

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

**ANNUAL REPORT 2004/2005**  
for the period 1 November 2004  
to 31 October 2005

**SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL**  
Constituted under the Solicitors (Scotland) Act 1980  
for the year to 31 October 2005

**TRIBUNAL**

G Fraser Ritchie (Member and Chairman until 14 June 2005)  
Alistair M Cockburn (Vice Chairman until June 2005 and Chairman from 14 June  
2005)

**Solicitor Members**

Dorothy M Boyd

Marie E Brown

Dr David C Coull

Gordon L Cunningham

Louise Harris

Kirsteen Keyden

Tom McCartney

Alan McDonald

Douglas McKinnon

Malcolm McPherson (Vice Chairman from 14 June 2005)

Graeme H Pagan

Kenneth R Robb (Vice Chairman)

**Lay Members**

John Anderson, MBE

Sophia B Ayre

Peter Burdon

Elizabeth Cameron

Professor Monojit Chatterji

Michael Hastie

Mark Irvine

Jeremy Mitchell

**CLERK**

Judith V Lea

**DEPUTE CLERK**

Audrey Watson

**ADDRESS**

Unit 3.5, The Granary Business Centre, Coal Road, Cupar, Fife KY15 5YQ  
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## CHAIRMAN'S INTRODUCTION

Details of the Tribunal's workload over the past 12 months are set out in this report. There has been another increase in the volume of business coming to the Tribunal and the Tribunal is meeting approximately three times per month. New Tribunal Rules came into force on 1 April 2005 and Tribunal hearings are now held in public unless it is necessary for the hearing to be in private. All Tribunal Findings which are given publicity, and which are not subject to further appeal to the Court of Session, are on the Tribunal website once they become final. The Tribunal website is fully searchable and can be accessed at [www.ssd.org.uk](http://www.ssd.org.uk)

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

I wish to thank all members of the Tribunal, the Tribunal Clerk, Depute Clerk and Tribunal secretaries for their help and support during the year. I would also wish to express my special thanks to the previous chairman of the Tribunal, Fraser Ritchie, who retired from the Tribunal in June 2005. His contribution to the work and evolution of the Tribunal over the years was invaluable.

*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. The Tribunal usually sits with three 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. The Tribunal is governed by the Scottish Solicitors' Discipline Tribunal Procedure Rules 2005.

## **General**

A new version of the Discipline Tribunal Procedure Rules came into force on 1 April 2005. The Tribunal Rules now provide for hearings to be held in public unless it is necessary that they be held in private. Some Tribunal hearings must still be held in private, for example where there are criminal proceedings pending and any publicity of the Findings requires to be deferred until the conclusion of the criminal proceedings in order to avoid any prejudice to those proceedings. Tribunal hearings are usually held within the Scotsman Hotel in Edinburgh. The updated Rules also take into account some of the suggestions in the Council on Tribunal's Guide to the Making of Procedural Rules.

The Tribunal website, which was launched on 9 August 2004, 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 which are under appeal to the Court of Session are not put on the website until the appeal has been concluded.

Six new solicitor members were appointed to the Tribunal in October 2004 and undertook induction training and observation of Tribunal hearings prior to sitting. During the year the Chairman, Fraser Ritchie, retired from the Tribunal. Fraser Ritchie was Chairman of the Tribunal for four years and a member of the Tribunal for 17 years and his contribution to the workings and evolution of the Tribunal was invaluable. Alistair Cockburn, the existing Vice Chairman of the Tribunal, became Chairman on Mr Ritchie's retiral on 14 June 2005. Malcolm McPherson was elected Vice Chairman and Kenneth Robb continues to be a Vice Chairman.

## **TRIBUNAL BUSINESS**

The Tribunal business continued to show a significant rise during the year. The Tribunal is required to meet more often.

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.
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.

The Tribunal also received an application for the removal of a restriction on a practising certificate but further information was required before this could be considered.

## **PROCEDURAL**

Unfortunately there continued to be a large number of cases where Respondents failed to lodge answers or deal with the Complaint until the last possible moment. There have been a considerable number of cases where Respondents were or are suffering from ill health resulting in a number of adjournments of hearings.

Again, in many cases Respondents entered into joint minutes admitting the facts and averments in the Complaint. The Tribunal always takes this into account in deciding the appropriate penalty.

