

**THE SCOTTISH SOLICITORS'
DISCIPLINE TRIBUNAL**
Constituted under the Solicitors (Scotland) Act 1980
as amended

ANNUAL REPORT 2007/2008
for the period 1 November 2007
to 31 October 2008

THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL
Constituted under the Solicitors (Scotland) Act 1980 as amended
for the year to 31 October 2008

TRIBUNAL

Alistair M Cockburn Chairman

Solicitor Members

Colin Bell

Dorothy M Boyd

Marie E Brown (until Sept 2008)

Dr David C Coull (Vice Chairman from June 2008)

Gordon L Cunningham

Kirsteen Keyden

Tom McCartney

Alan McDonald

Douglas McKinnon

Malcolm McPherson (Vice Chairman)

Kenneth Paterson

Kenneth R Robb (Vice Chairman until June 2008)

Nicholas Whyte

Graeme McKinstry (from Sept 2008)

Joseph Hughes (from Sept 2008)

Lay Members

John Anderson, MBE

Sophia B Ayre

Peter Burdon

Elizabeth Cameron

Professor Monojit Chatterji

Michael Hastie

Mark Irvine

Jeremy Mitchell (until Dec 2007)

CLERK

Judith V Lea

DEPUTE CLERK

Audrey Watson

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CHAIRMAN'S INTRODUCTION

Details of the Tribunal's workload over the past 12 months are set out in this report. The volume of business increased again from the previous year with the Tribunal meeting three or four times per month. There was also an increase in the number of decisions issued by the Tribunal and the Tribunal is still dealing with a long-running case which is yet to be concluded. The Tribunal findings continue to be put on the website which is fully searchable and can be accessed at www.ssd.org.uk The Tribunal hearings are held in public and the forthcoming Tribunal hearings are detailed on the diary part of the website.

The Tribunal has been extensively involved during the year in drafting new Rules which are required to implement the terms of the Legal Profession and Legal Aid (Scotland) Act 2007. The Scottish Solicitors' Discipline Tribunal Procedure Rules 2008 are now available for downloading from the Tribunal website. The Tribunal has not yet started working with the new Rules as they in the main only apply to conduct which occurred after 1 October 2008 and accordingly no cases have yet reached the Tribunal.

This report highlights some of the main points from the decisions during the previous year. It is particularly important in these difficult times that solicitors take the time to read this report and be reminded of their duty to maintain the highest standards of this profession.

Kenneth Robb, Vice Chairman, stepped down from the Tribunal during the year owing to other professional commitments. Jeremy Mitchell, a lay member of the Tribunal, and Marie Brown, a legal member of long standing, also stepped down from the Tribunal during the year. I would like to thank all of them for their input to the Tribunal over the years.

I would like to thank my Vice Chairmen, all the Tribunal members, the Tribunal Clerk, Depute Clerk and Tribunal secretaries for their help and support during the year.

Alistair M Cockburn
Chairman

CONSTITUTION

The Scottish Solicitors' Discipline Tribunal is an independent Tribunal constituted under the provisions of sections 50–54 of and Schedule 4 to the Solicitors (Scotland) Act 1980 as amended in particular by the Legal Profession and Legal Aid (Scotland) Act 2007. The Tribunal now sits with two solicitor members and two lay members. The Tribunal is independent of the Law Society of Scotland with none of the solicitor members being on the Council of the Law Society. The lay members are drawn from a wide variety of backgrounds. All Tribunal members are appointed by the Lord President. Five new lay members were appointed to the Tribunal from 1 November 2008. The Tribunal is governed by the Scottish Solicitors' Discipline Tribunal Procedure Rules 2005 and the Scottish Solicitors' Discipline Tribunal Procedure Rules 2008.

GENERAL

Tribunal hearings continue to be held in public either at George House, 126 George Street, Edinburgh or the Scotsman Hotel in Edinburgh. The diary part of the Tribunal website is now up and running and details the business scheduled to be heard. In certain cases, business is not put into the diary if there is a motion for the hearing to be held in private. Procedural hearings are not included in the diary.

The Tribunal website at www.ssdt.org.uk includes details of all Tribunal members, Tribunal Rules, Tribunal Annual Reports, general information on the workings of the Tribunal and all the Tribunal findings issued since 1995 where publicity has been given. Findings subject to deferred publicity or which are under appeal to the Court of Session are not put on the website until any criminal proceedings are concluded or until the appeal has been concluded. Tribunal findings usually go on the website approximately three months after the date of the Tribunal hearing.

The Legal Profession and Legal Aid (Scotland) Act 2007 (the 2007 Act) came into force on 1 October 2008. It however only applies to business instructed or conduct which occurred after 1 October 2008 with a few exceptions. The Tribunal has accordingly not yet dealt with any cases under the provisions of the new Act. The Tribunal however has its new Rules in force which will govern any cases which do come to the Tribunal under the terms of the new Act. The Tribunal had great difficulty in drafting its Rules due to the practical difficulties caused by some of the amendments included in the 2007 Act. It remains to be seen how the provisions will work in practice.

