IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 274

Admission of Advocates and Solicitors No 336 of 2023
(Summonses Nos 966 and 1072 of 2024)

In the matter of Section 12 of the Legal Profession Act 1966

And

In the matter of Rule 25 of the Legal Profession (Admission) Rules 2011

And

In the matter of Mohamad Shafee Khamis

Mohamad Shafee Khamis

… *Applicant*

GROUNDS OF DECISION

[Legal Profession — Admission]

Re Mohamad Shafee Khamis

[2024] SGHC 274

General Division of the High Court — Admission of Advocates and Solicitors
No 336 of 2023 (Summonses Nos 966 and 1072 of 2024)
Sundaresh Menon CJ
15 August 2024

28 October 2024

Sundaresh Menon CJ:

Introduction

1 The administration of justice is the joint endeavour of various key stakeholders, one of which is the legal profession. Because of the integral role played by members of the profession, the court, which administers the justice system, acts as the gatekeeper for admission to the profession. In this, it must ensure that those who enter its ranks not only possess the requisite standards of competence but are also sufficiently endowed with the qualities of professionalism and probity that are necessary to secure the proper functioning of the justice system, and, more importantly, to gain and keep the trust and confidence of the public which the system is designed to serve.

2 In the recent jurisprudence concerning contested applications for admission to the profession, the exercise of judicial discretion has largely been guided by scrutiny of the applicant's character at the time the application is

made, with the primary consideration being whether the applicant has been sufficiently rehabilitated: see, for example, *Re Wong Wai Loong Sean and other matters* [2023] 4 SLR 541 ("*Re Sean Wong*") at [3] and *Re Suria Shaik Aziz* [2023] 5 SLR 1272 ("*Re Suria Shaik*") at [20]. These cases primarily concerned *academic* misconduct, typically committed while the applicants had been students or in the context of taking their professional examinations.

3 A few of these cases have involved past criminal offences. The present was the first in which an applicant had been convicted of serious sexual offences and served his sentence. At one level, this might suggest that he has paid his debt to society, been rehabilitated, and was ready to be reintegrated as a member of society. However, beyond the applicant's rehabilitation on a *personal* level, in assessing the applicant's fitness to be admitted as an Advocate and Solicitor, it was, in my judgment, necessary to consider whether admitting him at this time presented a real risk of undermining public trust in the legal profession and the administration of justice, and consequently, whether a further passage of time would be necessary for the court and the stakeholders to be assured that he was a fit and proper person for admission into the profession.

4 There was also a separate question as to whether the applicant could represent himself in these proceedings. As explained below, I was satisfied that although this was not the norm, there was no impediment to his doing so in this case.

Background

5 The applicant in the present case was Mr Mohamad Shafee Khamis (the "Applicant"). He was a teacher at a school in Singapore (the "School") until 16 April 2018, when he resigned with immediate effect. The Applicant filed the present application, HC/AAS 336/2023 ("AAS 336") on 16 May 2023, seeking

admission as an Advocate and Solicitor pursuant to s 12 of the Legal Profession Act 1966 (2020 Rev Ed) (the "LPA"). The Applicant was 50 years old when he commenced AAS 336.

6 The Attorney-General (acting by his Chambers and hereinafter referred to as the "AGC"), the Law Society of Singapore (the "Law Society") and the Singapore Institute of Legal Education (the "SILE") (collectively, the "Stakeholders") objected to AAS 336. Their objections were grounded in the Applicant's criminal offences although there were some nuances in their precise cases, which I shall address later.

7 There were two summonses before me. The first, HC/SUM 966/2024, was an application by the Applicant to rectify the record in AAS 336 by expunging several unredacted affidavits and filing properly redacted versions of the same to comply with a gag order made in the criminal proceedings concerning the Applicant. The Stakeholders had no objections to this application, and I made an order in terms of the summons at the commencement of the hearing.

8 The second, HC/SUM 1072/2024 (the "Withdrawal Application"), was the Applicant's application to withdraw AAS 336 after the AGC had informed the Applicant that it would not object to his Withdrawal Application if he agreed to defer any future application for admission for a minimum period (the "Minimum Exclusionary Period") of four years.

9 Having considered the parties' written and oral submissions, I granted the Applicant leave to withdraw AAS 336 and imposed a Minimum Exclusionary Period of two years (to run from 15 August 2024, that being the

date of the hearing). I also made no order as to costs. These are the grounds of my decision.

The offences

10 The Applicant had earlier faced ten charges under the Films Act (Cap 107, 1998 Rev Ed) (the "Films Act") and the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code") (the "Offences"). The Applicant pleaded guilty to four charges (the 1st, 2nd, 4th and 5th Charges) and consented to the remaining six being taken into consideration for the purposes of sentencing.

11 The material facts were set out in an Agreed Statement of Facts dated 22 February 2022 (the "ASOF"). In relation to the **1st Charge** under s 29(1)(*a*) of the Films Act, for making an obscene film knowing the film to be obscene, the victim was a 31-year-old male police officer at the material time. The offence occurred in the clubhouse toilet at the Applicant's condominium, where the victim had been taking a shower. The Applicant entered on the pretext of looking for his condominium access card and walked around near the victim. He recorded an obscene film of around 60 seconds which captured the victim's face, penis and buttocks.

12 In relation to the **2nd Charge,** for the offence of public nuisance under s 268 of the Penal Code, the victim was a 51-year-old male teacher, who was the Applicant's colleague in the School. On 15 April 2018, while the victim was using a urinal in the School, the Applicant entered the toilet and filmed the victim with his mobile phone for approximately 20 seconds.

13 In relation to the **4th Charge**, which, like the 1st Charge, was under s 29(1)(*a*) of the Films Act, the victim was a 16-year-old male student at the School. On 30 October 2017, while the victim was using a urinal in the School,

the Applicant entered the toilet and filmed the victim without his knowledge. The film was approximately 35 seconds long and captured the victim's face and penis.

14 In relation to the **5th Charge**, which, like the 2nd Charge, was under s 268 of the Penal Code, the victim was a student at the School. The victim entered a male toilet in the School to change out of a pair of shorts. The Applicant entered the toilet and filmed the victim with his mobile phone. The video captured the victim taking off his shorts, standing in his underwear and thereafter putting on a pair of pants. The video was approximately 28 seconds long and the victim was unaware that he was being filmed.

15 The Applicant also admitted to being in possession of 128 obscene films, forming the subject matter of the 7th and 9th Charges. Of these, (a) 117 were filmed without consent, (b) slightly under half captured the victims' faces and penises; and (c) three films captured a young boy of unknown age showering.

The Applicant's psychiatric condition

16 It was undisputed that the Applicant had been afflicted with several psychiatric conditions at the time of the Offences. The Applicant tendered a medical report from one Dr Terence Leong ("Dr Leong") of Winslow Clinic dated 19 March 2021 (the "2021 Winslow Report"), who opined that the Applicant suffered from severe depression, Major Depressive Disorder with Anxious Distress, Underlying Persistent Depressive Disorder and Voyeuristic Disorder. Dr Leong opined that there was no direct causal link between the Offences and his severe depression and Voyeuristic Disorder, but that these had been strong contributory factors.

17 A responsive medical report dated 17 May 2021 from Dr Lim Cui Xi ("Dr Lim") of the Institute of Mental Health ("Dr Lim's Report") was tendered. Dr Lim's professional opinion was that the Applicant had Persistent Depressive Disorder with Anxious Distress and Voyeuristic Disorder and had also suffered from chronic low mood and stress from dealing with his medical condition and work responsibilities. As a result, he had resorted to voyeurism for relief and arousal.

The sentencing decision

18 The Applicant was convicted and sentenced to 10 weeks' imprisonment and a fine of $2,000. The District Judge (the "DJ") delivered her oral judgment on 23 March 2022. The DJ noted that general and specific deterrence were the dominant sentencing considerations and that the contributory link between the Applicant's psychiatric condition and the commission of the Offences was undisputed.

19 In respect of the 1st Charge, the DJ found that there was some premeditation because the Applicant had entered the toilet pretending to look for his access card and even told the victim that he was trying to check whether he had left the access card at the shower ledge.

20 In respect of the 4th Charge, the DJ noted that the victim was a young student at the School and there was a degree of abuse of trust reposed in the Applicant as a teacher at the School.

21 The DJ preferred Dr Lim's evidence to Dr Leong's evidence because Dr Leong's opinion that the Applicant's psychiatric conditions had impacted his decision-making ability and thus caused him to act on impulse was contradicted by the facts that (a) "there was a *modus operandi* and some planning involved.";

and (b) the Applicant had made "a total of 130 films over the course of 14 months, some … [with] deceptive ruses".

22 The DJ accorded mitigating weight to the Applicant's plea of guilt and his cooperation with the authorities. The DJ noted that he was remorseful and had made efforts to seek psychiatric treatment and psychotherapy.

23 No appeal was brought against the DJ's decision and the Applicant served his sentence from 19 April 2022 to 4 June 2022.

Background to AAS 336

Circumstances leading to the commencement of AAS 336

24 From July 2019 to June 2022, the Applicant pursued further studies under the Juris Doctor ("JD") programme at the Singapore Management University ("SMU"). He graduated with a JD (High Merit).

25 From 3 January 2023 to 3 July 2023, the Applicant undertook and completed his practice training with Vanilla Law LLC with Mr Goh Aik Leng Mark ("Mr Goh" or the "Supervising Solicitor"). Mr Goh signed off on the Applicant's certificate of diligence dated 10 July 2023.

The Applicant's disclosures in AAS 336

26 The Applicant commenced AAS 336, seeking to be admitted as an Advocate and Solicitor. The Stakeholders relied heavily on the Applicant's alleged shortcomings in his disclosures made in the course of AAS 336, so it bears highlighting in some detail the exchange between the Applicant and the Stakeholders, which occurred over four rounds of disclosures.