There remain instances where the Tribunal receives a number of Complaints against the same Respondent over a period of time. Sometimes it is necessary to adjourn one Complaint to await the receipt of another Complaint. There is however a limit to how often this can be done and sometimes, even where the Tribunal delays and then deals with two Complaints at once, a few months later yet another Complaint is received by the Tribunal.

A procedural hearing was held in respect of one Complaint where the Respondent had previously been found not guilty at a criminal trial in respect of the same conduct. The Respondent's solicitor took a plea of res judicata before the Tribunal, but this was not upheld. The Tribunal's Finding that, although the subject-matter was similar, the parties to the proceedings were different and the purpose of the proceedings and the punishment that could be imposed were different, was appealed by the Respondent. The Court of Session decision was issued just after the end of the year to which this annual report relates. The Court upheld the Tribunal's decision.

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

The Tribunal heard three 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 only 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 decision.

#### **WITHDRAWAL OF COMPLAINTS AND APPEALS UNDER SECTION 42A**

A significant number of Complaints lodged with the Tribunal were later withdrawn by the Law Society. There were a number of reasons for this, the main one being that matters had resolved themselves once the Complaint had been served. There were also a significant number of Appeals under section 42A which were withdrawn after having been lodged with the Tribunal. The main reason for this appears to be that solicitors changed their mind about appealing once they realised the possible costs involved and the fact that any decision made by the Tribunal would be given publicity. There are now guidance notes on the Tribunal website for solicitors, which it is hoped will encourage solicitors to think carefully about these issues prior to lodging the Appeal. Once the Appeal is lodged with the Tribunal it can only be withdrawn with the consent of the Tribunal and this often involves payment, by the Appellants, of the expenses of the Law Society and the Tribunal that have already been incurred in connection with the Appeal.

#### **PROFESSIONAL MISCONDUCT NOT ESTABLISHED**

There were three Complaints which called before the Tribunal during the year where the Tribunal made no finding of professional misconduct. A Complaint had been taken against a Respondent where he had used a nominee provision in the missives in order to disguise the identity of the purchaser when it was well known that if the offer had been in the name of the ultimate purchaser it would not have been accepted. In the whole circumstances in this case the Tribunal did not find the Respondent's conduct so serious and reprehensible as to amount to professional misconduct. However, the Tribunal wished to disassociate itself from the Respondent's conduct and found that the Respondent's conduct was unprofessional. The Tribunal considered that the Law Society had no alternative but to prosecute and found that the Respondent should be liable in 50% of the expenses of the Complainers and the Tribunal. In another case the Tribunal found that the Respondent had not failed to perform an obligation but had failed to help when he said he would. This fell short of professional misconduct. In connection with failure to reply in the same case, the Tribunal could not be satisfied that the Respondent had received one of the letters from the Law Society and did not consider that the failure to respond in this respect was serious enough to amount to professional misconduct. The delay in responding was only for a short period. In another case the Tribunal made no finding of professional misconduct because the Tribunal was not satisfied beyond reasonable doubt, on the basis of the affidavit evidence produced, that the Respondent's conduct amounted to professional misconduct. The Tribunal, however, found that the Respondent's failure to respond to his client was unprofessional. The Tribunal again found that a delay in responding to the Law Society for a very short period was not serious enough to amount to professional misconduct.

## **APPEALS UNDER SECTION 42A**

The Tribunal issued two decisions in respect of section 42A Appeals during the year. In one case the Tribunal quashed the determination and direction of the Law Society in respect of heads of complaint 1 and 3 and varied the determination and direction in respect of the head of complaint 2. The Tribunal found head of complaint 1 time-barred but not heads of complaint 2 and 3. The Appellants have appealed the Tribunal's decision in relation to the determination and direction in connection with head of complaint 2 to the Court of Session and the outcome of this appeal is awaited. In the other Appeal the Tribunal quashed the determination and direction made by the Law Society.

