Solicitors Regulation Authority

Decision on Referral to the Solicitors Disciplinary Tribunal

Case reference number	RGC-000148905
Date of report	8 February 2024
Date of decision	21 March 2025

Relevant individual	
Name and SRA ID	Claire Gill (20940)
Current regulatory status	Solicitor
Current Practising Certificate status	Practising certificate free from conditions

DOCUMENTS

1. As the Authorised Decision Maker (**ADM**), I have considered the following documents:

   1.1. A notice recommending referral of conduct to the Tribunal dated 8 February 2024 (**the Notice**) and document bundle (pages A1 to A352);

   1.2. Representations on the Notice jointly from Ms Gill and Carter-Ruck (**the Firm**), dated 22 July 2024 (**the Representations**), and document bundle (pages B1 to B879);

   1.3. Subsequent correspondence between the SRA and Ms Gill/the Firm, as follows:

      1.3.1. An email from the SRA's Investigation Officer to Ms Gill/the Firm dated 22 July 2024 acknowledging receipt of the joint representations.

      1.3.2. An email from the subsequent Investigation Officer to Ms Gill/the Firm dated 16 September 2024 with update on progress of the process.

      1.3.3. A letter by email from Ms Gill/the Firm to the Investigation Officer dated 23 September 2024 and a copy of the enclosed letter from the SRA to the Society of Media Lawyers dated 6 September 2024.

      1.3.4. An email from the Investigation Officer to Ms Gill/the Firm dated 25 September 2024 acknowledging receipt of Ms Gill/the Firm's letter and confirming that it will be passed on the ADM.

      1.3.5. An email from the Investigation Officer to Ms Gill/the Firm dated 2 December 2024 with update on progress of the process.

      1.3.6. An email from the SRA's Investigation Manager to Ms Gill/the Firm dated 23 December 2024 with further update on progress.

      1.3.7. A letter by email from Ms Gill/the Firm to the Investigation Officer dated 10 January 2025 requesting disclosure of an escalation memo.

1.3.8. An email from the Investigation Officer to Ms Gill/the Firm dated 14 January 2025 acknowledging receipt, confirming the letter would be passed on to the ADM and also confirming that further disclosure was to follow.

1.3.9. A letter by email from the Investigation Officer to Ms Gill/the Firm dated 21 February 2025 enclosing a bundle of five documents (pages 1 to 20).

1.3.10. A letter by email from Ms Gill/the Firm to the Investigation dated 7 March 2025 with representations on the documents recently disclosed together with an enclosed email chain dated 19 April 2017.

DECISION

2. I am asked to refer the conduct of Ms Gill to the Tribunal to consider the allegations contained in the Notice in accordance with section 47 of the Solicitors Act 1974.

3. This is a decision under rule 3.1(g) of the SRA Regulatory and Disciplinary Procedure Rules (**RDPRs**). Rule 6.1 of the RDPRs provides that an ADM may decide to make an application to the Tribunal in respect of a firm or an individual under rule 3.1(g) only where they are satisfied that:

   3.1. There is a realistic prospect of the Tribunal making an order in respect of the allegation; and

   3.2. It is in the public interest to make the application.

4. Taking the above two tests in turn and having considered the above referenced documents, the SRA Enforcement Strategy and the SRA's publicly facing guidance (Issuing Solicitors Disciplinary Tribunal proceedings), I consider there is a realistic prospect that the Tribunal will make an order in respect of an allegation against Ms Gill because:

   4.1. the conduct breaches the obligations contained in the SRA Handbook or meets the requirements for a control order;

   4.2. on the balance of probabilities, the evidence proves the conduct; and

   4.3. the conduct is serious enough for the Tribunal to make an order.

5. I also consider that it is in the public interest to refer the allegation against Ms Gill to the Tribunal.

REASONS

Background

6. In June 2016 the Firm was instructed by Dr Ruja Ignatova and her company, One Network Services Limited, to improve their online reputation. This instruction arose out of negative publicity the client's business had been attracting. That business was underpinned by a new cryptocurrency called OneCoin. Allegations were circulating online that OneCoin was not a legitimate cryptocurrency supported by a viable blockchain and in fact the client's business was an unlawful pyramid selling scheme or Ponzi scheme. In short, it was alleged that OneCoin was a fraud.