The Applicant's initial disclosures

27 The Applicant's initial supporting affidavit (the "19 July 2023 Affidavit" or "Initial Supporting Affidavit"), filed pursuant to r 25 of the Legal Profession (Admission) Rules 2011 (the "LP(A)R 2011"), contained the standard declarations prescribed in Form A(1) of the Second Schedule to the LP(A)R 2011. I emphasise several points. First, the Applicant appeared, at least implicitly, to have declared, by not deleting paragraph 7(*g*), that he had never been convicted of any criminal offence in Singapore or elsewhere. However, in respect of paragraph 7(*j*) concerning knowledge of any fact that may affect his suitability to practise as an Advocate and Solicitor in Singapore, the Applicant declared as follows:

> I was apprehended on 15 April 2018 on account of my voyeuristic actions and had 8 charges handed down to me pursuant to s 29(1)(a) of the Films Act, s 290 of the Penal Code, s 29(1)(a) of the Films Act r/w s 124(4) of the Criminal Procedure Code and s 290 Penal Code r/w s 124(4) of the Criminal Procedure Code. I subsequently pled guilty to all the 4 charges that were pursued (the remainder were [taken into consideration for the purposes of sentencing]) and made out against me. Upon conviction, a sentence of 11 weeks' incarceration and $2000.00 fine was meted out to me. I served my sentence from 19 April 2022 till 4 June 2022. (Case No. MAC-908533 & others)
>
> I deeply regretted my actions and am seriously remorseful. Since the incident, I am committed to change for the better. As part of my efforts to turn over a new leaf, I have embarked on a rehabilitative journey. I am a member of a resource/support network run by the non-governmental organisation, [redacted]. I have since been able to refer to them for guidance and advice on matters of concern. I have also ensured that the triggers that had formerly led me astray are effectively addressed. I now have strong support from family and the community at [redacted] which ensures that I continue to be firmly guided.

The second round of disclosures

28 Following the Applicant's disclosures made in the Initial Supporting Affidavit, the AGC sent an email on 3 August 2023 (the "3 August 2023 Email"), requesting (a) full details of the eight charges and all related documents; (b) reasons for the delay in serving his sentence in 2022 when he had been apprehended in 2018; (c) details of steps taken to address his voyeuristic actions; and (d) any medical reports relevant to his psychiatric condition.

29 The AGC also highlighted certain clerical errors in the Applicant's Initial Supporting Affidavit, including the erroneous declaration at paragraph 7(*g*) which was inconsistent with his declaration of the Offences, as well as the fact that the Initial Supporting Affidavit contained undeleted provisions from the template Form A(1).

30 In response to the 3 August 2023 Email, the Applicant filed a supplementary affidavit on 14 August 2023 (the "14 August 2023 Affidavit"), which rectified the errors identified by the AGC and addressed the various requests for information. The affidavit, which was more than 500 pages long (including the supporting documents requested) contained the following material disclosures. First, in relation to the AGC's request for the full details of the eight charges as disclosed in the Initial Supporting Affidavit, the Applicant provided disclosure in respect of all the charges. I set out the following disclosure in respect of the 1st Charge as an example:

> **Charge 1**: intentionally causing harassment to [V1], male 28 years old, to wit, using my iPhone to take a video of the said naked [*sic*]
>
> On that occasion, I had filmed the victim as a means of release from the sexual tension and frustration that I endured … The incident was not pre-planned. The victim was not an identified

> target. It all happened at the spur of the moment. I was only in the toilet for my own sanitary purpose when I came across the victim by coincidence and I had a sudden impulse to film him.

31 The Applicant also explained that the delay in prosecution was attributable to four changes in AGC personnel who had handled his matter at various times, which in turn had led to changes in the Prosecution's position. This was notwithstanding the chasers sent by his counsel to progress the matter, all of which were exhibited in his affidavit. He also mentioned the short deferral sought to take his examinations.

32 In response to the requests for medical reports relevant to his psychiatric condition (at [28] above), the Applicant set out, in a table, a log of 25 consultations with Dr Leong from 30 July 2018 to 27 November 2021 and 58 psychotherapy sessions with one Dr Mark Toh from 17 September 2018 to 19 March 2021. The Applicant also exhibited a handwritten memorandum from Dr Leong dated 8 August 2023 (the "8 August 2023 Memo"), which contained Dr Leong's response to the questions posed by the AGC. Dr Leong opined that the Applicant's voyeuristic disorder had been in remission since 2018 and that he was asymptomatic with no triggers. Dr Leong further opined that the Applicant was not in need of further treatment and that he was fit to be admitted to the Bar.

The third round of disclosures

33 Having reviewed the 14 August 2023 Affidavit, the AGC sent a third request by way of an email dated 29 August 2023 (the "29 August 2023 Email") for further information under three broad categories, namely:

(a) full details and related documents concerning the Applicant's Offences, noting the discrepancy between the number of charges

disclosed in the Initial Supporting Affidavit and number of charges on which he had been convicted;

(b) in respect of the 8 August 2023 Memo, a further medical, psychological or psychiatric report presenting the underlying evidence and clarifying the analytical process by which the conclusions were reached; and

(c) in respect of the Applicant's disclosure to the Ministry of Education (the "MOE") and whether any disciplinary action was taken against him by the MOE.

34 Responding to these requests, the Applicant filed a supplementary affidavit dated 27 September 2023 (the "27 September 2023 Affidavit"). He furnished the requested information about his Offences and exhibited the documents requested by the AGC therein. In response to the request for further medical evidence, the Applicant exhibited another psychiatric report from Dr Leong dated 20 September 2023 (the "20 September 2023 Report"). Finally, the Applicant stated that no disciplinary action had been taken by the MOE and that he could not recall whether he had directly disclosed his Offences to the MOE.

35 The Law Society wrote to the Applicant on 30 August 2023 asking if he had disclosed the Offences to SMU during his period of study. The Applicant responded in the 27 September 2023 Affidavit that he had not disclosed the Offences as it had not occurred to him that he was obliged to do so.

The fourth round of disclosures

36 On 12 October 2023, the AGC made a final request for further disclosure, including a further request for documents relating to the criminal proceedings, and a query as to whether the Applicant had disclosed the Offences to his Supervising Solicitor, his character referees, the School, the MOE or any other employers after his resignation from the MOE. The Applicant duly complied with the requests and filed a supplementary affidavit filed on 18 October 2023 stating that he had disclosed the Offences to his character referees but not his Supervising Solicitor. He explained that the firm had not asked whether he had any criminal antecedents. He also stated that he had not disclosed the Offences to any other staff at his School or to the MOE.

Circumstances leading to the present application

37 Having reviewed the information disclosed by the Applicant, the AGC informed him by a letter dated 1 November 2023 that the Offences "clearly [demonstrate] a deficit of probity, integrity and trustworthiness", and that it would object to AAS 336. The Applicant wrote to the AGC on 3 November 2023, expressing his intention to withdraw AAS 336. The AGC replied on 21 November 2023, stating that it would not object to a withdrawal application, subject to his undertaking to abide by its terms of the withdrawal, which included a Minimum Exclusionary Period of four years. The Applicant subsequently applied on 17 April 2024 to withdraw AAS 336. In his affidavit filed in support of the Withdrawal Application, the Applicant agreed to the terms of the withdrawal and to furnish the other undertakings sought by the AGC in its letter dated 21 November 2023.

38 As alluded to earlier (at [4]), there was a preliminary issue of whether the Applicant could represent himself in the present proceedings. A somewhat

similar issue arose recently before the Court of Appeal in *Kassimatis, Theodoros KC v Attorney-General and another and another appeal* [2024] SGCA 36 ("*Kassimatis Theodoros KC*"), albeit in the context of an application by foreign counsel seeking *ad hoc* admission to practice as an Advocate and Solicitor of the Supreme Court of Singapore and to represent his or her client in a specific case. It was held there (at [21]–[23]) that foreign counsel could not personally address the court on the merits of the *ad hoc* application because they were not self-represented persons in the sense envisioned under s 34 of the LPA.

39 In the present proceedings, I was satisfied that there was no impediment to the Applicant representing himself. *Kassimatis Theodoros KC* was distinguishable for the following reasons. AAS 336 was the Applicant's application for admission under s 12 of the LPA, as opposed to an application for *ad hoc* admission under s 15 of the LPA (which was the case in *Kassimatis Theodoros KC*). Unlike an application for *ad hoc* admission, where the party with the real interest in the application is the client in the underlying matter, the Applicant had a personal and direct interest in the proceedings because AAS 336 was his *personal* petition to the Court to be admitted as an Advocate and Solicitor, not for the sake of any particular case, but for *his own sake*: *Kassimatis Theodoros KC* at [31]. Consequently, the Applicant in AAS 336 was a self-represented person, being a "person acting personally for himself or herself only in any matter or proceeding to which he or she is a party", as envisioned in s 34(*e*) of the LPA: *Kassimatis Theodoros KC* at [22] and [34]. Nor was he, in any sense of the term, practising or purporting to practise as an Advocate and Solicitor of the Supreme Court in representing himself in this matter.

40 However, notwithstanding that the Applicant was not legally precluded from acting in person, I noted that, as a matter of legal tradition, permitting self-

representation in an application for admission to the Bar would be the exception, not the norm. There is important symbolic value in having the admission of Advocates and Solicitors be conducted as part of a ritual involving the wider legal profession, represented in the practice of having a senior member of the Bar to "move" the call of aspiring applicants and other elements, including addresses to signify the importance of the values of the profession. In permitting the Applicant to represent himself, I also had regard to the fact that the application before me was a withdrawal application, as opposed to the hearing of the application for admission in AAS 336.

41 Having addressed this preliminary issue, I turn to the parties' cases in respect of the Withdrawal Application.

The parties' cases

42 Notwithstanding the agreed position of the parties, it was common ground that the decision in the Withdrawal Application, and, if so, the terms thereof, were matters for the court to determine: *Re Gabriel Silas Tang Rafferty* [2024] 4 SLR 401 ("*Re Gabriel Rafferty*") at [55]–[58]; *Attorney-General v Shahira Banu d/o Khaja Moinudeen* [2024] 4 SLR 1324 ("*Shahira Banu*") at [49].

The AGC's case

43 The AGC submitted that a Minimum Exclusionary Period of at least four years was appropriate. Its case rested solely on the ground that the Applicant was not sufficiently rehabilitated. The AGC did not premise its case directly on any breach of the duty of candour though it seemed to rely on the Applicant's alleged shortcomings in his disclosures to support its case that the character defects revealed by his Offences remained unresolved.

44 The AGC made robust submissions on the severity of the Applicant's Offences. The AGC referenced the case of *Re Lee Jun Ming Chester and other matters* [2023] 3 SLR 1443 ("*Re Chester Lee*"), in which the applicant, Mr Chester Lee, had captured two upskirt videos of an adult on one occasion, and submitted that the Offences were far more serious because of the many aggravating factors. These included the numerous instances of offending over a prolonged period, the contents of the obscene videos, the involvement of young victims, and a high degree of premeditation and sophistication. The AGC submitted that, given the severity of the Offences, there was a need for clear evidence that the Applicant had sufficiently reformed his character.

45 The AGC further submitted, on three principal grounds, that the Applicant had not sufficiently addressed his character issues. First, the AGC submitted that the Applicant's conduct after he had been apprehended demonstrated a degree of tactical realism, which suggested dishonesty and a lack of remorse and accountability. The AGC cited the following examples:

(a) The Applicant, when confronted by the victim in the 1st Charge at the Applicant's condominium, denied that he had taken a video of the victim, a statement which was eventually established to be false.