## **FAILURE TO COMPLY WITH PROFESSIONAL OBLIGATIONS**

The Tribunal found a Respondent guilty of professional misconduct in respect of failure to comply with the high standards expected of a solicitor accorded the privilege of the office of notary public by failing to ensure that a power of attorney was properly executed by his client and notarised in the appropriate fashion. The Tribunal Censured the Respondent and fined him in the sum of £1,000. In another case the Tribunal found the Respondent guilty of professional misconduct in respect of his failure to implement a formal undertaking issued by him in terms of a letter of obligation and his failure to respond timeously, openly and accurately to the reasonable enquiries made of him by fellow solicitors and by the Law Society. The Tribunal Censured the Respondent and imposed a Restriction on his practising certificate for a period of five years. In a further case the Tribunal found a Respondent guilty of professional misconduct in respect of failure to ascertain from clients that he had their instructions to prepare revocations of Welfare Powers of Attorney and his failure to explain to his clients the nature of the revocations which he had prepared for them and the consequential effect thereof. The Tribunal Censured this Respondent.

## **MISREPRESENTATION**

The Tribunal had to deal with three Complaints where Respondents had misled their clients. In the first case the Respondent was found guilty of professional misconduct in respect of his presenting to his client for signature a blank form C1 for the purpose of obtaining confirmation, persuading her to sign it and making dishonest representations to her with regard to the state of preparation. The Tribunal Censured the Respondent and Ordered a Restriction on his practising certificate for an aggregate period of five years and thereafter until such time as he satisfies the Tribunal he is fit to hold a full practising certificate. In the second case the Tribunal found a Respondent guilty of professional misconduct in respect of misleading his clients with regard to the raising of a court action and presenting them with false court documentation. The Tribunal Censured the Respondent, fined him £5,000 and Restricted his practising certificate for an aggregate period of ten years and thereafter until such time as he satisfies the Tribunal he is fit to hold a full practising certificate. In the third case the Tribunal found the Respondent guilty of professional misconduct in respect of his act of deception by providing his client with deliberately untrue

information. The Tribunal Censured the Respondent and imposed a Restriction on his practising certificate for a period of five years.

## **EXECUTRIES AND CONVEYANCING**

The Tribunal had to deal with five cases during the year which mainly involved conveyancing and/or executries. In one case the Tribunal found the Respondent guilty of professional misconduct in respect of his delay and failure in the administration of two executries, his misleading executors and beneficiaries in respect of the progress with an executry estate, his failure to reply to the reasonable requests of the Law Society for information, his obtaining loan funds in a transaction where he was unable to settle and obtain a valid security on behalf of the lender, his retaining those funds for six weeks and his failure to comply with requests by the lender for interest due. The Tribunal Censured the Respondent and Restricted his practising certificate for a period of five years with effect from the expiry of the Suspension imposed by the Tribunal in respect of a previous matter. In another case the Tribunal found the Respondent guilty of professional misconduct in respect of his breach of Rule 6(1)(d) of the Solicitors (Scotland) Accounts Rules 1997, his acting dishonestly by charging a fee well in excess of that which he had agreed with the co-executor, which fee he took to account from executry funds without intimating a fee note to the executors and his failure to respond timeously, openly and accurately to the reasonable enquiries made of him by the Law Society. In this particular case the Respondent had been before the Tribunal on a number of previous occasions. The last time the Respondent had been before the Tribunal, the Tribunal had Ordered that his name be struck from the Roll of Solicitors in Scotland. The Respondent had appealed this to the Court of Session who had substituted a Restriction on his practising certificate. The Tribunal was particularly concerned with regard to the Respondent's failure to respond to the Law Society on a number of occasions and failure to comply with previous undertakings given on his behalf to the Tribunal. Even after two previous Findings against the Respondent he still failed to respond to the Law Society. The Tribunal considered that this taken together with his acting in a dishonest fashion and charging fees in excess of that agreed with his client meant that he was not a fit and proper person to remain on the Roll of Solicitors in Scotland and the Tribunal struck his name from the Roll. This matter is currently under appeal by the Respondent to the Court of Session. In another case the Tribunal found the Respondent guilty of professional misconduct in respect of his failure to provide his client and her executors with an accounting for his intromissions with her one-half share of an estate for the period from 1976 until 1995 and his failure to respond to the reasonable requests of the Law Society for information. The Tribunal had some sympathy for the Respondent's position in that he had been dealing with a complex executry where accounting records had not been kept for the period prior to him becoming involved. The Tribunal Censured the Respondent. In yet another case the Tribunal found the Respondent guilty of professional misconduct in respect of his unreasonable delay of seven months in implementing a mandate from another firm of solicitors requesting that a file of papers in relation to an executry be forwarded to them. The Tribunal Censured the Respondent. In another case the Tribunal heard evidence over a number of days and found a Respondent guilty of professional misconduct in respect of his 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 and his failure to notify his trustee in sequestration of the