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7. The client matter was initially conducted by Mr Nigel Tait and he was assisted by Mr Peter Smith who had conduct day-to-day. In mid-August 2016 Mr Smith left the firm and Ms Claire Gill took over substantive conduct.

8. The Firm was initially instructed to understand the company and its product and to develop the rebuttals against the criticisms raised online.

9. The scope of the instruction developed when, in September 2016, the Financial Conduct Authority (**FCA**) published a warning notice about OneCoin and referred to an investigation by the City of London Police (**CoLP**). The Firm took instructions and wrote to the FCA on 28 and 30 September 2016 seeking to remove the warning notice (**the FCA Letters**).

10. The Firm also wrote to a DC Kieron Vaughan of the CoLP on 20 January 2017 and to the CoLP itself on 10 February 2017 as well as the CoLP's solicitors, BLM, on 19 May 2017 (**the Police Letters**).

11. As part of this phase of the instruction, the Firm sent letters of complaint to various other parties in January to April 2017 to address further criticisms of OneCoin arising online. In particular, on 26 April 2017 the Firm wrote to Ms Jennifer McAdam, a former marketing associate employed by a OneCoin company (**the McAdam Letter**). Ms McAdam had published multiple statements, by way of webinar videos on YouTube, warning people against involvement in OneCoin and alleging involvement of a criminal network in the business. The Firm's letter denied the truth of these allegations and stated that if the videos were not removed then its client would initiate defamation proceedings against Ms McAdam. Ms Gill took the client's instructions on preparing the McAdam Letter and, although sent in the name of the Firm, the final version carried Ms Gill's initials (CFG), indicating she was the primary author or at least ultimately responsible for its content.

12. Also on 26 April 2017 the Firm wrote to Talon Media Group Limited in relation to an article on its website referring to OneCoin as *"One of the Biggest Scams in Crypto History"* and asserting a link to organised crime (**the Talon Letter**). The Firm's letter denied these allegations, asserted that they were highly defamatory and threatened legal action if the article was not removed. Again, Ms Gill took instructions on preparing the Talon Letter and the final version carried Ms Gill's initials.

13. On 25 October 2017 the Firm wrote to Publika TV, a Moldovan broadcaster, with regards to a programme it ran about OneCoin (**the Publika Letter**). The Firm's letter asserted that certain statements in the programme were highly defamatory and denied by its client. The Firm reserved its client's rights.

14. Following the disappearance of Dr Ignatova in early November 2017 the Firm ceased all substantive work on the matter.

Allegations

15. The Notice put three allegations to Ms Gill, which can be summarised as follows:

    15.1. Ms Gill accepted instructions in June 2016 without adequate due diligence on OneCoin, without adequately understanding the subject matter and without taking adequate steps to establish the technical viability of OneCoin.

15.2. By sending each of the FCA Letters, the Police Letters, the McAdam Letter, the Talon Letter and the Publika Letter Ms Gill engaged in strategic litigation against public participation (**SLAPP**) or acted in a way that was either oppressive or abusive (or both).

15.3. Ms Gill improperly used two correspondence labels on the McAdam Letter.

16. In relation to each of the three allegations it was alleged that Ms Gill acted in breach of Principle 2 (the duty to act with integrity) and Principle 6 (the duty to maintain public trust) of the SRA Principles 2011 (**the Principles**). In relation to allegations two and three it was also alleged that Ms Gill acted in breach of Outcome 11.1 of the Code of Conduct 2011 (the duty not to take unfair advantage of third parties) (**the Code**).

17. Identical allegations were put to the Firm, which are the subject of a separate referral decision also dated 21 March 2025.