TRIBUNAL BUSINESS

The volume of Tribunal business remained high with the Tribunal meeting on slightly more occasions than in the previous year.

The Tribunal deals with the following types of business:

1. Complaints with regard to professional misconduct.
2. Complaints that a solicitor/firm of solicitors has provided an inadequate professional service.

3. Appeals by a solicitor/firm of solicitors against a finding by the Law Society of an inadequate professional service (section 42A Appeals).
4. Applications for restoration to the Roll of Solicitors.
5. Applications for enforcement of inadequate professional service Orders made by the Council of the Law Society.

Business under 2, 3 or 5 will no longer be dealt with by the Tribunal under the 2007 Act but it will take some time for the historical cases to be dealt with. Once the Tribunal starts to see cases come through under the provisions of the 2007 Act, the Tribunal will have a new jurisdiction to deal with Appeals by solicitors and lay complainers against the new power of the Law Society to make findings of unsatisfactory professional conduct. The Tribunal will also have a power to award compensation to lay complainers where a finding of professional misconduct is made against a solicitor.

PROCEDURAL

There were again a lot of cases where respondents entered into joint minutes admitting the facts and averments in the Complaints. This saves time and money and also avoids the need for complainers to give evidence. One case was appealed to the Court of Session during the year. This concerned a Section 42A Appeal decision where the Tribunal quashed the Determination and Direction of the Law Society requiring the Appellant to pay the sum of £650 by way of compensation. The Tribunal made no findings of expenses due to or by either party and it was this finding that was appealed by the Appellant to the Court of Session. This matter has not yet been heard at the Court of Session. One case was remitted to the Tribunal by the Court of Session. In this unusual case, following the remit from the Court of Session, the Law Society indicated that it did not wish to proceed with one of the allegations of professional misconduct and the Tribunal accordingly only dealt with sentence in respect of the finding of professional misconduct which had been upheld by the Court. This was in respect of the respondent's preparation of a Codicil for his father in terms of which his father conferred upon him a significant financial benefit to the disadvantage of other members of his family. In the particular circumstances of this case, given that the making of the Codicil occurred over 20 years ago and that the Codicil was revoked a few weeks after it was made, the Tribunal Censured the respondent.

COMPLAINTS UNDER SECTION 53C OF THE SOLICITORS (SCOTLAND) ACT 1980

The Tribunal dealt with eleven Complaints under section 53C where the Law Society had determined that an inadequate professional service had been provided by the solicitor concerned and had directed awards of compensation or refunds of fees. These solicitors had then failed to comply with the determinations and directions and did not lodge an appeal against them. The Tribunal was accordingly required to issue Orders under section 53C(2) of the Solicitors (Scotland) Act 1980, resulting in the determinations and directions being enforceable in like manner as a warrant from any Sheriffdom in Scotland. The failure to comply with the determinations and directions involves the solicitors in further expense and as the findings are decisions of the Tribunal, in terms of paragraph 14 of Schedule 4 to the Solicitors (Scotland) Act 1980, publicity requires to be given to the decisions. The Tribunal will continue to

deal with these matters for some time but in respect of service instructed after 1 October 2008, the Tribunal will no longer have jurisdiction to deal with these matters. They will instead be dealt with by the Scottish Legal Services Complaints Commission.

APPEALS UNDER SECTION 42A OF THE SOLICITORS (SCOTLAND) ACT 1980

The only Appeal which was argued before the Tribunal during the year was the one which has been appealed to the Court of Session as previously mentioned. There were however eight cases where Appeals were allowed on joint motion of the Appellants and Law Society and the Tribunal merely issued Interlocutors. In respect of two Appeals, the Appeal was dismissed on joint motion.

WITHDRAWAL OF COMPLAINTS

There were seven cases where Complaints which had been lodged with the Tribunal were later withdrawn or dismissed. There were a number of reasons for this, and in some cases the Tribunal made awards of expenses.

COMPLAINT UNDER SECTION 53(1)(b) OF THE SOLICITORS (SCOTLAND) ACT 1980

The Tribunal had to consider two cases brought under this section. In the first case, the respondent had a conviction for theft and had been sentenced to a term of imprisonment of 27 months. In this case the respondent had had his name removed from the Roll of Solicitors at his own request and accordingly the Tribunal's powers were restricted and the Tribunal was only able to impose a Censure upon the respondent. The Tribunal's concerns with regard to its restricted powers in these circumstances have been made known to the Scottish Government. The other Complaint under section 53(1)(b) considered by the Tribunal was in respect of a respondent convicted of an act involving dishonesty. In this case, the Tribunal struck the respondent's name from the Roll of Solicitors in Scotland.