existence of the codicil and his beneficial entitlement thereunder. The Tribunal Censured the Respondent, fined him £5,000 and Directed that his practising certificate be Restricted for a period of ten years. The case is presently under appeal to the Court of Session.

## **FAILURE TO REPLY TO THE LAW SOCIETY AND OTHERS**

In addition to those already referred to, the Tribunal again had to deal with a significant number of cases where Respondents had failed to reply to the Law Society. In one case the Tribunal found the Respondent guilty of professional misconduct in respect of his unconscionable delay and at times failure to reply to letters from another firm of solicitors and correspondence from the Law Society and his unconscionable delay in implementing a mandate. The Tribunal Censured the Respondent and fined him in the sum of £1,000. In another case a Respondent was found guilty of professional misconduct in respect of his failure to reply to the reasonable enquiries made of him by the Law Society concerning the affairs of numerous clients, his failure to implement mandates intimated to him, his failure to complete satisfactorily conveyancing transactions in which he was involved, his failure to deliver title deeds and to respond to enquiries made of him by a fellow solicitor, his failure to carry out work for which he had obtained a fee in advance and his failure to obtain sufficient funds timeously from the Legal Aid Board to meet a professional account and failure to respond to enquiries made of him by a professional witness in relation to the delay in settlement of the account. The Tribunal had great difficulty in tracing the Respondent in respect of these matters and proceeded in the Respondent's absence to hear evidence from a number of witnesses. The Tribunal was of the view that the Respondent was not a fit and proper person to remain on the Roll of Solicitors in Scotland and struck the Respondent's name from the Roll. The Tribunal also made various Orders under section 53C(2) of the Solicitors (Scotland) Act 1980 in respect of the Respondent's failure to comply with determinations and directions of the Law Society. In another case the Tribunal found a Respondent guilty of professional misconduct in respect of his failure to timeously settle the business account of a Reporter whom he had instructed to carry out work on behalf of his client and his failure to reply to correspondence from the Reporter concerning the payment of her business account. The Tribunal Censured the Respondent and Ordered a Restriction on his practising certificate for a period of three years from 31 March 2006. In this case the Tribunal noted previous Findings of misconduct against the Respondent. This has been appealed by the Respondent to the Court of Session. In another case a Respondent was found guilty of professional misconduct in respect of his unacceptable delay in settling the sum due by him to Faculty Services Limited and his failure to respond to the reasonable requests of the Law Society for information. The Tribunal Censured the Respondent. In two cases the Tribunal found the Respondents guilty of professional misconduct solely in respect of failure to respond timeously, openly and accurately to the reasonable enquiries made of them by the Law Society. In one case the Tribunal Censured the Respondent and in the other case where there had been a previous failure to respond, the Respondent was Censured and had a Restriction put on his practising certificate for a period of one year. In another case the Tribunal found the Respondent guilty of professional misconduct in respect of his failure to protect the interests of his clients where there was an actual conflict of interest or potential conflict of interest between them, his failure to advise his client of the consequences of investing money in a partnership where his client and another

client were partners in circumstances where they had not entered into a written partnership agreement and where the terms and implications of a draft of the partnership agreement had not been fully discussed and his failure to respond to the reasonable requests of the Law Society for information. The Tribunal noted that the Respondent was already subject to a Restriction on his practising certificate and considered that a Censure would be a sufficient penalty.

