IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Judicial Review
Case No. 25/115 SC/ JUDR

BETWEEN: George Boar
Claimant

AND: Law Council Disciplinary Committee
Respondent

Before: **Hon. Justice EP Goldsbrough**

In Attendance: **Applicant in person**
Tari, T Jelinda and Aron, S for the Respondent

Date of Hearing: **20th October 2025**
Date of Judgment: **17th November 2025**

JUDGMENT

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1. In these proceedings George Frederick Boar, the claimant, seeks a judicial review of a decision of the disciplinary committee of the law council made on the 25th of November 2024. That decision was made following the claimant's application to be restored to the register of legal practitioners.

Background

2. By a decision of the 25th of November 2019 the claimant had been struck off the register of legal practitioners. An appeal against that decision, at one time filed by the claimant, was not pursued. By September of 2021, the claimant sought reinstatement. That application was refused in a decision published on the 17th of September 2021.

3. It was his second application for reinstatement and its refusal that prompted this application for judicial review. There is no provision made under the legal practitioners act to appeal such a decision. When filed the complaint named the Disciplinary Committee of the Law Council (DC) as first respondent, the Chief Justice of Vanuatu as the second respondent and the Republic of Vanuatu as the third respondent.

4. The decision challenged is that of the DC. The second respondent was not and is not a member of that committee. The Chief Justice is a member of the Law Council, but not of the DC. It may well be that in the course of time the Law Council itself may be required to consider the decision of the DC to refuse the applicant's request but that stage has not been reached. As the decision challenged is not that of the second respondent, the second respondent was removed from being a party to this action by the Court of its own motion. The court always retains the power to make the second respondent a party should the circumstances warrant that.

5. Under rule 17.4 of the Civil Procedure rules No. 49 of 2002 (CPR) as this claim seeks an order about a decision, the only party required to be named is the person who made the decision. In this instance that was the DC.

6. The claim was filed on the 6th of February 2025. It was served on the respondent promptly yet no defence to the claim was filed until 23 July 20 25 after several requests of the respondent to do so. That itself caused difficulty in compliance with rule 17.8 CPR which requires that as soon as practicable after the defence has been filed and served the judge must call a conference. The rules are silent about the position when the respondent fails to file a defence on time or not at all.

7. After the defence had been filed and notice had been given to the parties of the rule 17.8 conference, a decision was made that the four criteria set out in Rule 17.8 (3) had been met.

8. After the conference, an application was filed by the respondent to strike out some of the pleadings. As pointed out to counsel for the respondent, the logical time for that application to be made was prior to and not after the conference.

9. The matter was set down for trial on the 20th of October 2025, orders previously having been made about the filing of submissions on the application to strike out parts of the pleadings. As the respondent fail to comply with the order to file submissions by the 8th of October 2025 and in the absence of an explanation for lateness and further in the absence of an application to extend time or condone the failure that application was dismissed summarily. The value of the application was mostly lost given that the rule 17.8 conference had already taken place and the second respondent had already been removed by an order made when counsel for the respondent had failed to attend an earlier hearing. Nor was it the first time in these proceedings that counsel for the Respondent had to be warned about compliance with Direction Orders

10. Evidence for the claimant was contained in his sworn statement filed on the 6th February 2025, and evidence for the respondent in two sworn statements the first being from Shalika Marcel filed on the 23rd of July 2025 and the second of Florence Williams Samuel filed on the 6th of August 2025. At the start of the hearing counsel for the respondent indicated that she did not wish to cross examine the claimant. The Claimant gave notice that he wished to cross examine both defence witnesses.

11. The attention of counsel for the respondent DC was alerted to statements in the evidence of the claimant that it was unlikely that the respondent accepted, and asked to explain why she did not seek to cross examine the claimant on those matters. She indicated that as she had anticipated her application to strike out some of the pleading would be granted, she had formulated her trial strategy on that assumption.

