

Ghosh is gone - now a one-stage test for dishonesty?

17 May 2018

A recent UK Supreme Court case has decided that the current test for dishonesty in criminal proceedings should no longer be used when directing juries on the law in criminal cases. The *Ghosh* test, which has represented established law for over thirty years, is gone.

The *Ghosh* two-stage test required (i) the conduct complained of to be found dishonest by the objective standards of ordinary reasonable and honest people (the objective limb); and (ii) for the defendant to have realised that ordinary honest people would regard his behaviour as dishonest (the subjective limb). This caused much confusion – not least because it had the unintended effect that the more warped the defendant's standards of honesty are, the less likely it was that the defendant would be convicted of dishonest behaviour.

This latest case (though *obiter*) does away with the second, subjective limb of the test – meaning that standards of behaviour which are acceptable should be objectively judged, and no longer allow a loophole for someone to escape liability just because that person did not think his/her actions dishonest.

The revised test is likely to make the law easier for juries and lawyers to understand. However, individuals facing criminal charges which involve an element of dishonesty, for example conspiracy to defraud – the charge used in the LIBOR cases – may have to re-think how they argue their defence. They may no longer have the same opportunity to convince the jury that they did not realise that ordinary people would have found their actions to be dishonest.

Click here to read the full article.

Contacts



Chris Dobby

Partner



Mark Lin

Partner

> [Read the full article online](#)