(b) The Applicant had been dishonest in his statement made to the police under s 22 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (the "CPC") on 15 April 2018, in which he stated that he had never taken any photos of any male persons outside of his condominium, which assertion was contradicted by his admission in another statement recorded on 11 February 2019 to recording videos of male persons in places other than his Condominium (collectively, the "Police Statements").

(c) Dr Lim's Report recorded that the Applicant had claimed that he "would only take videos and not photographs", a claim which the Applicant must have known to be untrue and which he subsequently withdrew.

The AGC submitted that these three examples "cast serious doubt over whether the Applicant was genuinely remorseful and had fully accepted responsibility for his wrongdoing".

46 Secondly, the AGC relied on the Applicant's conduct in AAS 336, submitting that:

(a) The Applicant chose to make limited disclosure of the Offences in his Initial Supporting Affidavit, unlike the applicant in *Re Chester Lee* (at [14]) who had made "full disclosure of his offence in his affidavit".

(b) The Applicant continued to understate his culpability for the Offences in subsequent rounds of disclosure by presenting an account which was inconsistent with the record of proceedings. This suggested that the Applicant had not gained sufficient insight into the nature and gravity of his wrongdoing.

(c) The Applicant did not disclose the existence, much less the details, of the Offences to his Supervising Solicitor, thus depriving his Supervising Solicitor of material information that would have been necessary for him to make an informed assessment as to whether the Applicant was a fit and proper person to be admitted to the Bar.

These, the AGC submitted, revealed a tendency to suppress details of his past wrongdoings wherever possible, in the hope that they would not come to light, which demonstrated a lack of insight into the gravity of his wrongdoing.

47 Thirdly, the AGC submitted that the Applicant's psychiatric reports, specifically the 8 August 2023 Memo and the 20 September 2023 Report, were unreliable and should be accorded little weight because they lacked underlying evidence and explanation of Dr Leong's analytical process: *Re Tay Quan Li Leon* [2022] 5 SLR 896 ("*Re Leon Tay*") at [29]. The AGC further submitted that the reports were based solely on the Applicant's own account, disclosed no attempt to verify the Applicant's account, and did not comply with the requirements of an expert report under O 12 r 5(2) of the Rules of Court 2021 in that they did not contain a statement that Dr Leong understood his duty to the court or believed in the correctness of his views, notwithstanding the AGC's specific request to this effect. Finally, the AGC submitted that Dr Leong's conclusions were contradicted by the Applicant's conduct in AAS 336, and that, in any case, Dr Leong's opinion that the Applicant's psychiatric condition was in full remission did not mean that the Applicant had sufficiently reformed his character issues. This was especially so, since the contributory link between the Applicant's psychiatric condition and the Offences was insignificant.

48 Finally, the AGC referred to some potential mitigating factors, but submitted that they should be accorded limited weight because of the following reasons:

(a) The fact that six years had passed since the discovery of the Offences was negated by the Applicant's alleged unwillingness to confront his wrongdoing openly and unreservedly.

(b) The Applicant's character references were of limited weight as they made no mention of the Offences in their references and did not provide any elaboration of the Applicant's reform.

(c) The fact that the Applicant made some disclosure of the Offences to the principal of the School was of limited weight as the Applicant had been under a positive duty to inform the MOE of any investigation and it was difficult to ascertain whether the Applicant had made his disclosures out of a desire to avoid disciplinary proceedings

49 Based on the foregoing, the AGC submitted that a Minimum Exclusionary Period of four years was appropriate.

The Law Society's case

50 The Law Society submitted that a Minimum Exclusionary Period of not less than two years but not more than three years was warranted. The Law Society submitted that the Applicant's character issues stemmed from his lack of candour, rather than a lack of rehabilitative progress in relation to the Offences.

51 The Law Society further submitted that although the Applicant's disclosure was incomplete, his conduct when viewed in totality, did not suggest that he had any intention to conceal material facts. In particular, it highlighted that: (a) the Applicant had made general disclosure of key facts in relation to his conviction, including the facts that he had pleaded guilty and been sentenced to a term of imprisonment, the various sections under which the charges were preferred, and the case number; (b) the Applicant had cooperated with the authorities, a fact that had been regarded as mitigating by the DJ; and (c) the

Initial Supporting Affidavit appeared to be poorly drafted rather than being a "cynical" attempt to mask the facts.

52 Concerning the Police Statements that the AGC relied on (at [45(b)]), the Law Society submitted that this should be viewed in the light of the DJ's finding that the Applicant had cooperated with the authorities and the Applicant's unqualified admissions in subsequent cautioned statements recorded under s 23 of the CPC. Further, the Law Society noted that the Applicant had not been asked about the apparent inconsistencies during the criminal proceedings.

53 In the round, the Law Society submitted that, although the Offences were very serious, the Applicant had served his sentence and maintained a clean record thereafter. These were signs which suggested that he was on the path to reformation. The Law Society thus contended that a Minimum Exclusionary Period of not less than two years but not more than three years was appropriate.

The SILE's case

54 The SILE broadly aligned its position with that of the AGC. The SILE identified the Applicant's character defect to be his lack of effort to resolve or prevent a recurrence of the Offences and that he had not demonstrated sufficient understanding of the ethical implications of his actions. The SILE submitted that considerable weight should be placed on the fact that the Applicant had been a teacher and in a position of trust and authority at the time of the Offences. The SILE also submitted that the Applicant had been selective in his disclosures concerning his Offences — in particular, in disclosing his antecedents only to his character referees but not his Supervising Solicitor. The SILE submitted based on r 34 of the Legal Profession (Admission) Rules 2024 (the "LP(A)R

2024") that the Applicant's lack of candour toward his Supervising Solicitor was incompatible with his fitness to be called to the Bar.

55 Finally, the SILE noted that the Applicant had not re-offended and expressed remorse in his statements to the police and in his supplementary affidavits. However, the SILE submitted that there was little evidence of his rehabilitative efforts after his release from prison in June 2022, and that he had not sought any treatment thereafter.

56 Accordingly, the SILE submitted that the Applicant had not provided evidence demonstrating his (a) continued efforts to resolve and/or prevent a recurrence of his persistent condition; and (b) efforts to enhance his understanding of the ethical implications of his actions, and that this warranted a Minimum Exclusionary Period of four years.

The Applicant's case

57 The Applicant did not file any written submissions. His position may be gleaned from his affidavit dated 16 April 2024 filed in support of the Withdrawal Application, in which he stated as follows:

> 9. While I respect the position taken by the AGC, I am nonetheless very disappointed and much saddened that my admission to the Bar will have to be delayed. To that end, I wish to update the Court that I have embarked on a course of action to resolve and/or prevent a reoccurrence of my persistent depressive disorder with anxious distress and voyeuristic disorder myself i.e. that I have registered myself as a volunteer with Action for Aids. To date, I have already attended the induction session for volunteers on 8 March 2024 and will henceforth be further trained by them in the coming months to be equipped with the knowledge and skills to enable meaningful, purposeful and impactful contribution. As much as I contribute, my involvement will also enable me to widen my social support circle to include those who understand my medical predicament best as they too are walking in the same shoes. This helps to address the root and main cause of the

> disorder that I had suffered earlier which had then led to the commission of the offences i.e. the lack of a social support network. It is also a platform for me to contribute to society generally as well and a means for me to atone for my earlier missteps
>
> 10. As I remain resolutely committed to the above, I will also continue to reflect and seek to achieve an enhanced understanding of the ethical implications of my actions.
>
> 11. The above efforts will ensure that by the time that I do bring a fresh application for admission as an Advocate and Solicitor of the Supreme Court of Singapore I will be ready to provide such information in relation to these respects as may be required.

Direction for further submissions

58 As I explained to the parties at the hearing, upon a preliminary review of the parties' cases and the evidence before me, it was not clear to me that the concerns raised by the Stakeholders were entirely valid. Rather, it appeared to me, as the Law Society accepted in its written submissions, that there was nothing to suggest that the Applicant had tried to suppress the fact of his Offences. As I saw it, each time a clarification or further documentation had been sought from the Applicant, he had complied to the extent that he could. I therefore invited the parties to address me, without derogating from the general tenor of their submissions, on the following issues, that were set out in a letter to the parties dated 13 August 2024.

59 The AGC was asked to confirm whether, in the criminal proceedings below: (a) the Police Statements had been put into evidence and, if so, whether they had been relied on before the DJ for the purposes of sentencing; and (b) whether the Prosecution had relied on the Applicant's accounts as recorded in the 2021 Winslow Report and Dr Lim's Report in its sentencing submissions in the same manner that the AGC was in the present proceedings. Finally, I

directed the AGC to explain the rationale behind the Minimum Exclusionary Period of four years which it sought.

60 The Law Society was invited to clarify whether its position that a Minimum Exclusionary Period of two years should be imposed would remain even if the court were to conclude that there had been no inadequate disclosure by the Applicant in the course of AAS 336.

61 The SILE was asked to explain the basis for its submission that the Applicant had been under a duty to disclose his convictions to his Supervising Solicitor and/or his law firm.

62 These specific concerns formed part of a more general reservation which I had, as to whether it was appropriate for me to approach the present matter having regard solely to the issues raised. To capture the essence of my preliminary considerations, I framed the following question of principle to be addressed by all the parties:

> *In considering applications of the present nature in AAS 336, is there, in addition to the framework laid down in Re Wong Wai Loong Sean and other matters* [2023] 4 SLR 541 at [3] and *Re Suria Shaik Aziz* [2023] 5 SLR 1272 at [20], *a principle that the Court should not admit an applicant if it considers that the nature of the offender's misconduct is such that to admit the applicant as an Advocate and Solicitor would risk undermining trust in the legal profession and the administration of justice?*
>
> *If such a principle exists, what is the normative basis for applying this principle to decline admission to an aspiring applicant?*

Issues to be determined

63 I approached the issues in the following manner:

(a) First, was the Applicant a fit and proper person to be admitted as an Advocate and Solicitor, in terms of his character under the framework set out in *Re Sean Wong* and *Re Suria Shaik*?

(b) Second, was there, in addition to the framework referred to in (a) above, a principle that the Court should act to protect and safeguard the reputation and integrity of the legal profession by exercising its discretion not to admit an applicant if it considers that the nature of the offender's misconduct is such that to admit the applicant would risk undermining public trust and confidence in the legal profession and the administration of justice (the "Protective Principle")?