## **ACCOUNTS RULES**

As well as the cases referred to under the section on dishonesty, the Tribunal had to deal with four cases where Respondents had breached the Accounts Rules. A Respondent was found guilty of professional misconduct in respect of his deceiving his client by transferring a sum of money received from his client immediately to the firm account without having carried out the work as agreed between him and his client and without issuing the client a fee note and without, at that time, making payment of, or making any provision for, monies due in respect of the VAT element on the purported fee. The Tribunal Censured the Respondent and Restricted his practising certificate for an aggregate period of three years. In another case a Respondent was found guilty of professional misconduct in respect of his breach of Rules 4(1), 8, 9 and 10 of the Accounts Rules by his continuing to act as a principal solicitor in private practice while his practising certificate was restricted during the period between 14 December 2001 and 28 February 2002 and his uttering a cheque in the sum of £70,000 payable on the client account and making the withdrawal without the authority of the principal and notwithstanding the Suspension of his practising certificate. The Tribunal was seriously concerned by the Respondent's conduct and Suspended him from practice for a period of ten years. This matter is subject to deferred publicity. In another case the Tribunal found the Respondent guilty of professional misconduct *in cumulo* in respect of his breaches of rules 4, 6, 8, and 24 of the Accounts Rules, his delay and failure to record standard securities, his failure to present to the Keeper of the Land Register discharges of the standard securities after loans due had been paid in full and his failure to present timeously and promptly conveyancing deeds for stamping. The Tribunal Censured the Respondent and imposed a Restriction on his practising certificate for an aggregate period of at least ten years and thereafter until such time as he satisfies the Tribunal he is fit to hold a full practising certificate. The Tribunal considered that the breaches of the Accounts Rules coupled with the delay in recording deeds showed that the Respondent was not fit to continue as a sole practitioner. In another case the Tribunal found the Respondent guilty of professional misconduct *in cumulo* in respect of his breaches of Rules 6, 8, 9, 10 and 24 of the Accounts Rules, his breach of Rule 7 of the Solicitors (Scotland) Professional Indemnity Insurance Rules 1995, his failure and unreasonable delay in recording deeds timeously and his failure to respond timeously, openly and accurately to the reasonable enquiries made of him by the Law Society. The Tribunal was concerned with regard to the potential for loss especially in connection with lack of indemnity insurance and delay in recording conveyancing deeds. The Tribunal, however, accepted that the Respondent was trying to do his best and had realised that he could not continue as a sole practitioner and had taken steps to transfer his business to another firm. The Tribunal Censured the Respondent and Restricted his practising certificate for an aggregate period of five years.

## **DISHONESTY**

The Tribunal unfortunately had to deal with four cases involving dishonesty during the year. In one case a Respondent was found guilty of professional misconduct in respect of his acting in a dishonest fashion by contriving a number of false reports to his clients and providing his clients with false information which he knew to be untrue. The Tribunal took account of the fact that the Respondent had been in practice for 28 years and had never had any previous difficulties. He had also co-operated with the Law Society and entered into a joint minute. The Respondent seemed genuinely contrite. The Tribunal noted that he had probably paid his clients a sum in excess of what had actually been required. The Tribunal accordingly Censured the Respondent and Restricted his practising certificate until 11 August 2007. In another case the Respondent was found guilty of professional misconduct in respect of his fraudulently completing withdrawal forms which were received from financial institutions by appending thereto the signature of an executor, fraudulently completing a withdrawal form by alleging that he witnessed the signature of an executor and thereafter returning these withdrawal forms which he knew to be dishonestly completed to the financial institutions involved uttering them as genuine. The Tribunal considered that the Respondent's conduct amounted to criminal behaviour and was regrettably disgraceful and dishonourable. The Respondent had deliberately forged a signature on five occasions. The Tribunal Ordered that the Respondent's name be struck from the Roll of Solicitors in Scotland. There was a co-respondent in the Complaint who was found guilty of failure to adequately supervise and have regard to the work being carried out by her employee. The second Respondent was Censured. In another case a Respondent was found guilty of professional misconduct in respect of her embezzlement of client funds and breach of Rule 4 of the Solicitors (Scotland) Accounts Rules 1997. The Tribunal had no hesitation in striking the Respondent's name from the Roll of Solicitors. This matter is subject to deferred publicity as criminal proceedings are ongoing. In another case the Tribunal found the Respondent guilty of professional misconduct in respect of her allowing a petition for confirmation to be presented and then proceeding to administer an estate without the knowledge or concurrence of the nominated executor, her forging the signature of an executor on a stock transfer form, her failure to properly attend to the conclusion of an estate, her deliberately misleading a client as to the contents of a letter sent on her behalf, her acting in a covert fashion by failing to advise a client that she had any intention of acting for her as a limited liability company rather than as a solicitor, her embezzlement of client funds by the presentation of various cheques, her embezzlement of funds belonging to two executries and her breach of Rules 4, 6, 8, 9 and 24 of the Solicitors (Scotland) Accounts etc Rules 2001. The Tribunal was extremely concerned by the Respondent's conduct. She had used her position as a solicitor in order to embezzle clients' funds using a calculated and devious scheme in order to do so. The Tribunal had no hesitation in Ordering that the Respondent's name be struck from the Roll of Solicitors in Scotland. This matter is also subject to deferred publicity due to ongoing criminal proceedings.

