

CIMA Disciplinary Committee Hearing held on 9 May 2019
Mr Jamie Kimber, Registered Student of Southampton, United Kingdom

The Charge against the Respondent provided as follows:

“Factual charges

1. *On 13 November 2015 you were convicted of Sexual Assault on a female by penetration.*
2. *On 4 December 2015 you were sentenced to*
 - a. *16 months imprisonment suspended for 24 months on suspended sentence;*
 - b. *Defendant subject to registration under s 92 of the Sexual Offences Act 2003 for 10 years;*
 - c. *To pay £900 towards the cost of the court;*
 - d. *To pay a Victim surcharge of £100;*
 - e. *To pay £350 towards the cost of the prosecution.*

By reason of paragraphs 1-2 above, it is alleged that you are guilty of misconduct as defined by the Byelaw 1 of the Institute’s Royal Charter Byelaws and Regulations (October 2012 and July 2015 version), as follows:

- a) *“...in respect of any ...Registered Student (ii) conduct resulting in any conviction...relevant to their ...registration with the Institute.”*

CIMA considers your conduct which resulted in your conviction relevant to your student registration as it constitutes a breach of the fundamental principles of the Code of Ethics (October 2010 and January 2015 versions), in particular (Professional Behavior: Sections 100.5(e) and 150)

- b) *“failure to comply with the Laws of the Institute”*

CIMA considers your conviction and your conduct which resulted in your conviction a failure to comply with the Laws of the Institute in particular breaching the fundamental principle (Professional Behavior: Section 100.5 (e) and Section 150) of the Code of Ethics (October 2010 and January 2015 version)”

Findings of Fact

Stage 1 – Decision on Facts

Mr Kimber admitted all of the charges which in accordance with rule 17(4) of the Disciplinary Committee rules 2015 were announced as proved. The Committee also had sight of the Certificate of Conviction dated 20 November 2018 which was conclusive proof of the facts contained within it.

Stage 2 – Decision on Misconduct (If facts found proved)

The facts having been proved, the Committee considered the matter of misconduct. CIMA's Byelaws and Regulations define "misconduct" as "failure to comply with the Laws of the Institute"; or "conduct resulting in any conviction (or adverse finding by, or sanction or order of, or undertaking to, any tribunal or court or other body or authority) relevant to their membership or registration with the Institute.

Mr Kimber admitted that the fact of his conviction for Sexual Assault on a female by penetration constituted misconduct. Using its own judgment, the Committee was satisfied that Mr Kimber's conduct which led to his conviction fell far short of the required standards of Professional Behavior amounting to misconduct.

Stage 3 - Mitigation and Sanction

Having found misconduct as alleged, the Panel went on to consider the questions of mitigation and sanction. In considering what sanction if any to impose, the panel had regard to the Indicative Sanctions Guidance and to the advice of the Legal Assessor. It also had regard to the principle of proportionality and that the sanction imposed should be the least onerous suitable to reflect the seriousness of the misconduct.

The Panel took into account the following aggravating and mitigating factors. The Committee considered that the fact that Mr Kimber did not inform CIMA at the time of his arrest or conviction was an aggravating factor. The Committee regarded as mitigating factors Mr Kimber's previous good character, his prompt admissions to the criminal offence and to the CIMA charges.

The Committee was satisfied that the matter was too serious to be dealt with by an admonishment or reprimand. The Committee considered that Conditional Student Registration was not appropriate in the circumstances, given that the misconduct did not involve any knowledge or practice failings.

The Committee had regard to Annexe 1 to the Indicative Sanctions Guidance which details previous sanctions decisions between 2016 – 2018. The Committee also had regard to the ACCA case of Trotter dated 5 March 2018, although it did not consider itself bound to follow that decision.

The Committee had regard to the effect of Mr Kimber's conviction on public confidence in the profession and in CIMA members. The Committee considered that well informed members of the public would expect CIMA to take robust and appropriate action in response to a criminal

conviction for sexual assault of a female by penetration but would also take into account all relevant factors at the time of committing the offence, including Mr Kimber's age, his previous good character and the satisfactory completion of his sentence.

The Committee was satisfied that Mr Kimber had shown remorse and insight into the effect that his conviction had had on the reputation of the profession. The Committee considered that the future risk to the public was low.

Taking all matters into consideration, the Committee concluded that it was not necessary to cancel Mr Kimber's student membership. The Committee decided that the appropriate and proportionate sanction was a severe reprimand.

Stage 4 - Costs

The Panel determined that there should be an order for costs in the sum of £2,675.00 against the Mr Kimber.