(c) If so, was the Protective Principle engaged on the present facts and how did it apply in the present case?

Assessment of the Applicant's character

General principles

64 Under the existing jurisprudence, the central inquiry where there is no question as to an applicant's competence or qualifications, is whether the applicant is suitable for admission in terms of his character: *Re Gabriel Rafferty* at [34]; *Re Sean Wong* at [3]. In particular, where incidents of misconduct have been disclosed which are material to the fitness of the applicant to be admitted an Advocate and Solicitor, the court will consider all relevant circumstances, including:

(a) the nature of the applicant's misconduct;

(b) his conduct in the course of any investigations into the misconduct;

(c) the nature and extent of subsequent disclosures made in his or her application for admission;

(d) any evidence of remorse; and

(e) any evidence of rehabilitation.

These factors, albeit previously formulated in the context of instances of *academic* misconduct, are of general application to all matters which have a material bearing on an applicant's suitability for admission to the Bar, including *criminal* misconduct. Further, where a significant time has passed since the wrongdoing, the third to fifth factors assume particular importance in the court's assessment of the applicant's progress in his reform and rehabilitation in the intervening period: *Re Chester Lee* at [3]; *Re Gabriel Rafferty* at [36].

65 As I indicated to the parties at the hearing, although the severity of the Offences should not be understated, the evidence put forth in the disclosure process, when assessed against the factors set out above, did not clearly show that the Applicant still had serious outstanding character issues to the degree and extent that was suggested by at least some of the Stakeholders. I noted that the Applicant had (a) candidly disclosed and acknowledged his wrongdoing; (b) paid the price for his Offences by serving his imprisonment sentence; (c) maintained a clean record for a significant period of time since the Offences; and (d) addressed his psychiatric issues, which appeared, based on the medical evidence, to be in remission.

66 Indeed, Mr Sanjiv Rajan ("Mr Rajan") for the Law Society submitted orally that if the court was satisfied that there was no inadequate disclosure, the Applicant should be admitted, possibly subject to the imposition of any conditions for the protection of public confidence, including possible

restrictions as to the Applicant's permitted practice areas and ensuring proper supervision in the context of his professional space.

67 I elaborate on the factors outlined at [64] above.

The nature of the Offences

68 It cannot be gainsaid that the Applicant's misconduct involved serious sexual offences which would undoubtedly render him unfit for admission as an Advocate and Solicitor unless the court was satisfied in all the circumstances that the underlying character issues had been resolved. Sexual offences inevitably entail a severe violation of the dignity and bodily integrity of the victim, often causing deep-seated trauma: *Law Society of Singapore v CNH* [2022] 4 SLR 482 at [50]. Further, the nature of the Applicant's Offences far outstripped that of prior cases for admission to the Bar which have come before the courts. By way of comparison, in *Re Chester Lee,* the applicant recorded upskirt videos of a woman while on public transport, pleaded guilty to one charge of insulting the modesty of a woman under s 509 of the Penal Code and consented to a further charge of the same offence being taken into consideration for the purposes of sentencing. He was convicted and sentenced to a one-month imprisonment term: *Re Chester Lee* at [5].

69 In contrast, the Applicant's Offences justifiably warranted the DJ's characterisation as involving some "degree of depravity". There were a number of aggravating factors, including that (a) there were more than a hundred separate instances of offending, which by the Applicant's own concession, began in 2012 and occurred over a prolonged period of about six years; (b) the Offences were largely committed surreptitiously and involved some degree of intrusion into the victims' dignity and bodily integrity; (c) there was an abuse of trust given the Applicant's position of authority as a teacher; (d) the victims

included teenage students and youths; and (e) the Applicant had a *modus operandi* which suggested that the Offences were committed with some premeditation.

70 I accepted the AGC's submission that, the greater the severity of the underlying misconduct, the clearer the objective evidence must be as to the Applicant's present character so as to satisfy the court that he had indeed been satisfactorily rehabilitated. This inquiry is aided by the other factors identified in the framework outlined at [64] above. I consider these factors below.

The Applicant's conduct in the investigations

71 I did not accept the AGC's submission that the Applicant's conduct during the criminal investigations, in particular, the inconsistencies presented by the Police Statements and Dr Lim's Report, gave rise to "serious doubt over whether the Applicant was genuinely remorseful and had fully accepted the responsibility for his wrongdoing".

72 First, as counsel for the AGC, Mr Fu Qijing ("Mr Fu"), confirmed at the hearing, the Police Statements had not been put into evidence in the criminal proceedings, and Dr Lim's Report had not been put to the Applicant or relied on for the purposes of sentencing. I also noted that the AGC had not asked the Applicant to explain the apparent inconsistencies (summarised above at [45]) throughout the various exchanges in which it had sought further information from the Applicant. Consequently, I did not think it was appropriate for me to draw the inferences suggested by the AGC against the Applicant. It bears reiterating that the nature of the inquiry in the present application was different from that in the prosecution of the Offences. In cases of the present sort, which are more regulatory in nature, there will almost invariably be no oral evidence or cross-examination unlike in criminal proceedings, or for that matter,

disciplinary proceedings. These procedural features of the latter enhance the assurance of due process to the alleged wrongdoer which is a key consideration in proceedings that are punitive in nature: see *Re Leon Tay* at [42]. In all the circumstances, I concluded that it was inappropriate for me to draw the inferences, and I further noted that to do so would be inconsistent with the DJ's decision to accord mitigating weight for the Applicant's "cooperation with the authorities" (at [22] above).

73 In any case, I was also not persuaded that this was a point to be pursued. As the Law Society pointed out in its submissions, the Police Statements were overtaken by the Applicant's cautioned statements, in which he had admitted to the Offences without qualification. As for the factual assertions recorded in the medical evidence (see [45(c)] above), there was a need for caution in relying on them as *factual* evidence bearing on the Applicant's culpability. Whereas a police statement serves as a record of the Applicant's account, the primary purpose of a medical report is to provide a doctor's *expert* opinion of the Applicant's medical condition, and, where it included a *summary* of what the Applicant may have said, this, unlike a police statement, would typically not have been read back to the Applicant, nor be subject to other procedural safeguards.

74 For these reasons, I found the alleged inconsistencies insufficient to sustain the inference that the Applicant lacked remorse or accountability. I also observed, in any case, that the Applicant's conduct during the investigations would be of limited weight in determining the Applicant's *present* character, considering that these investigations had occurred several years earlier.

The Applicant's conduct in AAS 336

75 The Applicant's conduct in AAS 336 was the principal basis on which the AGC and the Law Society sought to justify their submission on the appropriate Minimum Exclusionary Period. The Stakeholders' submissions focused on the Applicant's alleged: (a) failure to appreciate the duty of candour in his Initial Supporting Affidavit; (b) attempts to downplay his culpability in his disclosures; and (c) lack of disclosure to third parties.

Relevant principles on the duty of candour

76 The relevant principles concerning the duty of candour were recently articulated in *Shahira Banu* and bear restating:

(a) The duty of candour owed to the court is an indivisible, uncompromising and enduring duty which underpins every act performed in the course of practice as an Advocate and Solicitor: *Shahira Banu* at [33], affirming *Public Trustee and another v By Products Traders Pte Ltd and others* [2005] 3 SLR(R) 449.

(b) In the context of an admission application, any suggestion of a lack of appreciation of the importance of the abovementioned duty of candour will weigh on the court's consideration of whether an aspiring applicant is of "good character" under s 13(1)(*b*) of the LPA: *Shahira Banu* at [41]–[42].

(c) The *content* of the duty of candour owed by an aspiring applicant entails the following (*Shahira Banu* at [47]–[49]):

> 47 First, the onus of disclosure lies on the applicant to avail the court and stakeholders of all relevant information (*Re Suria* at [40]). Where an applicant makes voluntary disclosure of such information, this

> will often weigh heavily in favour of a finding that the duty of candour towards the court has been discharged.
>
> 48 Second, where an applicant for admission has reason to believe past misconduct may be relevant to the assessment of their suitability for admission to the Bar, the invariable course will be to disclose not just the fact of the misconduct, but also the relevant circumstances and extent of the misconduct, to enable the court and the stakeholders to properly assess the applicant's suitability for admission…
>
> 49 Third, the requirement for an applicant to make disclosure of all facts relevant to the assessment of their "good character", although somewhat onerous for good reason, does not extend to a confessional recantation of every historical transgression on the part of that applicant. The focus is on those aspects of character which are relevant to one's suitability to be admitted *as an advocate and solicitor…*

77 It must be emphasised that, although the content of the duty of candour is an onerous one, the inquiry should not be reduced to a mechanical exercise of identifying every error and inconsistency in an applicant's disclosure and concluding that this is reflective of an attempt to mislead the court or withhold candid disclosure. Rather, the assessment is a *holistic* one guided by the central objective of determining whether the applicant's conduct, when *viewed in totality*, evinces any lack of appreciation of the duty of candour.

The Applicant's initial disclosure in the Initial Supporting Affidavit

78 Returning to the present case, Mr Fu submitted that the Applicant's lack of candour was reflected in the fact that the AGC had to make four requests for further disclosure. He contended that the Applicant should have anticipated the further information that the Stakeholders would require and provided these pre-emptively.

79 While Mr Fu was not wrong that at least some of the further disclosures could have been anticipated and pre-emptively made, that misses the point. The

real question was whether the Applicant's initial disclosure was inadequate or suggestive of a desire to conceal. Although the duty of candour requires an applicant to disclose not just the fact of the misconduct but also the relevant circumstances (*Shahira Banu* at [48]), as I have also noted above (at [77]), the assessment of the Applicant's appreciation of the duty of candour was assessed against the *totality* of his disclosures, including the extent of compliance with and assistance rendered to the Stakeholders.

80 Therefore, it does not necessarily follow from some insufficiency in the *initial* disclosure that the applicant's conduct would be considered unsatisfactory. A distinction must be drawn between a case where an applicant's disclosure was tactically threadbare, suggesting a hope that the particulars disclosed could appear sufficient and yet avoid inviting the scrutiny of the Stakeholders (see, for example, *Re Gabriel Rafferty* at [21]–[22]), and a case where an applicant makes an initial declaration, which, albeit lacking in the full details, has sufficiently revealed the gravamen or crux of the disclosed fact so as to allow the Stakeholders to consider whether further information is required (see, for example, *Re Sean Wong* at [62]). This follows from the holistic nature of the assessment.

81 In my judgment, in the context of an application for admission, the disclosure process is best seen as an honest and open dialogue between the Stakeholders and the applicant, with the object of ensuring that all the material facts are placed before the court, which is the arbiter of proceedings and the institution to whom the duty of candour is ultimately owed. The court will draw the appropriate inferences about an applicant's appreciation or regard for the duty of candour having regard to how the material facts have come to light.

