

**THE SOLICITORS (SCOTLAND) ACT 1980  
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL**

**F I N D I N G S**

**in Complaint**

**by**

**THE COUNCIL OF THE LAW  
SOCIETY of SCOTLAND, 26  
Drumsheugh Gardens, Edinburgh**

**against**

**DAVID RICHARD BLAIR  
LYONS, Solicitor, Messrs. Lyons  
Laing & Co., Solicitors, 5 George  
Square, Greenock**

1. A Complaint dated 28 April 2008 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that David Richard Blair Lyons, Solicitor, Messrs Lyons Laing & Co., Solicitors, 5 George Square, Greenock (hereinafter referred to as "the Respondent") be required to answer the allegations contained in the statement of facts which accompanied the Complaint and that the Tribunal should issue such order in the matter as it thinks right.
2. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No Answers were lodged for the Respondent.
3. In terms of its Rules the Tribunal appointed the Complaint to be heard on 26 August 2008 and notice thereof was duly served on the Respondent.
4. The hearing took place on 26 August 2008. The Complainers were represented by their Fiscal, Sean Lynch, Solicitor, Kilmarnock. The Respondent was present and represented by Ms McCracken, Solicitor,

Glasgow. It was confirmed that the Respondent accepted that he had failed to comply with the Determination and Direction of the Law Society.

5. The Tribunal found the following facts admitted or approved:

5.1 The Respondent was born on 6<sup>th</sup> April 1951. He was admitted as a solicitor on 18<sup>th</sup> and enrolled on 28<sup>th</sup> both days of November 1975. He is a partner in the firm of Messrs. Lyons Laing & Co., Solicitors, 5 George Square, Greenock.

**MRS A**

5.2 On 5<sup>th</sup> April 2007, the Complainers considered a matter in respect of which the Respondent's client had been Mrs A. They determined that the Respondent had provided an inadequate professional service to Mrs. A and they determined in terms of Section 42(A)(2)(d) of the Solicitors (Scotland) Act 1980 that compensation of £250 be paid by the Respondent to the Complainer. The decision and the determination were communicated to the Respondent by the Complainers on 24<sup>th</sup> April 2007. The Respondent did not appeal the decision, nor did he make payment of the compensation.

5.3 On 7<sup>th</sup> January 2008, the Complainers sent a notice in terms of Section 42B of the said Act to the Respondent by recorded delivery post requiring him to provide confirmation to the Complainers of the steps which he had taken to comply with the Council's Determination, and that within twenty one days of 7<sup>th</sup> January 2008. The Respondent has not complied with the determination and payment of the compensation remains outstanding.

6. Having considered the foregoing circumstances, the Tribunal found that the Respondent had failed to comply with the Determination and Direction given by the Council of the Law Society of Scotland under Section 42A of the Solicitors (Scotland) Act 1980 within the period specified namely within twenty one days of 7 January 2008; the Tribunal resolved to make an Order in terms of Section 53C(2) of the Solicitors (Scotland) Act 1980 and issued an Interlocutor in the following terms:-

Edinburgh 26 August 2008. The Tribunal having considered the Complaint dated 28 April 2008 at the instance of the Council of the Law Society of Scotland against David Richard Blair Lyons, Solicitor, Messrs Lyons Laing & Co., Solicitors, 5 George Square, Greenock; Find that the Respondent has failed to comply with the Determination and Direction made by the Law Society of Scotland under Section 42A of the Solicitors (Scotland) Act 1980 within the period specified; Direct that an Order be issued under Section 53C(2) of the said Act; Find the Respondent liable in the expenses of the Complainers and in the expenses of the Tribunal as the same may be taxed by the auditor of the Court of Session on an agent and client indemnity basis in terms of Chapter Three of the last published Law Society's Table of Fees for general business with a unit rate of £14.00; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent.

**(signed)**

**Alistair Cockburn**  
**Chairman**

7. A copy of the foregoing together with a copy of the Findings certified by the Clerk to the Tribunal as correct were duly sent to the Respondent by recorded delivery service on

**IN THE NAME OF THE TRIBUNAL**

**Chairman**

**NOTE**

The Council of the Law Society of Scotland had made a Determination under Section 42A of the Solicitors (Scotland) Act 1980 which was not appealed by the Respondent. Mr Lynch on behalf of the Complainers asked the Tribunal to make an Order under Section 53C of the Solicitors (Scotland) Act 1980.

Ms McCracken on behalf of the Respondent explained that there had been a misunderstanding by the Respondent who thought he had lodged a timeous appeal against the Determination and Direction of the Law Society but this was not in fact the case. There had been some confusion between the finding by the Law Society in respect of the Respondent's failure to respond to the same client and a Determination and Direction in connection with inadequate professional service. Ms McCracken stated that the Respondent conceded that the Determination and Direction had been made and no appeal had been lodged. The Respondent accepted that the Tribunal required to make an Order. Mr Lynch moved for expenses and there was no opposition to this by Ms McCracken on behalf of the Respondent.

**DECISION**

The Tribunal found that the Respondent had not complied with the Determination and Direction of the Law Society. Having regard to the circumstances and the terms of Section 53(2) of the Solicitors (Scotland) Act 1980, the Tribunal was of the opinion that an Order should be made. The Tribunal further found that the Respondent had had ample time to comply with the Determination and Direction and it was therefore appropriate for the Respondent to pay the whole costs of the proceedings. As the disposal of this Complaint constitutes a decision, for the purposes of the Fourth Schedule to the Solicitors (Scotland) Act 1980, the Tribunal is required in terms of Paragraph Fourteen of the Schedule to give publicity to this decision.

**Chairman**