18. The allegations against Ms Gill are considered as follows:

Realistic prospect test – Allegations one and three

19. I am not satisfied that the realistic prospect test is met in relation to either of these allegations.

20. Allegation one is premised on actions taken or not taken in or around June 2016 on being instructed. The evidence indicates Ms Gill first became involved in this matter on 15 August 2016. On a strict reading of the allegation, Ms Gill could not be culpable for any of the alleged failures. Even if the allegation is read more broadly over time to capture Ms Gill's substantive conduct of the matter, no obligation to conduct such due diligence is expressly identified. Nor could such an obligation be inferred. As the Representations identify, the work undertaken by Ms Gill and the Firm was out of scope of the Money Laundering Regulations 2007 and the express obligations to apply client due diligence measures therein could not be taken to apply.

21. In any event, the evidence indicates (and the Representations highlight) that Ms Gill made concerted efforts to understand the corporate structure of the OneCoin business and to obtain instructions on the technical viability of the currency and the blockchain supporting it. In particular, between 19 October 2016 and 7 April 2017 Ms Gill repeatedly sought instructions on the business model generally as well as technical details of how the blockchain operated in order to rebut the allegations that it was not viable. Ms Gill reminded the client that denials with verifiable facts would be the best ammunition to rebut the allegations with. When Ms Gill was not satisfied with instructions on the falsity of the allegations she sought more detailed instructions. For example, the client provided some technical information on 10 March 2017 but on 14 March 2017 Ms Gill requested a clearer explanation. When that explanation was not forthcoming, Ms Gill repeated her request for detailed instructions on technical information on 6 April 2017. Ms Gill explained that obtaining technical information on the blockchain would be necessary to write letters of complaint. The client replied the same day, seemingly frustrated by Ms Gill's request, and she asked to speak with the senior partner about the conduct of the file. The client did not provide the technical information Ms Gill requested and on 12 April 2017 the strategy pivoted away from rebutting allegations about the viability of the blockchain and towards rebutting allegations of serious criminality instead.

22. Allegation three concerns Ms Gill's use of the labels "private and confidential" and "not for publication" on the McAdam Letter. The use of those two labels is alleged to be improper.

23. The SRA accepts that the use of these two labels is a well-established and legitimate practice that serves an important purpose of conveying an author's lack of consent to the publishing of a letter and to signal the intention that the letter should not be read by unintended recipients in order to protect confidential information. The use of such labels should be justifiable though, for example, if the letter contains genuinely confidential information that requires protection. In relation to this, the Representations state that the letter did convey confidential information about the impact of Ms McAdams' allegations on the OneCoin business.

24. For those reasons, I consider it is unlikely that a Tribunal would find Ms Gill acted in breach of the obligations as alleged in allegations one and three. I am satisfied the realistic prospect test is not met and Ms Gill's conduct in relation to these two allegations should not be referred to the Tribunal.

Realistic prospect test – Allegation two

25. This allegation concerns Ms Gill's conduct in either:

    25.1. engaging in a SLAPP; or

    25.2. acting in a way that was either:

        25.2.1. oppressive; or

        25.2.2. abusive; or

        25.2.3. both of those things,

    25.3. or acting in both of the ways described at paragraphs 25.1 and 25.2 above.

26. Ms Gill is alleged to have so acted by the sending each of the following letters:

    26.1. the FCA Letters;

    26.2. the Police Letters;

    26.3. the McAdam Letter;

    26.4. the Talon Letter; and

    26.5. the Publika Letter.

27. Although I have considered each of these letters carefully, the analysis of the conduct arising out of them can be grouped as follows.

28. In relation to the FCA Letters, the Police Letters and the Publika Letter, none of these contained an express or implied threat of litigation. In the letters Ms Gill asserts her client's rights and challenges the perceived infringements of those. In relation to both the FCA Letters and the Police Letters, Ms Gill took advice from Counsel that the client had an arguable case that those bodies had acted unlawfully and the letters sought to protect

the client's rights in a firm manner. In relation to the Publika Letter, the express reservation of rights did not amount to a threat of litigation that might otherwise require further consideration as to whether it was a SLAPP, oppressive or abusive. The evidence does not indicate that any of the recipients were taken unfair advantage of. As such, I consider it is unlikely that a Tribunal would find Ms Gill acted in breach of the obligations as alleged in relation to these letters.