82 At the commencement of the disclosure process, in the initial supporting affidavit, the focus of the inquiry is on the *existence* of any material fact, rather than the *evidence* supporting such facts. In other words, at this stage of the proceedings, the focus of the duty of candour is manifested in the *breadth* of disclosure as opposed to its depth: see also, *Re Gabriel Rafferty* at [38]. In line with this, the duty of candour demands that any fact which may *potentially* be relevant to the applicant's fitness should be disclosed, with any doubt in the applicant's mind being resolved in favour of disclosure. In this regard, the authorities make clear that voluntary disclosure at this initial stage would cast a positive light on the assessment of the applicant's appreciation of the duty of candour (*Shahira Banu* at [47]) and willingness to take responsibility for the underlying misconduct: *Re Tay Jie Qi and another matter* [2023] 4 SLR 1258 at [18]; *Re Ong Pei Qi Stasia* [2024] 4 SLR 392 ("*Re Stasia Ong*") at [18]).

83 There is nothing inherently objectionable about an applicant who makes adequate initial disclosure of all the material facts and stands ready to assist the Stakeholders with further disclosures. Indeed, this is the contemplated procedure given the guidance provided, within the template Form A1 prescribed in the LP(A)R 2011, as to the extent of disclosure required for the declaration in paragraph 7(*j*). This paragraph concerns the applicant's knowledge of any material fact relevant to his or her fitness and suitability for admission and directs applicants to:

> State the necessary particulars, including (where applicable)-
>
> (a) any determination by the university mentioned in paragraph 2, or any other institution of higher learning, of the Applicant's commission of a deliberate assessment offence that amounts to plagiarism or cheating to gain an advantage for the Applicant or others; and
>
> (b) any misconduct (including a deliberate assessment offence, if any) for which any of the institutions charged, disciplined or suspended the Applicant

84 The operative requirement is to "state" the necessary "particulars". This seems to point towards the *existence* of material facts at the initial stage of disclosure, as opposed to the "volunteering of full details" as Mr Fu suggested, which might drift into the realm of *evidence*.

85 The power of the Stakeholders to request further *information or evidence* following the declaration of the material facts, to enable the Stakeholders to determine whether to object to the application, is statutorily provided for in s 45(3)(*a*) of the LPA. Indeed, this is also reflected in the institutional position taken by the Law Society as set out in the official written guidance provided on its website, which I had taken cognisance of in *Re Sean Wong* (at [15]), and which was the institutional position at the time AAS 336 was commenced:

> **What happens when I make a declaration under Paragraph 7 of my affidavit?**
>
> You will be asked to provide more details in the form of a supplementary affidavit and exhibit any *relevant documents* (eg. *Charge sheet, medical report*).
>
> For example, if you have declared a *medical condition*, you will be asked to submit a detailed medical report from your doctor which states that you are fit to be admitted and to practice.
>
> [emphasis in bold in original; emphasis added in italics]

86 Hence, the expectation is that supporting evidence such as charge sheets and medical reports may be requested in *subsequent* disclosures following an assessment of the applicant's initial disclosure. This is sensible *as long as there is sufficient initial disclosure* because it avoids inundating the Stakeholders with an information overload and enables targeted further disclosures.

87 In this case, the Applicant's approach to the disclosure process, when viewed as a whole, could not be said to reveal any intention to conceal matters.

Nor did it reflect any clear disregard for the duty of candour. In my judgment, the Applicant had disclosed the material facts in relation to the Offences, including their existence, the various provisions under which the Charges against him had been preferred, the relevant case number, and the fact that he had been sentenced to a term of imprisonment. Once the Applicant had declared the *existence* of these facts in the Initial Supporting Affidavit, it was clear, as night follows day, that the Stakeholders would have access to every last detail that they might wish to examine as these would be matters in the public record. This was unlike an internal inquiry in a private setting (such as university disciplinary proceedings) where, but for an applicant's disclosure, the Stakeholders often might not have access to information regarding the events which had transpired: see for example, *Re Stasia Ong* at [18].

88 I also noted that the Applicant had actively sought to comply with the Stakeholders' requests for further disclosure, answering the multitude of queries in a conscientious manner. Indeed, the Applicant broke down any composite request made by the Stakeholders, to ensure each part was duly addressed. The Applicant also made the effort to contact his former solicitors to obtain documents relating to his criminal proceedings to disclose the same and provide explanations and clarifications to the extent he could. In the round, I was satisfied on a holistic assessment of the Applicant's conduct that he had sufficiently appreciated and discharged his duty of candour owed to the court.

Whether the Applicant had a tendency to downplay his culpability

89 I next considered whether the Applicant's characterisation of his wrongdoings in his affidavits revealed a tendency to downplay his culpability in respect of the Offences. I was unable to accept the AGC's submission, which rested on three specific instances.

90 The first was the alleged inconsistency between the Applicant's description of the 1st Charge that:

> The incident was not pre-planned. The victim was not an identified target. It all happened at the spur of the moment. I was only in the toilet for my own sanitary purpose when I came across the victim by coincidence and I had a sudden impulse to film him

and the DJ's finding that:

> … there was premeditation. He entered the toilet pretending to look for his access card and had even told the victim that he was trying to see if he left the access card at the shower ledge.

91 I noted first that the Applicant's description of the incident as not "pre-planned" and that he had "[come] across the victim by coincidence and … had a sudden impulse to film him" was not inconsistent with the ASOF because there was no indication in the ASOF that the Applicant had identified the victim beforehand. Second, the statement that the Applicant "was only in the toilet for [his] own sanitary purpose", was not patently inconsistent because there was nothing in the ASOF to suggest that the Applicant had entered the toilet *after* the victim. Finally, absent any finding that the Applicant had intentionally sought out the victim, it was not inconsistent with the DJ's decision for the Applicant to say that he had had a "sudden impulse" that "happened at the spur of the moment" and that it was not "pre-planned" in the sense of being a targeted crime. Although the Applicant may have had a *modus operandi*, this did not necessarily preclude the possibility that his intention to act had been formed when he came across the victim.

92 In my judgment, given the purpose and nature of the present proceedings (see above at [72]), it was not appropriate for me to draw the inference that the Applicant was trying to downplay the Charges in the *very affidavit* (this being the 14 August 2024 Affidavit) in which the ASOF was disclosed.

93 Turning to the second instance, the AGC submitted that the Applicant's explanation of the circumstances surrounding the 3rd Charge in the 14 August 2024 Affidavit (as arising out of his practice to film himself whenever he disciplined his students so as to protect himself from any potential accusations levelled against him, by the students or their parents) was an attempt to characterise his wrongdoing as nothing more than an innocuous disciplinary act and suggested that he was attempting to downplay his culpability. The AGC submitted that he must have known that this was false because, in negotiations with the AGC leading up to guilty plea, the Applicant had sought to include a similar explanation in the ASOF in respect of the 4th Charge, but had subsequently confirmed at the hearing that he would be omitting any such reference to it.

94 I was unable to accept this submission for several reasons. First, it was not entirely clear to me that it was appropriate to place weight on a position taken by the Applicant in plea *negotiations*, especially without access to the surrounding circumstances in which that position was taken. Next, the 3rd Charge was not one of the proceeded charges and was to be taken into consideration for the purposes of sentencing. In my judgment, it was not appropriate for me to draw the abovementioned inference given that the ASOF did not contain any particulars as to the facts surrounding the 3rd Charge. Further, the fact that this was withdrawn from the final version of the ASOF did not necessarily mean that the Applicant had advanced an initial position that was untrue – it simply meant that the fact was not proved by formal admission under s 267 of the CPC and was therefore equivocal. There were also objective facts which lent weight to the plausibility of the Applicant's account: the Applicant had been on the school discipline committee, as stated by the principal of the School in an email to the MOE. For all these reasons, it was inappropriate for me to draw the inference suggested by the AGC.

95 Finally, upon close examination of the 14 August 2024 Affidavit, I considered that the AGC's submission may have stemmed from a misunderstanding of the Applicant's intentions behind his disclosure in the affidavit. The AGC's request in the 3 August 2024 Email was a composite request with at least three aspects:

> The full details of all eight of the charges that were handed down to you (*e.g.,* the ***circumstances leading to the commitment of the offences, the nature of said offences, and the period/s over which they occurred***) …
>
> [emphasis in original in underline and italics; emphasis added in bold italics]

96 The Applicant, in his 14 August 2024 Affidavit, presented his response according to these three aspects. The disclosure to which the AGC took objection was contained in the section concerning the "[c]ircumstances leading to the commitment of the offences". The AGC asserted, based on this part of the affidavit, that the Applicant had intended to re-characterise the *nature* of the Offences. But the Applicant did not seek in that section to address the nature of the offence, which formed the subject of the next section of the affidavit and in which he disclosed without qualification that the Offences involved making obscene films and causing a public nuisance by filming male persons in toilets or changing rooms. The Applicant in the section of his affidavit titled the "[c]ircumstances leading to the commitment of the offences" was simply providing an account of the *circumstances* leading up to the 3rd Charge, which, for the foregoing reasons, I did not consider to be plainly false.

97 Finally, there was an alleged inconsistency concerning the Applicant's description of the 5th Charge along the same lines as the alleged inconsistency in the 3rd Charge. The AGC submitted that the Applicant's explanation in the 14 August 2024 Affidavit – that the capturing of the images had been coincidental to the discharge of his duties as a teacher in disciplining students –

was directly contradicted by the account recorded by Dr Leong in the 2021 Winslow Report.

98 The AGC highlighted that whereas the Applicant claimed that the 5th Charge was an instance where he filmed himself disciplining a student, Dr Leong had recorded that the "[the Applicant] did not film [the victim's] private parts as he felt ashamed of his actions and decided to stop midway", suggesting that the Applicant had filmed the victim with the intention of making an obscene film.

99 Although I accepted that there was some apparent inconsistency, I was not persuaded that it was sufficient to sustain an adverse finding as to the Applicant's character. First, this alleged inconsistency was not canvassed in the criminal proceedings, and it is important to recall the differences between such proceedings and the present proceedings as noted at [72] above. This calls for even greater caution in drawing inferences arising from points that could have been but were not dealt with in the former. Second, the characterisation of the 5th Charge that the AGC invited me to adopt (to the effect that the Applicant had intended to make an obscene film) did not comport with the charging decision of the Prosecution. The Prosecution framed the 5th Charge under s 268 of the Penal Code for the offence of public nuisance and not an offence of making an obscene film under s 29(1)(*a*) of the Films Act. In my judgment, this was not the appropriate forum to explore afresh the factual issues underlying the criminal proceedings. Third, Dr Leong's account of the Applicant's state of mind at the time of the Offences must be treated with some caution because an expert report is not concerned with assisting the court in determining questions of *fact*, and all the more so when such facts have nothing to do with the area of the expert's knowledge, as well as for the reasons noted at [73] above.