FAILURE TO COMPLY WITH PROFESSIONAL OBLIGATIONS

The Tribunal found a respondent guilty of professional misconduct in respect of his carrying on practice with another solicitor despite that solicitor not holding a practising certificate, his employment of that solicitor as a consultant without obtaining the requisite authority from the Council of the Law Society of Scotland contrary to a previous decision of the Scottish Solicitors' Discipline Tribunal, his designation of the solicitor's name on the firm's professional stationery inferring he was a partner in the firm and his allowing the solicitor to be named in the firm's professional stationery latterly as a consultant despite the solicitor being restricted to practising as an assistant solicitor and having no practising certificate in force at the time. The Tribunal noted that there were unusual circumstances in this case and Censured the respondent. The Tribunal found another respondent guilty of professional misconduct in respect of his breach of the Legal Aid (Scotland) Act 1986 by seeking and accepting a private payment to account from a client, his deliberately rendering invoices to his client and taking payment for these on a private basis despite

knowing that a Legal Aid Certificate was in place, his accepting private payments to account of outlays from his client, his charging his client privately twice in relation to outlays, his deliberately retaining funds from his client to pay the balance of an expert report where the Legal Aid Board had abated the fee and his failure to provide his client with an adequate explanation in relation to matters at the outset. The Tribunal Censured the respondent and fined him £5,000. In another case the Tribunal found the respondent guilty of professional misconduct in respect of her preparing and sending to her employer two letters purportedly from her doctor which gave a completely false account of her medical condition as well as a false explanation for a period of sick leave. The Tribunal noted the very unusual circumstances in this case and also the respondent's state of mind at the time of writing the letters. The Tribunal Censured the respondent.

CONDUCT UNBECOMING A SOLICITOR

The Tribunal found a respondent guilty of professional misconduct in respect of his committing serious criminal offences all of which had a sexual context to them and some of which related to children of tender years. Given that the respondent had already had his name administratively removed from the Roll of Solicitors in Scotland, the Tribunal's powers were limited and the Tribunal Censured the respondent. As previously mentioned the Tribunal's concerns with regard to the limitations on its powers in these circumstances have been raised with the Scottish Government.

CONFLICT OF INTEREST

The Tribunal dealt with two cases mainly involving conflict of interest. The Tribunal found a respondent guilty of professional misconduct in respect of his acting in a situation where multiple potential conflicts of interest existed as between his firm's clients and one of its partners and his failure to advise his clients of the conflicting interests and failure to recommend separate advice, his failure to issue the letters required by the Solicitors (Scotland) Practice Rules 1986, his continuing to act for his client after a clear conflict had arisen arising from the failure of another client to pay the price under the second level missives and his failure to tender appropriate advice, his continuing to act for a number of clients and the bank at that stage and his exposing two of his clients and the bank to a significant risk by drawing down loan funds and effecting partial settlement of one client's purchase with neither a marketable title nor a valid security available, his failure to credit the sums borrowed from the bank by two of his clients to a ledger account in their name and instead making payment to the ledger account in the name of his partner and his partner's wife in breach of rules 4 and 6 of the Solicitors (Scotland) Accounts etc Rules 1989 and his misleading the bank as to the status of its security. The Tribunal considered that any firm acting where a partner has a direct interest in a transaction is exposing itself to an extreme risk. The Tribunal however noted that the respondent had worked for 17 years since the incident with no adverse consequences and accordingly Censured the respondent and fined him the sum of £2,500. In the other case the Tribunal found a respondent guilty of professional misconduct in respect of his acting in a conflict of interest situation by acting for a client when he had previously acted for the co-accused in circumstances where his firm had sought to incriminate the client when acting for the co-accused in circumstances where the respondent acted

throughout the prosecution of the co-accused and by accepting instructions to act for a client when he had access to confidential information in respect of the case against the co-accused which could be relevant to the defence of the client. In this case the Tribunal Censured the respondent and fined him £2,500.

TRUSTS AND EXECUTRIES

In addition to the case remitted to the Tribunal by the Court of Session, the Tribunal also dealt with two other cases mainly involving executries. The Tribunal found a respondent guilty of professional misconduct in respect of her preparation of a will on behalf of a client which conferred upon her a significant monetary benefit. It was however clear in this case that the will was made at a time when the respondent was in a long-term relationship with the client. The Tribunal accordingly Censured the respondent. In the other case, the Tribunal found the respondent guilty of professional misconduct in relation to her unconscionable delay and failure to complete the administration of an estate of a client between January 1998 and August 2005 and her failure to respond openly and timeously to correspondence from the Law Society. There were unusual circumstances in this case and the Tribunal Censured the respondent.