## **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**

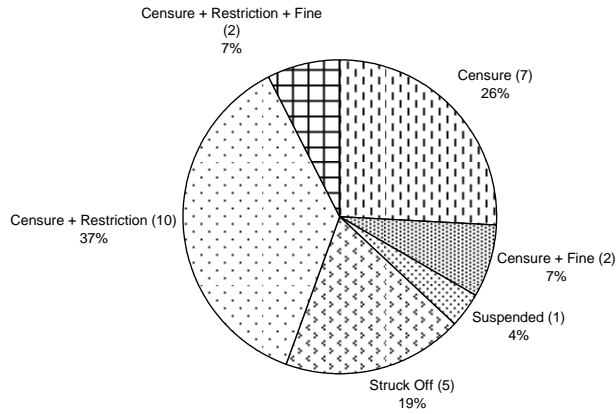
The Tribunal has the power to award expenses in terms of Schedule 4 to the Solicitors (Scotland) Act 1980. Expenses are usually awarded to the successful party and include the expenses of the Tribunal. Last-minute adjournments can result in an unnecessary increase in expense.

## APPENDIX

### STATISTICS FOR THE YEAR TO 31 OCTOBER 2005

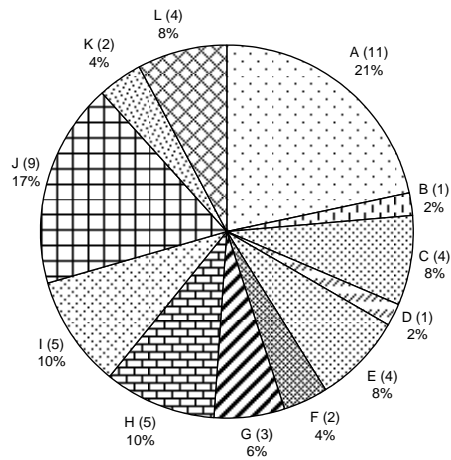
	Year to 31/10/05	(Year to 31/10/04)
Number of days on which the Tribunal met to hear Complaints	32	(22)
Number of Complaints received	47	(44)
Complaints containing a Report under section 53(1)(b) of the Solicitors (Scotland) Act 1980	1	(1)
Business outstanding or partly heard at end of year	23	(23)
Appeals to Court of Session	7	(0)
Complaints received direct from members of public	0	(2)
Miscellaneous Applications	1	(2)
Appeals under section 42A of the Solicitors (Scotland) Act 1980	15	(10)
<b>Appeals to Court of Session concluded during the year</b>		
Appeals abandoned	3	(1)
Appeals heard	0	(1)
Successful Appeals	0	(1)
<b>Number of Cases heard and Decisions issued</b>	<b>48</b>	<b>(33)</b>
Findings of Professional Misconduct – 27		
Findings under Section 53(1)(b) – 0		
S42A Appeals Decisions – 2		
S53C Findings made – 3		
Complaints withdrawn, dismissed or no Finding made – 8		
S42A Appeals withdrawn – 7		
Procedural Decisions – 1		
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**