12. As the claimant indicated that he was happy to be cross-examined without having been given notice, the trial began.

13. This decision will focus on the evidence put before it on the hearing for Judicial Review. There are allegations made in submissions that were not supported by evidence. If necessary, I will return to unsupported submissions during the discussion following the evidence.

Evidence

14. The claimant in his sworn statement sets out the background to the 2019 Disciplinary Proceedings which led to his removal from the roll. He acknowledged that the reason for his removal was the misappropriation of client funds. He says that after reflection he decided to accept the decision. He recites his application for restoration made in 2021 and how the present DC conducted the hearing of this present application.

15. He makes no complaint that he was given notice of the hearing and that he was allowed to say what he wanted to say at the hearing. He simply says that he does not think the DC took into account the right material and asks why other material was taken into account. Thus he believes that the DC should not have considered what it was that led him to be removed from the roll. He believes that he has not been given advice or information about what he should be to rehabilitate himself, and he believes that the DC, in particular the Chair, of the DC held improper motive.

16. He does not produce any evidence but alleges collusion between the Chair of DC and the Chair of the Law Council and the ill feeling he says that there is with the Chairman of the Law Council.

17. He exhibits decided cases showing the relevant decision of the DC and a decided case about a legal practitioner member of the Law Council, not of the DC. He further exhibits references related to work he has undertaken when he was not entitled to practice as a legal practitioner. He has been awarded a National Honour for voluntary work and has supported his church.

18. He was cross-examined but to little effect. He answered questions about why a criminal complaint was laid against him by 15 members of staff he had represented. He complained that they made that complaint to both the Law Council and the Public Prosecutor. He felt that it should have only been made once and not to the OPP. He felt that the Chief Justice was responsible for the decision that the original matter be referred to the DC in 2019.

19. He expressed the view that, because he had already gone through a hearing in 2019 about that complaint of misappropriation, the same matter should not have been referred to by the 2024 DC, saying that by doing so, the DC 'acted outrageously'. He believe that because he had already been through the disciplinary process he repeated.

20. He complained that the Legal Practitioners Act did not set out rehabilitative steps for guidance. 'The hearing was supposed to look at my restoration, not what I have done in the past' he answered.

21. On alleged collusion between the Chair of DC and Chair of Law Council he said that he understood the decision appealed was made by the DC and not the LC, not two individuals, and confirmed that he had no evidence to support his assertion of collusion.

22. He was not asked whether he was paid by the Reserve Bank for providing the second opinions referred to in the reference he tendered from the then Governor of the Reserve Bank.

23. Evidence for the Respondent was mostly formal in nature, and nothing turns on it given that documents produced by the evidence were either already in evidence from the claimant or not in issue in these proceedings. The Secretary to DC when asked confirmed that in putting a notice of hearing in the Government Gazette, she was complying with the law, not trying to solicit opposition to the application for restoration.

Discussion

24. Of the three main grounds which may be pleaded in a claim seeking judicial review of a decision, in this instance there is no suggestion of either illegality nor procedural unfairness. This claim is

based on irrationality, that no reasonable person could have arrived at the decision if the relevant material had been properly considered.

25. The first suggestion of that is contained in the claimant's assertion that the DC should not have considered the reason why he was removed from the register of legal practitioners in the first place. That submission must fail. To properly consider restoration, the DC must consider what led to the removal. In this case the 2019 removal was all about not properly accounting for money belonging to others, in this instance his clients or former clients. It was also necessary, in my view, to note from the 2019 finding that of dishonesty. This was not careless accounting. It is only when the DC knows what led to the removal that it can look to see, taking into account what has transpired post removal, if the applicant can be permitted to practice again. Different starting points will lead to different rehabilitative approaches. Lack of knowledge leading to improper filings, for example, may be remedied by additional tuition on that subject. Failure to account for client funds will require a different rehabilitative step or steps.