CONVEYANCING

There were five cases mainly involving conveyancing during the year. One respondent was found guilty of professional misconduct in respect of his failure to comply with the instructions in the CML Lenders Handbook for Scotland and in particular his breach of conditions 10.3, 6.3.1 and 5.8 and his unreasonable delay in responding to the reasonable enquiries of the Law Society. The respondent was Censured and fined £1,000. In another case the respondent was found guilty of professional misconduct in respect of his persistent failure to timeously record dispositions, standard securities and discharges, his failure to carry out work in an expeditious fashion in the winding up of an executry, his failure to respond to clients, his acting in a conflict of interest situation, his failure to respond to a mandate, his failure to respond to the reasonable requests of the Law Society for information, his failure to keep a client fully and promptly informed about the position in relation to conclusion of missives in a conveyancing transaction and keep the client properly informed in connection with the transaction, his breach of the Solicitors (Scotland) Accounts, Accounts Certificate, Professional Practice and Guarantee Fund Rules 2001 (the Accounts Rules) and a number of other matters. The Tribunal Censured the respondent and restricted his practising certificate for an aggregate period of ten years to ensure the respondent works under supervision for an extended period prior to obtaining a full practising certificate. Another respondent was found guilty of professional misconduct in respect of his failure without reasonable excuse to ensure that remedial action in relation to registering the standard security in the Register of Charges was taken within a reasonable time to protect the interests of the lender and his failure without reasonable excuse to ensure that the standard security was registered to protect the lender's interests. The respondent was Censured and fined £2,000. Another case concerned an Independent Qualified Conveyancer and Independent Executry Practitioner who was found guilty of professional misconduct in respect of his failure to timeously record deeds. The Tribunal noted that the respondent had put systems in place to ensure that this did not happen again and

Censured the respondent. In another more unusual case, the respondent was found guilty of professional misconduct in respect of his failure to adequately supervise the conduct of his employees acting on his behalf in particular in relation to the deliberate vandalism of issues of the GSPC Magazine to the detriment of his fellow competitors and their clients. There were unusual mitigating circumstances in this case and the Tribunal Censured the respondent.

DISHONESTY

The Tribunal unfortunately had to deal with three cases of dishonesty during the year. One respondent was found guilty of professional misconduct in respect of his misappropriation of funds, his misrepresentations to his client, lenders and another firm of solicitors and his breach of rule 8 of the Accounts Rules by cashing various cheques which represented payments of judicial expenses and crediting them against the wrong client accounts. In this case as the respondent's name had been removed from the Roll of Solicitors in Scotland, the Tribunal's powers were restricted. The respondent was not in a position to pay a fine and the Tribunal did not consider a fine to be appropriate and accordingly Censured the respondent. In the second case, the respondent was found guilty of professional misconduct in respect of his purporting to notarise the Affidavit of a client outwith her presence and his tendering the same as evidence in a sheriff court case and his forging and uttering the signature of an executrix. The respondent was Censured, fined £5,000 and had his practising certificate restricted for an aggregate period of three years. In the third case, a respondent was found guilty of professional misconduct in respect of her misappropriation of client funds totalling £16,956.84, her payment of these funds to other client accounts, her falsification of accounting entries to disguise her dishonesty, her misleading of clients and her breach of rule 6 of the Accounts Rules. The respondent was Suspended from practice for a period of ten years.

FAILURE TO COMPLY WITH THE ACCOUNTS RULES

The Tribunal was concerned to note that there were eight cases concerning serious breaches of the Accounts Rules during the year as well as a number of other cases where there were minor breaches. One respondent was found guilty of professional misconduct in respect of his breach of rules 6, 8, 9, 10, 11 and 24 of the Accounts Rules. He was Censured and had his practising certificate made subject to a condition that the books and records of his practice be inspected by the Council of the Law Society no later than 30 April 2009 and that such inspection be at the expense of the respondent. In another case, the respondent was found guilty of professional misconduct in respect of his breach of rules 4, 8, 9, 12 and 14 of the Accounts Rules. The respondent was Censured and had a restriction put on his practising certificate that his books and records be inspected by the Council of the Law Society of Scotland no later than 31 December 2008, such inspection to be at the expense of the respondent. Another respondent was found guilty of professional misconduct in respect of her breach of the rules 4, 6, 8, 9, 12 and 14 of the Accounts Rules and her unreasonable delay in recording title deeds. The Tribunal noted that the respondent had taken steps to sort matters out and that another inspection was to take place in January 2009. The respondent was Censured and fined £1,000. Another respondent was found guilty of professional misconduct in respect of having a shortage on his client account of at least £33,800 for a period of over three years in breach of rule 4 of