100 In all the circumstances, I was not persuaded that the Applicant's attitude toward his disclosures could be said to be suggestive of a lack of ethical insight into or an abrogation of his responsibility for the Offences.

Disclosure to third parties

101 Finally, I turn to the final ground of the Stakeholders' objections concerning the Applicant's non-disclosure to third parties, specifically, his Supervising Solicitor and the MOE, which was said to reveal a "lack of candour [that was indicative of] the Applicant's tendency to suppress details of his past wrongdoing wherever possible in the hope that they will not come to light".

102 In my judgment, the fact that the Applicant had not disclosed his misconduct to his Supervising Solicitor was not relevant to the present inquiry. First, as Mr Avery Chong ("Mr Chong"), who appeared for the SILE rightly acknowledged in his oral submissions, there was no express provision for a trainee solicitor to disclose his or her previous convictions to the supervising solicitor. Rule 34(*a*) of the LP(A)R 2024, which Mr Chong referred to in his written submissions, concerned the responsibilities of a supervising solicitor, including the duty to ensure that trainee solicitors receive proper training in relation to "professional responsibility, etiquette and conduct". However, the focus of r 34 is on the requisite standards of professional conduct that is expected of an aspiring Advocate and Solicitor. It does not concern the *character* of an *applicant* for the purposes of an application for admission.

103 Second, although a supervising solicitor plays a vital role in the admission process, the supervising solicitor is not an institutional *stakeholder* in the sense of being a "gatekeeper of the legal profession": *Re Suria Shaik* at [40]. The institutional stakeholders are the Attorney-General, the Law Society and the SILE: r 45 of the LP(A)R 2024. The duty of candour is owed to the

court, and the content of that duty is discharged when an Applicant avails the court and the Stakeholders of all relevant information: *Shahira Banu* at [47] and [48]. Since the Applicant's Supervising Solicitor was not an institutional Stakeholder in the admission process, it followed that as a matter of principle, any non-disclosure should have no bearing on the discharge of the Applicant's duty of candour, which was owed *to the court.*

104 To be sure, as I indicated to Mr Chong at the hearing, I accepted that a candid trainee-supervising solicitor relationship would enable the supervising solicitor to better customise the training experience. And the Applicant could and should have shared his situation with his Supervising Solicitor in order to maximise his learning opportunity from his training contract and also to demonstrate exemplary candour in his dealings with his Supervising Solicitor. However, this was not germane to the admission process and could perhaps be better addressed through the promulgation of guidelines under r 49 of the LP(A)R 2024.

105 Finally, I address the AGC's submission that the Applicant should have disclosed the Offences at or prior to his request from his Supervising Solicitor for a certificate of diligence, which would have required a certification that the Applicant was a fit and proper person for admission. As I indicated to counsel at the hearing, while this would have been commendable, I did not accept that the Applicant's failure to do so made him unfit for admission, given that he had made full disclosure of the relevant facts to the Stakeholders. I reiterate that the duty of candour is owed to the court and, as part of that process, an applicant is required to make the appropriate disclosures to the Stakeholders. There is no basis for extending this to other parties for the purposes of considering this specific duty and its fulfilment.

106 It followed that the alleged "limited disclosure" by the Applicant to the MOE, an institution outside of the admission regime, was also not a relevant consideration. In any case, I observed that the Applicant had discharged his duty to inform the MOE that he was under police investigations, as required by the MOE Code of Professional Conduct for Educators, by making such disclosure to the principal of the School.

107 In the round, I did not consider that the Applicant's conduct in AAS 336 was unsatisfactory.

Evidence of remorse and rehabilitation

108 I turn to the final two factors of evidence of remorse and rehabilitation. On the factor of remorse, the Stakeholders accepted that the Applicant had shown objective signs of remorse but submitted that they were negated by the objections forming the subject of some of the preceding paragraphs. As I have found those objections to be unsustainable (at [74] above), I saw no basis for ignoring the objective evidence of the Applicant's remorse which the Stakeholders had accepted, which included the following:

(a) the independent assessment submitted by the principal of the School to the MOE, at the time of the Applicant's resignation, that he "broke down and teared badly (genuine, as far as I can tell)";

(b) the Applicant's cooperation with the authorities and his remorse, which had been noted by the DJ in her oral judgment and accorded weight in mitigation;

(c) despite the substantial delay in the prosecution of the Offences owing to no fault of his own, the Applicant had taken the initiative to progress the criminal proceedings on at least six different occasions; and

(d) the Applicant had not resisted the objections of the Stakeholders but said that he would strengthen his resolve to rehabilitate himself and "atone for [his] earlier missteps".

109 In my judgment, these instances of remorse did not speak of someone who was unwilling to confront his wrongdoing openly and unreservedly.

110 On the factor of the Applicant's rehabilitation, the dispute primarily centred around Dr Leong's medical evidence contained in the 8 August 2023 Memo and the 20 September 2023 Report. Having considered the evidence in the round, I did not think that Dr Leong's reports were unreliable or contradicted by the Applicant's conduct in AAS 336.

111 First, Dr Leong explained in the 20 September 2023 Report, in response to the AGC's request for the evidence and analytical process underlying his conclusions, that he had employed "[l]ongitudinal monitoring and observation during regular follow-up from 30 July 2018 to 27 Nov 2021" and conducted a thorough re-assessment on 8 August 2023 comprising a full psychiatric interview, mental state examination and risk assessment. Dr Leong's conclusions also had to be read in the light of the 2021 Winslow Report, in which he had responded at length to questions as to whether the Applicant had "taken responsibility for his actions and sought medical treatment/rehabilitation to prevent recidivism" and "his treatment progress to date, rehabilitation status and the likelihood of reoffending". Dr Leong noted that the Applicant had been "conscientious and compliant" with his treatment and had made "very good clinical progress and has been in the stage of recovery since 10 Oct 2018".

112 As I explained to counsel, Dr Leong arrived at the conclusions by drawing on the fact that he had been treating the Applicant for three years (the

details and observations of which period had been recorded in the 2021 Winslow Report) to the point where he was satisfied clinically that the Applicant's psychiatric conditions were in remission and did not require regular follow-up. The tenor of the 20 September 2023 Report was that, upon re-assessment some two years later, Dr Leong saw no reason to depart from his previous clinical assessment. Further, Dr Leong's report was not based entirely on the Applicant's self-reporting, but had regard to objective factual matters, including the fact that the Applicant had been gainfully employed, obtained his JD and held a stable job as a legal associate.

113 In the circumstances, I saw no reason to reject Dr Leong's evidence, especially since there was no expert evidence to the contrary.

114 Apart from the medical evidence, there were other objective factors which supported a finding that the Applicant was well on his way to rehabilitation, even if he was not yet fully rehabilitated. First, the Applicant demonstrated his manifest commitment to seeking medical treatment. This was undeniable and revealed insight and maturity in his willingness to confront his weaknesses by building up a proper defence mechanism as part of his rehabilitation. His medical treatment, the cost of which he had borne, had yielded significant qualitative progress, as noted by Dr Leong.

115 Secondly, the Applicant maintained a clean record for six years since the Offences. This cast his progress in a positive light: *Re Chester Lee* at [9]. He enrolled himself in and graduated from law school, passed the Bar examinations, and completed his practice training. The fact that the Applicant maintained a clean record amidst the not insignificant amount of stress that comes with pursuing a course of legal study and professional training, while concurrently navigating the criminal justice process, struck me as significant

and suggested that real progress was being made. This took on particular significance because the Applicant's inability to cope with stress from his workload as a teacher and his underlying health challenges had been identified in the medical evidence as significant contributors to the Offences (for example, at [17] above). The Applicant, by his conduct over four years, had demonstrated that he had developed the resilience needed to handle stress without giving in to recidivism.

116 Thirdly, I observed in *Re Chester Lee* at [12] that any criminal punishment typically carried with it some inherent rehabilitative effects. In the present case, the Applicant had actively sought to progress his prosecution and conviction, which demonstrated a willingness to confront his wrongdoing and face the ensuing punishment.

117 Fourthly, I saw the Applicant's conduct in the admission process as candid and forthcoming given that he had made adequate initial disclosures and had thereafter been cooperative in his responses to requests for further information.

118 Finally, the Applicant had also joined resource and support networks run by a non-governmental organisation. According to him, he had found support in them and a community that would help him ensure that he remained firmly grounded. In the most recent affidavit filed in support of his Withdrawal Application, the Applicant disclosed that he had since become a volunteer to guide others in similar situations. The willingness and ability to assist others also lent weight to my view that he had made significant progress in his rehabilitation.

119 In all the relevant circumstances, applying only the framework in *Re Sean Wong* and *Re Suria Shaik*, it would *not*, in my judgment, have warranted a substantial Minimum Exclusionary Period or a lengthy deferment of the Applicant's application for admission to the Bar. I accepted that he had some distance to go, principally on account of the gravity of the Offences and the consequent need for the court to be entirely satisfied that he had been fully rehabilitated; but this alone would not have warranted the sort of deferment period the Stakeholders were urging upon me.

The Protective Principle

120 This led me, as I had foreshadowed earlier, to raise with the parties, prior to the hearing, the question of further considerations to which I should have regard. In my judgment, the discretion of the court to admit an applicant as an Advocate and Solicitor under s 12(1) of the LPA is a wide one, guided by its institutional duty to safeguard and protect the legal profession (as alluded to at [1]). This protective interest manifests itself in the need to scrutinise an applicant's character as mandated by s 13(*b*) of the LPA. However, in my judgment, it also gives rise to a further and discrete consideration that the court should have regard to, which is the need to protect the standing of the profession by considering whether the nature of an applicant's misconduct is of such gravity that the grant of the admission application at the time it is made would risks undermining public trust and confidence in the legal profession and thus in the administration of justice. This is what I have referred to as the Protective Principle.

Normative basis for the Protective Principle

121 The Stakeholders all agreed that the Protective Principle was applicable, though there were some differences among them as to its conception and operationalisation.

122 The AGC submitted that, conceptually, the Protective Principle should be assessed in connection with the applicant's rehabilitation, such that, where the objective evidence was unequivocal in demonstrating that the applicant has fully resolved his character defects, the Protective Principle should not apply. The AGC submitted that, from a practical perspective, the Protective Principle operated by requiring more convincing evidence to satisfy the court that the underlying character defects have been resolved.