26. The ground is expressed as absolute, but I will also consider whether the DC allowed the 2019 findings too much weight in their deliberations. I take a simple view that the DC would have failed in its obligations when considering the application if it had not explored fully the reason for removal because without that, the DC could not fully explore whether subsequent rehabilitative steps had been taken and the future risk of recurrence removed.

27. The second suggestion is that the DC should have restore the applicant to the register because no objection had been filed in opposition to the application. That is taken one step further, in submissions but not in evidence, that the Secretary to the DC deliberately placed a notice in the Government Gazette for the purpose of soliciting opposition. Because it was raised in submissions, the Court took the opportunity, after neither party had asked the question, to explore why a notice was placed in the Government Gazette. The answer given was that it is a statutory requirement under legislation to do so and was done in this case to satisfy that obligation, not for any other ulterior motive.

28. The third suggestion put forward by the claimant in his evidence is that he was not told what rehabilitative steps he must take and legislation gives him no guidance. It is clear that there is nothing in the legislation which assists an individual here. To suggest, though, that nothing was

ever offered to this claimant in that regard is to ignore the remarks made in a previous DC decision, of 2021, where such general guidance appears[1]

29. In that decision, at p 12 the DC said:-

> The Committee can readily conceive of situations where legal practitioners can be restored to the Register. For example, (i) where all outstanding financial obligations are properly and completely satisfied in instances of negligent mistake as opposed to dishonesty; (ii) where further relevant education/training has been undertaken with a high standard of achievement attained to ameliorate a perceived inadequacy; and (iii) where an undertaking is given to deal only with certain type(s) of work in future and to not undertake work of the type which led to striking-off.

30. In p 13, the DC qualified those remarks by noting that the DC does not restrict the bases on which restoration might be possible, and the examples mentioned (at p12) are just that – examples only.

31. It is for the applicant to determine himself what is likely to demonstrate that what led to his removal from the register will not happen again.

32. All these taken together, according to the claimant, go to show that the decision arrived at was irrational, or *Wednesbury*[2] unreasonable. Lord Diplock has elucidated the concept, by stating that "irrationality" is applicable in a decision which is so outrageous in its defiance of either logic, or morals, that no sensible person could have arrived at that conclusion on proper application of his mind. He also adds that whether or not a decision falls within the ambit of this category is subjective, and depends on the interpretation of the judge.

33. This decision does not fall within that category.

34. It is not for this Court to speculate as to the future. One thing is clear. Whilst in evidence the claimant says he has accepted the 2019 disciplinary decision, he still considers that it was brought about wrongly and with malice and that the same malice exists today. That is put in submissions in opening and in closing, all without any factual basis to support it. That is not something that a legal practitioner is entitled to do. A submission must have a factual basis to

[1] Boar, Re [2021] VULCDC 1 (17 September 2021)

[2] Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948) 1 KB 223)

support it. Throwing mud around in the hope that some of it will stick is not a sound principle of advocacy.

35. It should not be thought, because the notions expressed in submissions that are not supported by evidence have not been set out here in detail, that they have not been taken into account, listened to and considered. I have deliberately avoided detailed reference to them because they do not impact on this decision because they are not made out on the evidence presented. Some lack relevance and some are defamatory. Repeating them in this decision serves no purpose.

36. This decision would not be complete without comment on the conduct of the defence. It was filed late, every step order to be taken was not taken in time. Final submissions were not filed on time, or as far as I am aware late. A mistaken reminder was sent out when the deadline was overlooked resulting in a request to file the submissions by a later date. Even by the later date, still no submissions were filed. No objection was taken to defamatory material pleaded when it should have been. It should be enough to say that, if the claimant were correct in his assertion that if no opposition is evidence, the application should succeed, he would have succeeded, not on merit but on default by the Attorney General's Chambers.

Decision

37. The claim for judicial review of the decision of 25 November 2024 fails and is hereby dismissed. No order for costs is made against the claimant, to reflect the totally inadequate conduct of the defence.

DATED at Port Vila this 17th day of November 2025

BY THE COURT

Hon. Justice EP Goldsbrough