the Accounts Rules, his breach of rules 8, 11 and 24 of the Accounts Rules and his failure to submit terms of business letters. The respondent was Suspended from practice for a period of seven years. Another respondent was found guilty of professional misconduct in cumulo in respect of his breach of rules 6, 8 and 24 of the Accounts Rules, his repeated failure to settle Counsel's fees, his delay and/or failure to record deeds and his unreasonable delay in responding to the enquiries of the Law Society. The respondent was Censured, fined £500 and had his practising certificate subject to a condition that the books and records of his practice be inspected by the Council of the Law Society no later than 30 June 2008 and thereafter at nine-monthly intervals on two further occasions, the last of which to take place no later than 31 December 2009, all such inspections to be at the expense of the respondent. The Tribunal found another respondent guilty of professional misconduct in respect of her breach of rules 4, 6, 8, 9, 10 and 24 of the Accounts Rules and her failure/or unreasonable delay in recording title deeds. The respondent was Censured and fined £4,000. Another respondent was found guilty of professional misconduct singly and in cumulo in respect of his unconscionable delay in recording deeds, his failure to keep the books of his practice up to date, his failure to designate cheques, his taking of fees before fee notes were issued, his failure to carry out monthly reconciliations of his firm's clients accounts, his charging excessive fees or fees for work which had not been carried out, his failure to comply with the money laundering regulations, his failure to invest client funds, his failure to issue conflict letters, his acting in a situation in which there was a conflict of interest, his attempt to obtain payment from the Scottish Legal Aid Board by misrepresentation all in breach of the Accounts Rules. The Tribunal Censured the respondent, fined him £2,500 and restricted his practising certificate for an aggregate period of three years. Another respondent was an Independent Qualified Conveyancer who was found guilty of professional misconduct in respect of her operating a general client account despite having been advised by the Law Society that she should desist from doing so, her failure to maintain adequate records, her failure to maintain and reconcile the cash book, her failure to retain records for a required period, her failure to account for interest, her making inter account transfers between clients and payments to third parties without written authority, her failure to timeously lodge an accountant's certificate, her operating with a shortage on the client account, her failure to obtain the necessary proof of identity and evidence as to the source of funds all contrary to regulations 23, 24, 25, 26, 28 and 30 of the Independent Qualified Conveyancers (Scotland) Regulations 1997 and the Money Laundering Regulations 1993, her failure to timeously record deeds and her witnessing et separatim notarising a signature which she knew had been added to a document while she was not present and misleading the solicitors acting for her client's lender. The Tribunal recognised that the respondent was in a unique and unfortunate position being one of two or three conveyancing and executry practitioners in Scotland. The Tribunal also took account of the various difficulties faced by the respondent, Censured the respondent and fined her in the sum of £3,000. The Tribunal is concerned by the number of cases involving a breach of the Accounts Rules. The Accounts Rules are there to ensure protection of client's money and solicitors have a professional obligation to ensure that they comply with the Accounts Rules made by their professional body.

FAILURE TO RESPOND

The Tribunal dealt with 13 cases of solicitors who were found guilty of professional misconduct mainly in respect of their failure to respond timeously, openly and accurately to the enquiries made of them by the Law Society. This is an increase on previous years and shows that some solicitors still do not appreciate the importance of responding to their professional body. In six of these cases the respondents were Censured. In four of the cases the respondents were Censured and fined, in one case £500, in two cases £2,500 and in another case £3,000. In one case the respondent was Censured, fined £1,000 and had his practising certificate restricted to limit him to providing legal services to members of the Armed Forces within the system of military discipline and courts martial for a period of ten years. In another case, the respondent was found guilty not only of failure to respond to the Law Society but also of misleading his client as to the status of an application. The respondent was Censured and had his practising certificate restricted for an aggregate period of at least ten years. In this case the respondent had been before the Tribunal shortly before and had already had his practising certificate restricted for five years. In the remaining case the respondent was found guilty of professional misconduct in respect of his failure to respond to the Law Society and also failure to reply to Faculty Services and failure to settle Counsel's fees for instruction in respect of cases concerning four clients and his failure to comply with statutory notices served upon him. The Tribunal Censured the respondent, fined him £2,500 and imposed a restriction upon his practising certificate for an aggregate period of ten years. In this case the respondent had a number of previous findings of professional misconduct.

PUBLICITY

In terms of paragraph 14 of and Schedule 4 to the Solicitors (Scotland) Act 1980 as amended, every decision of the Tribunal is published in full, subject to the terms of paragraph 14A. Once the written Tribunal findings are intimated to parties, three weeks are allowed for an appeal and at the end of this three-week period, if there is no appeal, publicity is given to the decision. Occasionally publicity is deferred, for example if a criminal prosecution is pending.

EXPENSES

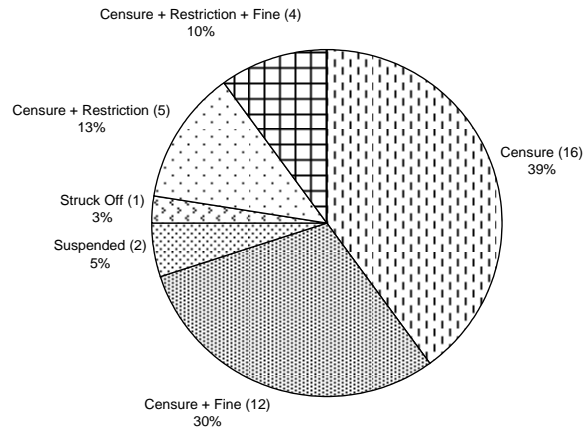
The Tribunal has the power to award expenses in terms of Schedule 4 to the Solicitors (Scotland) Act 1980. Expenses are usually awarded to the successful party and include the expenses of the Tribunal. Last-minute adjournments can result in an unnecessary increase in expense.