123 The Law Society referred me to *Nirmal Singh s/o Fauja Singh v Law Society of Singapore* [2011] 1 SLR 645 ("*Nirmal Singh (No 2)*"), which was the reinstatement application of a practitioner who had been struck off upon his conviction on charges of corruption and criminal breach of trust. The Law Society submitted that the Protective Principle may be rationalised as part of a qualitative assessment of an applicant within the wide discretion afforded to the court. In particular, Mr Rajan helpfully drew my attention to the following passage in *Nirmal Singh (No 2)*, where Chao Hick Tin JA (as he then was) observed that:

> 19 We also found that the applicant's reinstatement would not diminish public confidence in the reputation and standing of the legal profession. In a sense, this point raises the issue as to how society should view wrongdoings by a professional who holds a position of trust. Is it correct to say that just because an advocate and solicitor has done wrong involving dishonesty, he should be damned forever and never again to be allowed to practise as such? Will that be just?
>
> 20 In this regard, we noted that a major campaign which has been undertaken for a few years now is the Yellow Ribbon

> project which aims to give offenders a second chance in society with a call to employers not to shun such persons. Of course, we recognise that there is a difference between wrongdoing by an ordinary individual and a professional like an advocate and solicitor in whom trust is reposed by clients. On the other hand, even for wrongdoings involving dishonesty there are varying degrees of severity or gravity, and in turn culpability. All such wrongdoings could well lead to disbarment. As noted by this court in *Narindar* (… at [42]), "…there are certain offences which are less serious but which nevertheless meet the threshold requirement that will result in the advocate and solicitor concerned being struck off the roll". While this court takes a serious view of any wrongdoing involving dishonesty by advocates and solicitors, we are also mindful that even as between wrongdoings involving dishonesty there will be differences as to seriousness. Consequently, there is a need to maintain a sense of proportionality and fairness. Moreover, it would also be in the interest of society to promote redemption: see *Kalpanath* (… at [23]). Except in the most egregious of offences, and we did not think that the wrongdoings of the applicant here fell within that category, this court would not rule out reinstatement of an advocate and solicitor who have been struck off. What was clear from precedents was that the greater the severity of the offences committed, the longer would be the intervening period before this court would consider reinstatement…

124 Building on the passage above, Mr Rajan submitted that the public interest considerations underlying the calibration of the appropriate period of reinstatement could equally form the normative basis of the Protective Principle.

125 The SILE, too, drew on the jurisprudence in the reinstatement context, submitting, based on *Narindar Singh Kang v Law Society of Singapore* [2013] 4 SLR 1147 ("*Narindar Singh (No 2)*") that the Protective Principle may be founded in the public interest in (a) being safeguarded from the possibility of re-offending; and (b) maintaining the confidence in the legal profession.

126 The Applicant did not take a position on this point.

My decision

127 The power to admit an aspiring applicant is a discretionary one, to be exercised having regard to the conduct and character of the applicant and all other relevant circumstances, as provided for in s 12 of the LPA:

> **Admission as advocate and solicitor of Supreme Court**
>
> **12.**—(1) Subject to the provisions of this Act (including any rules made under this section or section 2(2), 10 or 14), the court may, ***in its discretion*** and with or without an oral hearing, admit an eligible person as an advocate and solicitor of the Supreme Court.
>
> …
>
> (5A) To avoid doubt, the court may, having regard to the conduct and character of the eligible person concerned and ***all other relevant circumstances***, on such terms as the court thinks fit, do either or both of the following:
>
> (a) adjourn the matter for a specified period or allow the application to be withdrawn;
>
> (b) make such other order as it considers appropriate.
>
> [emphasis in original in bold; emphasis added in bold italics]

128 In this regard, although s 13 of the LPA provides for certain grounds on which the court must refuse admission, one of which is the "good character" requirement (s 13(2) of the LPA), these conditions are not exhaustive of the circumstances that may be relevant to the exercise of the court's discretion under s 12.

129 In my judgment, and as alluded to earlier (at [120]), the normative basis of the Protective Principle is found in the court's responsibility to protect public confidence in the administration of justice, which is of paramount importance. The protective nature of the role of the court as a gatekeeper of the legal profession is clearly illustrated by reference to the three paradigm situations affecting membership of the profession:

(a) In the context of *disciplining* errant practitioners, the protection of the public and the upholding of public confidence in the integrity of the legal system are the *paramount considerations* among all the other factors relevant to the determination of the appropriate sanction: *Law Society of Singapore v Ravi s/o Madasamy and another matter* [2024] 4 SLR 1441 at [54]–[55].

(b) In the context of an application for *reinstatement* to the Roll, as the Law Society and the SILE had correctly identified, the court in considering the exercise of its discretion has regard to the importance of securing public *confidence* in the legal profession: *Narindar Singh (No 2)* at [16]; *Nirmal Singh (No 2)* at [19] and [23].

(c) In the context of an application for *admission*, the protection of the public and safeguarding the administration of justice are *central features* of the admission process as evidenced by the involvement of the Stakeholders who identify individuals who may be unsuitable for admission: *Shahira Banu* at [42] citing *Re Sean Wong* at [27].

130 While the protection of the public and safeguarding the administration of justice are fundamental objectives as demonstrated in each of these situations, there is a conceptual distinction between the application of these considerations from the perspective of whether the applicant is likely to engage in conduct that may bring about such harm, on the one hand, and on the other, how the public may perceive the standing, integrity and reputation of the profession if the applicant were admitted. In my judgment, the framework developed and applied in cases like *Re Sean Wong* goes to the former point, while the Protective Principle goes to the latter. As Chao JA observed in *Kalpanath Singh s/o Ram*

Raj Singh v Law Society of Singapore [2009] 4 SLR(R) 1018 ("*Kalpanath Singh*") at [48]:

> … even assuming that this Court accepts that the Applicant has been fully rehabilitated and his "intrinsic character" is beyond reproach so that the public is protected from any harm, there is still the other aspect of the public dimension to be considered, *ie*, the reputation of the legal fraternity in the eyes of the public.

For this reason, I did not see the Protective Principle as linked to the rehabilitation of the Applicant (as suggested by the AGC). That, in my view, is concerned with the former of the two aspects of securing public confidence, rather than the latter.

131 This conceptual distinction is also illustrated in the important decision in *Narindar Singh Kang v Law Society of Singapore* [2007] 4 SLR(R) 641 ("*Narindar Singh (No 1)*") (at [38]–[41]) which bears citing in some detail:

> 38 We turn now to two further factors (in effect, the seventh and eighth by way of general observations and principles hitherto made) that are often pivotal to applications of this nature. These factors correspond to two broad areas of focus – *both* of which are *equally* important. Indeed, both interact – and are integrated – with each other. Both (in particular, the second) deserve more detailed elaboration.
>
> 39 The first is the focus on the *applicant* himself or herself. More specifically, the issue is whether or not the applicant has demonstrated, through his or her conduct and actions during the interim period, that he or she has been fully rehabilitated and is now a fit person to be restored to the roll … This particular consideration is, in many ways, a threshold one because if, for example, the applicant might lapse back into the same (or similar) conduct that resulted in him or her being struck of the roll in the first instance, then it is clear beyond peradventure that the applicant cannot be restored to the roll. It is important to note, at this juncture, that this (first) focus *overlaps* with one key element of the second inasmuch as in so far as the applicant is found to be fully rehabilitated and is now fit to be restored to the roll, to *that* extent there is *no likelihood of danger of any harm to the wider public*. However,

> as we shall see, the second focus encompasses other elements as well…
>
> 40 The second broad area of focus is on the *public interest*, which, as Prof Tan has aptly pointed out, "stands at a premium" … In this regard, the *key considerations or elements* are, respectively, the *protection* of the public *and public confidence* in *the general reputation of the legal profession*. This particular area of focus is broader than the first inasmuch as it extends beyond the applicant's own circumstances and personal situation …
>
> 41 It is important to emphasise that whilst the possible (and *specific*) *harm* which might be caused to *the public* is clearly a factor that must be considered, this is (as already mentioned above) *related*, in point of fact, to the issue as to whether or not the *applicant* is sufficiently rehabilitated and therefore has ceased to pose a danger to the public in this particular respect. *However*, this factor is, as alluded to above, *but one* of the *two elements of public interest* which this court must consider. There is a *further* (and *second*) element that has been captured – to some extent – in the last part of the quotation in the preceding paragraph. This relates to *the need to maintain public confidence in the general reputation and standing of the legal profession*. Put simply, would the restoration of the applicant concerned *diminish public confidence in the general reputation and standing of the legal profession*? A *negative* answer to this question is, in our view, necessary before the applicant can be restored to the roll. In other words, the fact that the applicant can demonstrate to this court's satisfaction that he or she has repented fully and will not commit the same (or a similar) disciplinary infraction again is a necessary, *but not sufficient*, condition for restoration to the roll …
>
> [emphases in original]

132 In my judgment, the reasoning in *Narindar Singh (No 1)* was correct. It follows that the focus of the Protective Principle is the specific inquiry of whether, from the *external* perspective of the public, the admission of an applicant would risk undermining public confidence in the legal profession. I turned then to its application in this case.

Relevant factors under the Protective Principle

133 It is important to preface this part of the discussion with the general observation that, although an application for reinstatement to the Roll bears some similarities to an application for admission, they are markedly different. This is so for a host of reasons, chief of which is that, in the admission context, the misconduct precedes the applicant's admission as an Advocate and Solicitor, whereas an applicant for reinstatement carries the burden of having betrayed the trust previously reposed in him *as an officer of the court*. It is for this reason that the equivalent formulation of the Protective Principle operates with greater force in the reinstatement context: *Nirmal Singh (No 2)* at [11(f)]. Nonetheless, it is relevant to consider the following non-exhaustive factors relevant to the Protective Principle:

(a) the nature of the offence;

(b) the penalty already served by the applicant;

(c) the duration since the completion of the penalty;

(d) efforts of the applicant directed at demonstrating his or her ability to function as a member of the legal profession; and

(e) finally, whether the court is satisfied, in the round, that the applicant is capable of being entrusted to aid the administration of justice as an officer of the court without any risk of undermining public confidence.

134 It should be stressed that the Protective Principle is an exceptional one that would not apply in every instance where admission is sought, because, in most cases, having regard to the applicant's character alone would be sufficient.

It is only where the underlying misconduct is sufficiently grave that the Protective Principle would serve as a matter to be considered separately, to determine what may be necessary to protect the standing of the profession.