29. The McAdam Letter and the Talon Letter should be distinguished from the other correspondence. Both of these letters contained an express threat of litigation. In the McAdam Letter it was stated as follows: *"Our clients' current instructions are to initiate proceedings against you for defamation."* That threat was repeated further down the letter. In the Talon Letter, the allegations of criminal activity were denied and it is asserted that if the offending article was not removed then *"our clients will have no choice but also to pursue a legal complaint against you."* It is accepted in the Representations that the reference to "legal complaint" reflected the client instructions to pursue a claim against Talon Media Group for the defamatory statements.

30. Ms Gill shared the drafts of both of these letters with the client, the first draft on 21 April 2017 and revised draft on 25 April 2017. The client replied on the same day with instructions, saying *"Lets proceed with legal actions."*. The evidence therefore indicates Ms Gill sent both letters with client instructions.

31. Consistent with established common law principles and as described in the Opinion of Mr Dutton KC, a solicitor acting on instructions and not advancing a claim they know to be vexatious or an abuse or process will not be in breach of Principle 6 of the Principles. Mr Dutton KC also states that it is not improper for a solicitor to assert a claim even if the client has no intention to pursue it any further that issuing, provided the claim is not an abuse of process or is vexatious. To determine whether or not the threats of litigation in these two letters were improper the Tribunal would therefore need to consider if they were abusive. For the following reasons I consider there is a realistic prospect the Tribunal will consider the threats were made abusively and accordingly in breach of Principle 6 of the Principles.

32. Despite Ms Gill's repeated efforts to obtain more detailed instructions (as referred to in paragraph 21 above), in April 2017 it became apparent that further technical information about the viability of the blockchain was not available at that time. On 12 April 2017 Ms Gill advised that the focus should switch to rebutting the allegations of criminal activity but she warned: *"the underlying allegation is that OneCoin is suspected to be a criminal fraud; it may be impossible therefore to avoid getting into the technical areas about the blockchain if we issue and pursue proceedings."*. Ms Gill explained she was *"loathe to recommend legal action unless we have a decent prospect of success"* but she acknowledged she could *"see the force in the argument that the company has to take a stand, and show itself ready to fight."*.

33. The strategy to pursue a limited defamation claim for public messaging purposes was developed in Ms Gill's email to the client on 18 April 2017 when she stated:

> *"I note the view is that legal action must be initiated to send a clear message that action is being taken, even though the claims are not straightforward. We have agreed to focus on the most serious allegations about criminal conduct so as to avoid getting bogged down in an action about the technology."*

34. That strategy was crystalised in Ms Gill's email to the client on 20 April 2017, six days before sending the McAdam Letter and the Talon Letter. In that email Ms Gill advised as follows:

> *"The goal of legal action is to reassure members and to send a strong PR message. The risks associated with legal action are too great but for this overwhelming benefit in being able to publicise the fact of bringing action, and the view is that even if we have to drop the claim later we have to be seen to start it."*

35. The evidence indicates the two letters were therefore sent when Ms Gill knew:

    35.1. she did not have instructions on the falsity of the allegations about the viability of the blockchain (noting Ms Gill's email to the client on 2 May 2017, *after* sending the McAdam Letter and the Talon Letter, that at that point they were not able to say what is false about the blockchain allegations);

    35.2. she had advised that it may be impossible to separate out the allegations of criminality from the allegations about the blockchain (and that advice was echoed by Mr Matthew Nicklin QC on 11 May 2017 when he advised that the claim would almost certainly broaden out to the blockchain allegations and without extensive disclosure or expert evidence then commencing proceedings would be very unwise); and

    35.3. the purpose was to reassure existing members of the OneCoin scheme and to send a strong PR message, not to obtain the relief of the court.

36. For those reasons I consider the Tribunal is more likely than not to find that Ms Gill acted abusively and in breach of Principle 6 of the Principles when making these two threats of defamation claims for the ulterior purpose of obtaining a perceived benefit in the court of public opinion rather than seeking the relief of the court through the genuine and legitimate pursuit of proceedings. As reflected in Mr Dutton KC's opinion, even when acting with client instructions, a solicitor fails to maintain public trust by advancing a claim they know to be abusive.