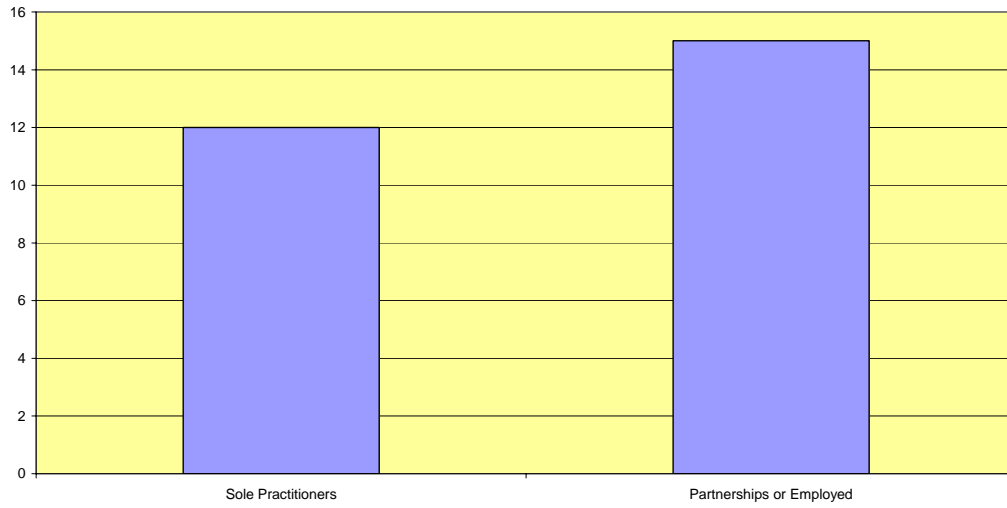
Note: Some cases had misconduct established on more than one ground



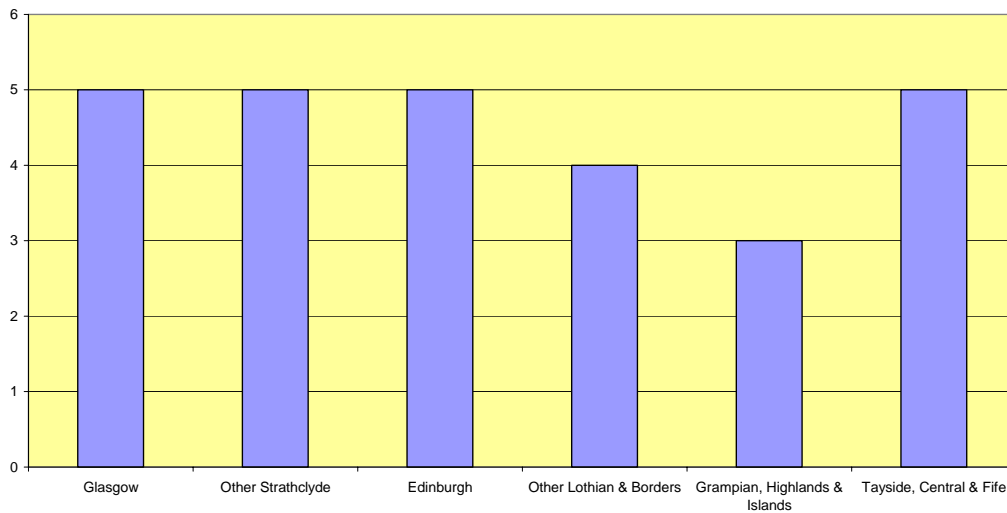
- A. Failure to reply to Law Society and/or clients.
- B. Conflict of Interest.
- C. Failure to deal with Trust/Executry in a proper manner.
- D. Failure to deal with Court Proceedings and prosecuting claims in a proper manner.
- E. Failure to complete conveyancing procedures in a proper manner.
- F. 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**



**Location of Solicitors Convicted or Found Guilty of Professional Misconduct**



## BIOGRAPHICAL DETAILS

### Solicitor Members

**G Fraser Ritchie** (*Member and Chairman till 14/6/05*)

Member of the Tribunal since 1988. Chairman since 2001. Admitted in 1968. Prior to 30 June 2004 a partner in 18-partner Tayside firm and head of the Commercial Department there and then a consultant with said firm. Main area of practice was in commercial property. Member of Council of Law Society (1979-1988). Dean of Faculty of Procurators and Solicitors in Dundee (1989-1991).