APPENDIX

STATISTICS FOR THE YEAR TO 31 OCTOBER 2008

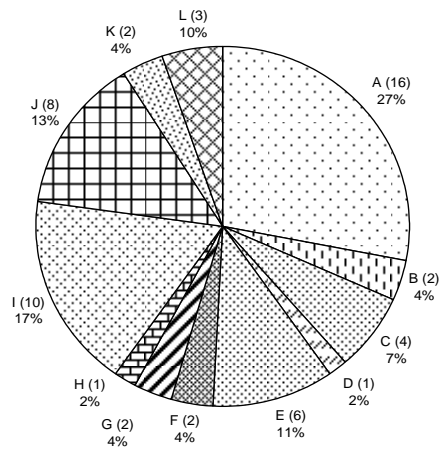
	Year to 31/10/08	(Year to 31/10/07)
Number of days on which the Tribunal met to hear Complaints	41	(35)
Number of Complaints received	59	(57)
Complaints containing a report under section 53(1)(b) of the Solicitors (Scotland) Act 1980	0	(2)
Business outstanding or partly heard at end of year	31	(33)
Appeals to Court of Session	1	(1)
Complaints received direct from members of public	0	(0)
Miscellaneous applications	0	(1)
Appeals under section 42A of the Solicitors (Scotland) Act 1980	18	(8)
Appeals to Court of Session concluded during the Year		
Appeals remitted	1	
Appeals abandoned	0	(0)
Appeals heard	2	(3)
Successful appeals	0	(1)
Number of Cases heard and Decisions issued	69	(50)
Findings of professional misconduct – 38		
Findings under section 53(1)(b) – 2		
Section 42A appeals decisions – 1		
Section 53C findings made – 11		
Complaints withdrawn, dismissed or no finding made – 7		
Section 42A Appeals withdrawn or dismissed – 2		
Section 42A Appeals allowed of consent – 8		
Procedural decisions – 0		
Decisions on application for restoration to the Roll or re restriction on practising certificate – 0		

Sentences Imposed in Respect of Findings of Professional Misconduct and section 53(1)(b)



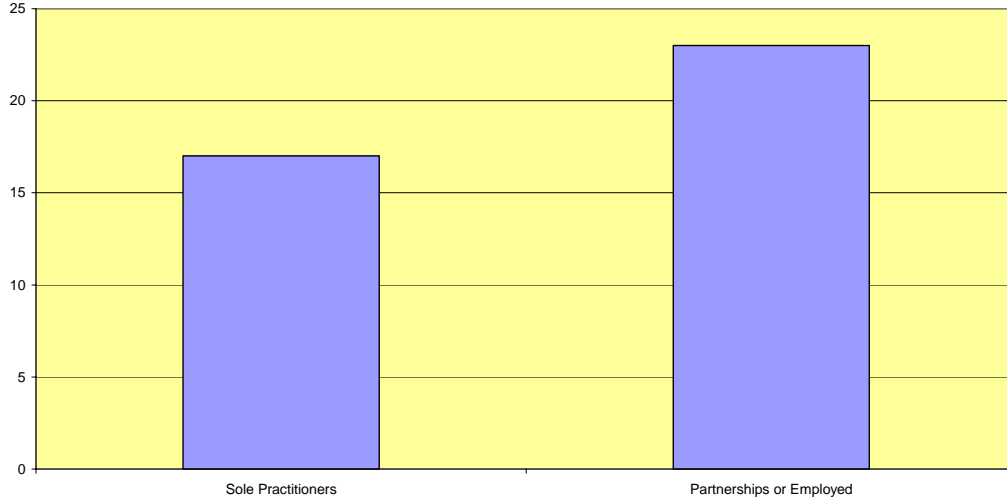
Principal Grounds on which Misconduct Established