37. As a second basis for reaching the same conclusion, I consider it is also more likely than not the Tribunal would find that Ms Gill advanced these two threats of litigation abusively and in breach of Principle 6 of the Principles because she did not have instructions on the falsity of the blockchain allegations. Although the two letters both refer to the imputations of criminal activity and not the weaknesses of the blockchain, Ms Gill (and subsequently Mr Nicklin QC) acknowledged the two sets of allegations were almost inevitably linked. To advance the threat of defamation on the basis of allegations of criminal activity would almost certainly result in the allegations of the blockchain coming into issue. Yet Ms Gill knew she did not have instructions on the falsity of the blockchain allegations.

38. The evidence indicates that Ms Gill was consciously aware of both the ulterior motive for the threatened litigation and the lack of client instructions on falsity of the blockchain allegations. I therefore consider it more likely than not that the Tribunal would consider Ms Gill also acted in breach of Principle 2 of the Principles by either deliberately or recklessly disregarding her duty to maintain public trust in order to advance her client's improper threats of litigation. For the same reason I consider the Tribunal would also find that Ms Gill's conduct took unfair advantage of the unrepresented recipients in breach of Outcome 11.1 of the Code. The fact that the recipients were unrepresented allowed Ms

Gill greater opportunity to conceal the weakness of the threats (due to lack of instructions on falsity) and the ulterior motive behind the threatened litigation.

39. It is said at paragraph 192 of the Representations that the purpose of the threatened litigation against Ms McAdam was to obtain a copy of the recording of her conversation with DC Kieron Vaughan and that was entirely proper because it is the nature of a *Norwich Pharmacal* application to obtain evidence. The evidence does not support this proposition. The McAdam Letter expressly threatened a defamation claim. The idea of abandoning that threat and instead pursuing a *Norwich Pharmacal* application just to obtain a copy of the recording first arose in Mr Nicklin QC's advice dated 9 May 2017, after the McAdam Letter was sent. Instead, the contemporaneous email correspondence in the build up to preparing the McAdam Letter (and the Talon Letter) demonstrates that the true purpose of the threatened litigation was to assure existing OneCoin members and to send a strong public message. Ms Gill described this as the *"overwhelming benefit"* of the contemplated litigation.

40. As a linked point, at paragraph 196 the Representations also state that a vindicatory benefit is a proper purpose to any defamation action. In this regard, there is nothing wrong with a solicitor helping to protect a client's rights for public relations purposes. That reputation can only be restored, however, after a claimant is vindicated at the end of a successful claim and after any defences have failed. As described in the case quoted in the Representations of *Jameel v Wall Street Journal* [2006] UKHL 44, the vindicatory benefit arises on a defamation action succeeding (paragraph 24). The contemporaneous emails from Ms Gill demonstrate it was never the intention at the time of sending the McAdam Letter and the Talon Letter that the defamation claims would be pursued to a final determination.

41. Finally, the Representations state that in any event the holder of a right is entitled to protect it regardless of their reasons for doing so. The client's purpose for enforcing the right is therefore immaterial to the solicitor unless they know the claim is abusive or vexatious. The Representations go on to state that a solicitor acting in good faith and on instructions that support a properly arguable claim cannot be characterised as knowingly supporting a vexatious or abusive claim. As described above, the evidence suggests Ms Gill was aware that the purpose of the litigation was for the appearance of bringing a claim and not to obtain any relief of the court. Likewise, Ms Gill was aware she did not have instructions on the falsity of allegations very likely to be central to the claim advanced.

42. For all of the above reasons, I consider there is a realistic prospect that the Tribunal will make an order in respect of allegation two insofar as the McAdam Letter and the Talon Letter only.

Public interest test

43. Although I am satisfied that the realistic prospect test is met in relation to allegation two to the extent of the McAdam Letter and the Talon Letter only, consideration also needs to be properly given to the public interest test.