**Alistair M Cockburn** (*Vice Chairman until June 2005 and Chairman from 14/6/05*)

Member of the Tribunal since 1998. Vice Chairman 2003-2005. Chairman since June 2005. Admitted in 1972. Partner in a six-partner firm with offices in Glasgow and Edinburgh since 1974. 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*)

Member of the Tribunal since 1998. Vice Chairman since June 2004. Admitted in 1978. In private practice principally in civil litigation and employment law until 2000. Holder of part-time judicial appointments in Appeals Service and in Immigration Appellate Authority. Member of Fitness to Practise Committees of the General Medical Council and of the Disciplinary and Regulatory Committees of the Association of Chartered Certified Accountants. Independent Assessor to the Food Standards Agency. Formerly member of 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. Chairman of a 57-partner firm specialising in company and commercial law. Holder of a number of non-executive directorships.

**Dorothy M Boyd**

Member of the Tribunal since 1993. Partner in Shepherd & Wedderburn WS, specialising in commercial property and PPP.

**Marie E Brown**

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

### **Dr David C Coull**

Member of the Tribunal since October 2004. Admitted in 1973. Graduate of Aberdeen University (LLB 1971, PhD 1974) Author of a number of legal publications on insolvency, time computation and taxation. Consultant to Aberdeen firm, specialising in private client business. Chairman of Aberdeen Solicitors' Property Centre 1981-1999. A former tutor in Revenue Law at Aberdeen University, former Law Society Complaints Reporter, and a former member of the Law Society Client Relations Committee.

### **Gordon L Cunningham**

Member of the Tribunal since 2000. Admitted in 1981. Partner in a three-partner firm with offices in Paisley and Glasgow. Member of sub-committee of the Paisley Faculty of Solicitors helping to adjust standard Schedule of Missive Conditions for use among the various firms within the Faculty to facilitate conclusion of missives in relation to domestic property.

### **Louise Harris**

Member of the Tribunal since October 2004. Associate in Moore & Partners, Solicitors, Cumbernauld. Joined Moore & Partners in 1993. Dealing in conveyancing, Executries, Wills and Powers of Attorney. Admitted as a solicitor in 1983. Has in the past acted as a Reporter to the Client Relations Office at the Law Society of Scotland in relation to Complaints.

### **Kirsteen Keyden**

Member of the Tribunal since October 2004. Admitted 1979. 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.

### **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.

### **Alan McDonald**

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

### **Douglas McKinnon**

Member of the Tribunal since October 2004. Partner in Ayrshire firm specialising in court work comprising matrimonial, reparation and criminal. Former member of the Council of the Law Society of Scotland and former Convener of Client Relations Committee. Past Dean of Faculty of Solicitors of Kilmarnock.

### **Graeme H Pagan**

Member of the Tribunal since 1995. Graduated BL, Edinburgh University 1957. Joined Hosack & Sutherland, Oban 1960. Senior partner until April 2005. Is now a consultant with Hosack & Sutherland. Founder member of Scottish Law Society's Trouble Shooters Scheme helping aggrieved clients to find other solicitors to take over. Part-time Procurator Fiscal at Oban (1970-1979). Appointed Honorary Sheriff at Oban in 1988. Founder of Will Aid, the solicitors' charitable scheme to raise money for famine relief and overseas development and to encourage members of the public to make wills.

## **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 since 1992, Chairman of City of Edinburgh Panel since 2000 and also an Independent Assessor in the public appointments process in Scotland, Member of the Education Honours Advisory Committee.

### **Sophia B Ayre**

Member of the Tribunal since January 2004. 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 and Pensions Regulator Tribunal, and an Independent Assessor for the Scottish Executive and DfES.

**Elizabeth Cameron**

Member of the Tribunal since 2001. Member of Council on Tribunals and its Scottish Committee since 2002. Deputy Manager of Edinburgh Central Citizens Advice Bureau (1989-2002) and Mediation Co-ordinator and Manager of the In Court Advice Service in Edinburgh Sheriff Court (1997-2002). Currently vice chair of the Scottish Mediation Network.

**Professor Monojit Chatterji**

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

**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 District Court in 1984. Former Governor of Robert Gordon University (1986-1998). Member of Aberdeen City Council (1973-1999). 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 new body established by Scottish Ministers to review remuneration and pay arrangements for elected local councillors.

**Jeremy Mitchell**

Member of the Tribunal since January 2004. Jeremy Mitchell is a Council Member of the Telecommunications Ombudsman Service, 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.