Note: Some cases had misconduct established on more than one ground

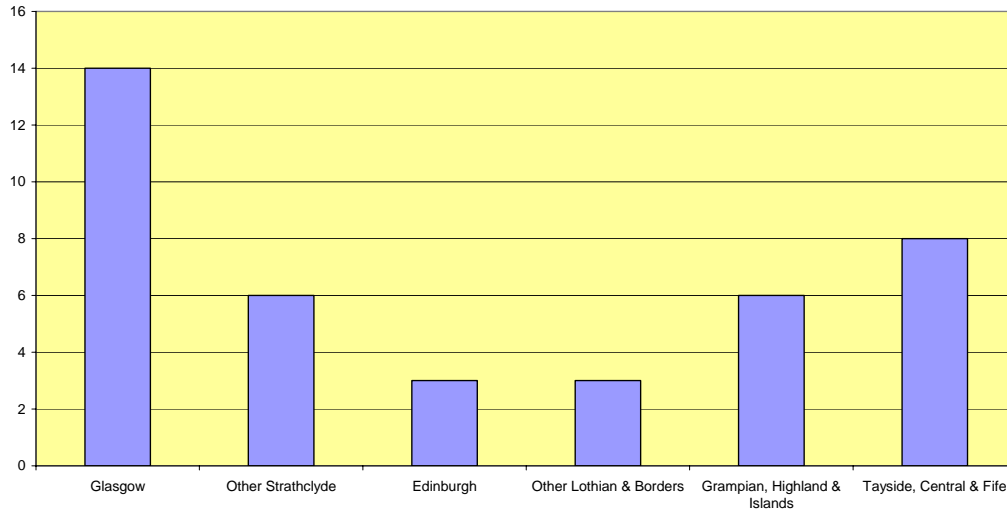


- A. Failure to reply to Law Society and/or clients.
- B. Conflict of interest.
- C. Failure to deal with trust/executory in a proper manner.
- D. Failure to deal with court proceedings and prosecuting claims in a proper manner.
- E. Failure to complete conveyancing procedures in a proper manner.
- F. Excessive delay.
- G. Failure to implement mandates.
- H. Misleading the Law Society and/or other parties.
- I. Failure to comply with the Accounts Rules.
- J. Failure to comply with other professional obligations.
- K. Other conduct unbecoming a solicitor.
- L. Dishonesty.

Distribution of Solicitors Convicted or Found Guilty of Professional Misconduct and Section 53(1)(b)



Location of Solicitors Convicted or Found Guilty of Professional Misconduct and Section 53(1)(b)



BIOGRAPHICAL DETAILS

Solicitor Members

Alistair M Cockburn (*Chairman*)

Member of the Tribunal since 1998. Vice Chairman 2003–2005. Chairman from June 2005. Admitted in 1972. Partner in an eight-partner firm with offices in Glasgow and Edinburgh since 1974. His professional background is as a litigation solicitor; past convener of the Sheriff Court House Committee of the Royal Faculty of Procurators in Glasgow; accredited by the Law Society of Scotland as a specialist in employment law since 1993; past member of the Glasgow and North Argyll Legal Aid Committee. Acts as Clerk in various arbitration procedures.

Kenneth R Robb (*Vice Chairman until June 2008*)

Member of the Tribunal from 1998 to June 2008. Admitted in 1978. In private practice principally in civil litigation and employment law until 2000. Part-time Sheriff, Immigration and Employment Judge. Member of the Disciplinary and Regulatory Committees of the Association of Chartered Certified Accountants. Previously part-time Appeals Service Chairman, member of Fitness to Practise Committees of the General Medical Council and Independent Assessor to the Food Standards Agency. Former member of the Council of the Law Society of Scotland, trustee of the Scottish Child Law Centre and trustee of Castlemilk Law Centre.

Malcolm McPherson (*Vice Chairman*)

Member of the Tribunal since 2001. Vice Chairman since June 2005. Admitted in 1977. Senior partner of a 103-partner firm specialising in company and commercial law. Holder of a number of non-executive directorships.

Dr David C Coull (*Vice Chairman from June 2008*)

Member of the Tribunal since October 2004 and Vice Chairman since June 2008. Admitted in 1973. Formerly a sole practitioner practising principally in the fields of residential property, wills and executries. Former Law Society Complaints Reporter and former member of a Law Society Client Relations Committee.

Colin Bell

Member of the Tribunal since 2006. Admitted 1994. Sole practitioner principally in the fields of property law, wills, trusts, executries and tax law. Member of the Institute of Chartered Accountants of Scotland. Treasurer of the Faculty of Procurators of Dumfriesshire.

Dorothy M Boyd

Member of the Tribunal since 1993. Partner in Shepherd and Wedderburn specialising in commercial property. Member of the Society of Writers to the Signet.

Marie E Brown (*Member until September 2008*)

Member of the Tribunal from 1993 to September 2008. Partner in Biggart Baillie since 1983. Main areas of work are commercial and residential property.

Gordon L Cunningham

Member of the Tribunal since 2000. Admitted in 1981. Partner in a three-partner firm with offices in Paisley and Glasgow for 23 years. Moved to HBJ Gateley Wareing in April 2008 to concentrate on tax, trust and succession planning matters.

Kirsteen Keyden

Member of the Tribunal since October 2004. Admitted 1979. Formerly an Associate with Paull & Williamsons based in their Edinburgh office and specialises in civil litigation, in particular defender-based reparation and insurance law. Accredited as a specialist in Personal Injury Law in 2003. A Writer to the Signet and lectures and tutors in Civil Litigation and Time Management for the WS Society in the Law Society's Professional Competency Course. Awarded a Certificate in Forensic Medicine and Science from the University of Edinburgh in 2004. Member of the Criminal Injuries Compensation Appeal Panel.

Tom McCartney

Member of the Tribunal since October 2004. Admitted in 1981. Sole practitioner, principally in the field of family law and civil litigation. Accredited family law specialist. Accredited family law mediator. Extended rights of audience in civil cases. Part-time judicial appointment in the Appeals Service. Part-time Sheriff since July 2005.

Alan McDonald

Member of the Tribunal since October 2004. Partner in South Forrest, Solicitors, Inverness, specialising in company and commercial law.

Douglas McKinnon

Consultant in Ayrshire firm specialising in court-related matters, primarily criminal. Former member of the Council of the Law Society of Scotland and former Convener of the Client Relations Committee. Past Dean of Faculty of Solicitors of Kilmarnock.