44. The SRA's decision making guidance makes clear that when the realistic prospect test is met then there is a strong public interest in favour of referring the matter to the Tribunal for a proportionate and appropriate sanction to be applied. This is necessary to maintain standards and to uphold public confidence in the profession.

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45. On a rare occasion, however, factors may exist that indicate the public interest weighs against referring the matter to the Tribunal even where we are satisfied there is a realistic prospect of the Tribunal making an order. The Representations point to two relevant factors: delay and failure of process.

46. As to delay, I am mindful that the notice indicates the SRA started its investigation following an article in *The Times*, which reported on the Firm's role in acting for OneCoin and Dr Ignatova. A copy of that article is included in the bundle I have reviewed and it is dated 15 December 2019. The SRA first wrote to the Firm on 18 May 2020 and the Firm provided a substantive reply a month later. This indicates the investigation is between four years and 10 months old and five years and three months old.

47. The guidance states that in such situations of lengthy investigations the public interest test can still be satisfied if the issuing of proceedings remains proportionate, taking account the length of time that has elapsed between the conduct and the making of the decision to issue and taking into account the reasons for the length of the investigation. The appendix to the Representations provided a detailed breakdown of the SRA investigation. Whilst there are periods of time during the investigation that are not explained, I am satisfied that it remains proportionate to issue proceedings given the seriousness of the allegation to be considered by the Tribunal. As the chronology of the investigation demonstrates, there were multiple requests for evidence, some extension requests from the Firm to comply and a large quantity of documents provided to the SRA to consider. In addition, Ms Gill and the Firm prepared substantial representations on the Notice over a period of five months. I also did not see in the Representations any suggestion that Ms Gill can no longer recall the index events or that evidence has since been lost. This is also unlikely to be the case when the Firm provided a substantive response in June 2020, crystalising knowledge of events and preserving evidence at that time, approximately three years after the events in question. This is reflected in the comprehensive Representations that demonstrate a full ability to recall and engage with the facts of the matter. I therefore consider that the length of time taken to investigate this matter will not adversely impact on Ms Gill's right to a fair trial. In any event, Ms Gill will have an opportunity to ventilate any concerns in this regard when in the jurisdiction of the Tribunal.

48. As to the alleged failure of process, I have seen the correspondence from the Firm requesting the disclosure of material concerning the escalation of a recommendation, which was referred to in the Investigation Officer's email dated 12 July 2023. In a letter from Mr Mat Leeming to Ms Gill, it was confirmed that the escalation memo was produced for the purposes of obtaining advice from the SRA's legal team. I have not had sight of the escalation memo and nor do I consider I need to. Nor do I consider that I need to direct the disclosure of it. The SRA is asserting privilege over the document and that privilege will not be waived. Regardless of its privileged status, the document is irrelevant to the position Ms Gill was asked to respond to in the Notice. It is equally irrelevant to the decision I am asked to make now. The SRA cast its regulatory concerns in the Notice and not before.

49. Further, the Investigation Officer's email of 12 July 2023 cannot reasonably be taken to have created a substantive legitimate expectation that the investigation was closing such that the SRA should be prohibited from recommending any other outcome. The email is expressly clear that the Investigation Officer had only made a recommendation and it was subject to scrutiny by senior colleagues. That statement gives no indication what the recommendation was and nor does it give any assurances about what the outcome to the escalation process might be. The Investigation Officer then expresses a hope to provide a further update within a month *"to bring this matter to a conclusion"*. There is no

indication from the email what that conclusion might be, leaving open the possibility that the matter would be brought to a conclusion by way of a notice with a recommended outcome. In those circumstances, I am satisfied that the public interest in putting this matter before the Tribunal is not undermined by the Investigation Officer's reference to having escalated a recommended outcome and nor is it undermined by the SRA's refusal to waive privilege and disclose the escalation memo as requested.

50. Accordingly, I consider the public interest test is met.

Application, Notice, Review and Appeal Rules (ANRARs)

51. There is no right of review or appeal of this decision in accordance with the ANRARs.

Signed: [redacted]

John Quentin
(Authorised Decision Maker)