should be removed from the Roll. In the present case, I have sentenced Ms Khan to a term of imprisonment on the basis that this is the appropriate sanction for her contempt of court.

P. Disposal

73. I will therefore make an order in the terms of the draft which I have circulated to counsel with this approved judgment. I will also issue a warrant of committal. I remind Ms Khan that she is entitled to appeal against the findings of contempt as of right and without permission and I will hear any application for bail or for a stay following the hand down of this judgment.

Q. Postscript

74. After I had read out and handed down judgment and circulated a draft order, Mr Allen raised a concern whether the court had power to impose a custodial sentence part of which was to take effect immediately and part of which was suspended. (CPR Part 81.9(2) provides that a warrant of committal must have immediate effect unless the court decides to suspend its execution and there is some doubt, therefore, whether it is possible to issue a warrant of committal which is to take effect immediately but then is later suspended.) Although Mr Grey did not object to the form of order which I had originally proposed to make and the parties did not ask me to decide this issue, Mr Allen and he agreed a form of order which avoided this issue arising and I am grateful to them.
75. I therefore record at the end of this revised judgment that in my final order I imposed a sentence of six months imprisonment for each contempt (to run concurrently) and that each sentence should comprise a fixed term of three months as punishment for past breaches and a fixed term of three months which should be discharged upon an application by Ms Khan to purge her contempt. I also gave her express permission to apply to purge her contempt and for an order to discharge and release her from serving the remaining three months of each sentence if she had complied in full with paragraph 1 of the First Order and paragraph 1 of the Second Order before 4.30 pm on Tuesday 22 February 2021.