Kenneth Paterson

Member of the Tribunal since 2006. Admitted as a solicitor in 1973. Previously a Reporter to the Client Relations Committee of the Law Society for three years. Has been with Rankin & Aitken since 1977, being appointed a partner in 1979. Currently the senior partner of the firm dealing largely with private client work. Honorary Sheriff at Stranraer since 1998. Past Dean of Wigtown District Faculty of Solicitors.

Nicholas Whyte

Member of the Tribunal since September 2006. Partner in MacHardy Alexander & Whyte, Forfar, mainly dealing with conveyancing and executry work. Previously held a part-time appointment in the Appeals Service.

Graeme McKinstry (*Member since September 2008*)

Member of the Tribunal since September 2008. Senior and Managing Partner of The McKinstry Company Solicitors in Ayr. Graduated Bachelor of Laws from Dundee University in 1975 and MBA in Legal Practice from Nottingham Trent University in 2000. His main areas of work are now in the fields of commercial business, property, licensing and all private client related work. He acts for small businesses in acquisitions, disposals, mergers and general business law. He is a former member of the Local Health Board in Ayrshire and the Scottish Legal Aid Board and has served on Law Society Committees.

Joseph Hughes (*Member since September 2008*)

Member of the Tribunal since September 2008. Admitted in 1984. Set up own practice in 1986 and now Managing Partner in J C Hughes, Glasgow. Previous Reporter to the Law Society. Extended Rights of Audience (Criminal). Obtained MSc (Criminal Justice) in 2006. Legal member of the Mental Health Tribunal, The Additional Support Needs Tribunals, The Scottish Charity Appeals Panel, The Doctors and Dentists Disciplinary Appeals Panel, The Pensions Appeal Tribunals and The Scottish Legal Aid Board. Vice Chair of NCH Scotland, the Children's Charity.

Lay Members

John Anderson, MBE

Member of the Tribunal since January 2002. Head of Professional Practice at the General Teaching Council for Scotland, former teacher and trade union official, graduated in law from Edinburgh University in 1991, Children's Panel member (1992–2006, Chairman 2000–2006), and also an Independent Assessor to the Office of the Commissioner for Public Appointments in Scotland (2002–2008), Member of the Education Honours Committee and member of the Faculty of Advocates Complaints Committee and Disciplinary Tribunal.

Sophia B Ayre

Sophia Ayre is a lay member of the Employment Appeal Tribunal and a Consultant in Human Resources and was previously Human Resources Specialist with the Bank of Scotland and Polaroid UK Ltd.

Peter Burdon

Member of the Tribunal since 2000. Retired actuary. Currently a lay member of Financial Services and Markets Tribunal, Pensions Regulator Tribunal, and the Claims Management Services Tribunal, and an Independent Public Appointments Assessor for DCSF and DIUS.

Elizabeth Cameron

Member of the Tribunal since 2001. Membership of the Council on Tribunals from 2002 to October 2007. Membership of the Administrative Justice and Tribunals Council from November 2007.

Professor Monojit Chatterji

Member of the Tribunal since January 2002. BA (Bombay), MA, PhD (Cambridge). Bonar Professor of Applied Economics at the University of Dundee. Visiting Professor in USA, Australia, Mexico, India. Member of Advisory Board of BBC World Service (1997–2006). Vice Chairman of National Appeals Panel of Scotland (1996–1999). Member of School Teachers Review Body (England and Wales) since January 2004. Chair, National Joint Council of UK Fire and Emergency Services since October 2007.

Michael Hastie

Member of the Tribunal since January 2002. Chartered quantity surveyor in own private practice. Served as JP in Aberdeen since 1976 and graduated to the Bench of the District Court in 1984. Former Governor of Robert Gordon University (1986–1998). Member of Aberdeen City Council (1973–1999). Depute Lord Lieutenant of the City of Aberdeen. Various directorships in property companies.

Mark Irvine

Member of the Tribunal since January 2004. Mark Irvine is an independent consultant and works with a wide range of clients in the public, private and ‘not for profit’ sectors – both in the UK and in Europe. Mark was previously a senior official with the public services union, UNISON (formerly NUPE), acting as its chief negotiator and Head of Local Government in Scotland during the 1990s. Mark is also a member of the Scottish Local Authorities Remuneration Committee (SLARC) – a body established by Scottish Ministers to review remuneration and pay arrangements for elected local councilors.

Jeremy Mitchell (*Member until December 2007*)

Member of the Tribunal from January 2004 to December 2007. Jeremy Mitchell is a member of the Office of Communications Consumer Panel, and was formerly Chairman of the Scottish Advisory Committee on Telecommunications, member of the Scottish Consumer Council and Commissioner for Scotland at the Broadcasting Standards Commission. His full-time career has been mostly in the field of consumer protection and his appointments have included Research Director at Consumers' Association (‘Which?’), Director of Consumer Affairs at the Office of Fair Trading and Director of the National Consumer Council. He lives in Edinburgh.