135 Further, the Protective Principle need not operate as an absolute bar to entry to the profession, save perhaps in the most egregious of cases. Indeed, the protective element of the public interest in the Protective Principle should be balanced against the redemptive element that every individual ought to be given a second chance, provided that they have attained complete rehabilitation *and* their admission to the Bar would not undermine public confidence in the administration of justice: *Nirmal Singh (No 2)* at [14], [19]–[23].

136 With these principles in mind, I turn to the facts of the present case.

Application to the facts

Nature of the Offences

137 The severity of the offence in question is a very important factor because it will typically have the greatest bearing on public confidence. As noted by Chan Sek Keong CJ in the context of an application for reinstatement in *Knight Glenn Jeyasingam v Law Society of Singapore* [2007] 3 SLR 704 at [43] ("*Knight Glenn Jeyasingam*"), and affirmed in *Nirmal Singh (No 2)* (at [20]):

> One of the most important considerations must be the nature of the transgression that had resulted in his disbarment in the first place. The transgression, in terms of its criminality and its gravity, will invariably feature prominently in the court's assessment of the adequacy of the period of time that has lapsed since the applicant has ceased practice.

138 This stems from the fact that the Court, in its assessment of the admission application, must not be perceived to be condoning the misconduct in question. Indeed, as observed in *Narindar Singh (No 1)* at [44]:

> … More importantly, the *seriousness* of the offence committed by the advocate and solicitor in question has, in our view, a significant effect on *the general standing and reputation of the legal profession* in *the eyes of the public*. It bears repeating that we are here concerned with the *legitimacy* of the legal profession *from the public perspective* and, to this end, treating *all* offences *alike*, *regardless* of the *seriousness* associated therewith (save only that the advocate and solicitor concerned can demonstrate to the court's satisfaction that he or she is not likely to commit the same (or a similar) offence in the future) would *not meet this concern*. Put simply, if an advocate and solicitor who has a committed a *particularly serious* offence is treated *no differently* from one who has committed a *much less serious* offence (with both, conceivably, being entitled to be restored to the roll within roughly the same time frame), the *public* would – and with good reason – wonder whether their interests were being taken into account in a serious and meaningful way. *Indeed, the natural public expectation would be that an advocate and solicitor who has committed a particularly serious offence would have to wait a longer period to be restored to the roll compared to one who had committed a less serious offence, regardless of whether or not the same (or a similar) offence was likely to be committed in the future.* We would go so far as to say that this would be an expectation held by *all* concerned (including those within the legal profession itself) *simply because it accords with logic, common sense and justice*.
>
> [emphasis in original]

139 Although it is not useful to examine every situation which could or might attract the operation of the Protective Principle, two broad categories may be identified. The first concerns misconduct such as corruption, criminal breach of trust, and offences which reveal serious dishonesty, especially where this is tied to personal gain, which contravene the values which the legal profession stands for, and offences striking at the heart of the administration of justice (such as perverting the course of justice: *Re Nirmal Singh s/o Fauja Singh* [2001] 3 SLR 608 ("*Nirmal Singh (No 1)*") at [12]; *Nirmal Singh (No 2)* at [3]). The second includes offences which involve especially serious crimes. This, plainly, is not a closed list.

140 In the present case, the Applicant's Offences were far more serious than has been considered in any admission case involving sexual offences (see above at [69]), and, in my judgment, fell within the second category thereby justifying the invocation of the Protective Principle.

Extent of the penalties served

141 The purpose of examining the penalties imposed or served is not to determine whether further punishment is necessary: *Narindar Singh (No 1)* at [26]. Nor should the court engage in "social accounting", for instance, by taking a deliberately lenient approach in view of previous punishment: *Re Chester Lee* at [11]. Rather, the extent of penalties served may be relevant on two levels: first, on an *individual* level, as I noted in *Re Chester Lee* at [12], criminal punishment is ultimately intended to have a rehabilitative effect on the offender. As the cases have said, full rehabilitation at an individual level is a threshold requirement for the protection of the public: *Narindar Singh (No 1)* at [39]; *Kalpanath Singh* at [19]; *Nirmal Singh (No 2)* at [14]. Secondly, and more germane to the Protective Principle, on a *societal* level, the criminal justice system, invoking the principles of retribution and proportionality, metes out punishment as an appropriate response in terms of expressing societal denunciation of the offence, and this typically corresponds to the degree of harm and culpability involved: *Public Prosecutor v ASR* [2019] 1 SLR 941 at [130]; *Public Prosecutor v BDB* [2018] 1 SLR 127 at [36]. Yet, there may well be instances where the admission to the profession of a given candidate would risk undermining public trust in the justice system, having regard to the gravity of the offending behaviour and the concern in the eyes of the public that the applicant may not have been rehabilitated to such an extent as would be needed to warrant his or her admission. Likewise, the admission of an applicant who presents a risk of reoffending would clearly not be a prudent exercise of the

court's discretion. Seen in this light, the extent to which the applicant has already been punished could affect the court's assessment of the risk of the public having a diminished view of the integrity of the justice system if the applicant were to be admitted.

142 In the present case, although the Applicant had served a sentence of ten weeks' imprisonment for the Offences, in my judgment, given the gravity of the offences, this was one of those cases where in the eyes of the public, the admission of the Applicant might reasonably give rise to concerns as to the standards of probity and virtue expected of members of the legal profession, which is an integral pillar in the administration of justice. This, however, had to be carefully weighed against the significant length of time which had since elapsed in which the Applicant had maintained a clean record, a factor to which I next turn.

Length of time since the serving of penalties

143 In as much as the extent of penalties served is a relevant consideration, it is important that it be assessed alongside the length of time since the completion of such penalties, in particular, whether sufficient time has passed since the completion of his penalties, during which period the applicant must not have committed any other offence. Where serious offences are concerned, more time is likely to be needed for the applicant to engender the requisite trust from society. This stems from the premium that must be placed on the integrity of the administration of justice and court's duty to safeguard the reputation of the legal profession: *Nirmal Singh (No 1)* at [20].

144 The determination of the appropriate period of time is a qualitative assessment and not a quantitative one. The court should not assume that the

mere passage of time is sufficient – what will typically be more germane is the conduct of the applicant in that intervening period.

145 Finally, the calculation of the intervening period should exclude the period of incarceration. This is to avoid the anomalous situation where an applicant who has served a lengthy imprisonment sentence is deemed to have waited long enough.

146 In the present case, the Stakeholders agreed, as did I, that the Applicant's maintenance of a clean record for a lengthy period of six years since April 2018, with the exclusion of the ten-week period serving his sentence of imprisonment, was significant. When considered together with the medical evidence, this suggested that the risk of reoffending was low. Moreover, this passage of time was further cast in a positive light, noting the Applicant's consistent efforts to develop his ability to function as member of the legal profession.

Efforts of the Applicant directed at developing his ability to function as a member of the legal profession

147 As noted previously (at [144]), apart from the period of time which has passed, what may be of greater significance is how the time has been used to develop the applicant's character and trustworthiness as a member of the legal profession. In the reinstatement jurisprudence, the cases are clear that the conduct of an applicant post-striking out, including positive steps taken by an applicant to re-establish his or her suitability for legal practice, would cast the rehabilitation of that applicant in a favourable light: *Nathan Edmund v Law Society of Singapore* [2013] 1 SLR 719 at [17]; *Nirmal Singh (No 2)* at [15]–[16].

148 In the present case, there was much to be commended in how the Applicant had conducted himself after his Offences had come to light in 2018. First, on the *medical* front, the Applicant made serious efforts to seek treatment and address the underlying psychiatric conditions which bore a contributory link to his Offences (see above at [113]). Second, on the *personal* front, the Applicant diligently pursued a course of studies and training which culminated in AAS 336 (see above at [115]). Finally, on the *community* front, the Applicant has been actively volunteering and contributing to society, finding both support and purpose in helping others (see above at [118]). As I observed to the Applicant at the hearing, the fact that some concerns remained should not overshadow the significant progress that he has made since the occasion of his wrongdoing.

Whether the Applicant was capable of being entrusted as an officer of the court

149 In the final analysis, I concluded, in view of the severity of the Offences and the need to uphold the standing of the profession in the eyes of the public, that, despite the considerable progress already made, the Applicant could not yet be said to be fully rehabilitated, and some time was needed before the Applicant could be entrusted as an officer of the court. The precise extent of this was a matter of impression and judgment rather than of arithmetical calibration. I concluded that a Minimum Exclusionary Period of two years was appropriate in all the circumstances. Assuming the Applicant stays the course and maintains his clean record, he will have stayed free of crime and maintained a productive and rehabilitative path for eight years, and this seemed sufficient to address the remaining concerns. I also imposed the usual undertaking that he must comply with any prevailing statutory or other requirements that the Stakeholders may

reasonably require in order to assure themselves that he is a fit and proper person to be admitted.

150 I also directed the Applicant to provide any information as to the further steps he will have taken to secure his readiness to be admitted to the Bar at the time he makes a fresh application. Finally, in considering the Applicant's future application, consideration may also be given to whether his admission should be made subject to any conditions, as the Law Society suggested in its oral submissions (see above at [66]).

Conclusion

151 In closing, I return to a point that was made in *Shahira Banu* at [49]. In the correspondence between the Stakeholders and the Applicant in the lead up to AAS 336 and the making of the Withdrawal Application, the Stakeholders proposed a lengthy Minimum Exclusionary Period of four years, which the Applicant said he had felt obliged to accept. This position had been taken on the basis of objections which for the reasons I have explained, I largely did not accept.

152 It is important to reiterate what was stated in *Shahira Banu* at [49], that the suitability of an applicant to be admitted as an Advocate and Solicitor is ultimately a question for the *court* to pronounce on. An applicant who disagrees with a position taken by a stakeholder may therefore fairly contend that any objections should be reviewed by the court.

153 Although the Stakeholders are institutionally charged with the responsibility to safeguard the legal profession by identifying unsuitable applicants (r 45 of the LP(A)R 2024), their task is regulatory in nature rather than adversarial. The court depends on the Stakeholders to undertake an

objective and holistic assessment of any potential applicant and apprise the court of all relevant facts, including those weighing *in favour* of an applicant's admission. This is necessary to ensure that the admission process remains fair and robust.

154 I made no order as to the costs of the applications.

Sundaresh Menon
Chief Justice

Applicant in person;
Fu Qijing, Lee Hui Min and Sean Koh Yi Wei (Attorney-General's Chambers) for the Attorney-General;
Sanjiv Rajan and Prabu Devaraj (Allen & Gledhill LLP) for the Law Society of Singapore;
Chong Soon Yong Avery (Avery Chong Law Practice) for the Singapore Institute of Legal Education.