THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL
(SSDT RULES 2024)

DECISION

in hearing on Compensation in Complaint

by

THE COUNCIL OF THE LAW SOCIETY of SCOTLAND, Atria One, 144 Morrison Street, Edinburgh

Complainers

against

FIONA McKINNON, 60 Crosslees Drive, Thornliebank, Glasgow

Respondent

1. On 11 September 2025, Fiona McKinnon, 60 Crosslees Drive, Thornliebank, Glasgow (hereinafter referred to as "the Respondent") was found guilty of professional misconduct

2. The complaint was made by the Council on behalf of DD.

3. Following the finding of professional misconduct, the Tribunal allowed the Complaint Originator 28 days from the intimation of the Findings to lodge a written claim for compensation with the Tribunal Office. The Complaint Originator lodged a Compensation Claim form compensation dated

4. After sundry procedure, the Tribunal set down a virtual Compensation Hearing to call on 19 August 2026.

5. At the virtual Compensation Hearing on 19 August 2026, the Complaint Originator was present and represented himself. The Respondent was neither present nor represented.

6. The Tribunal found the following facts established:-

   6.1 DD was a Complaint Originator in the Complaint against the Respondent dated 5 November 2024.

6.2 On 11 September 2025, the Respondent was found guilty of professional misconduct singly and *in cumulo*:-

(a) By failing to respond to numerous pieces of correspondence from other agents, provide vouching or explain why same was not provided; failing to adequately progress court proceedings by seeking continuations without notice or prior explanation to the other agents and failing to keep her word to other agents and not providing documentation to them in relation to court proceedings; misleading a client by advising her that a warrant from the Sheriff Court was to follow while knowing that no Initial Writ had been lodged with the court and, therefore, no warrant would be provided; misleading the Complainers' Client Protection Sub-Committee Interview Panel by misrepresenting the balance of her practice unit; all in breach of Rules B1.2, B1.9.1, B1.10, B1.13.1, B1.14.1 and B1.16 of the Law Society of Scotland Practice Rules 2011.

(b) By failing to carry out instructions to raise court proceedings to vary an existing court order, failing to explain why she had not done so and failing to respond to requests for updates from the client all in breach of Rules B1.4.1, B1.9.1 and B1.10.

(c) By failing to engage with the Scottish Legal Complaints Commission ("SLCC") or provide various information and files; failing to communicate effectively with a client during her period of instruction, in particular by failing to provide relevant information, advise of significant developments in the case and by providing assurances to the client which she ultimately did not adhere to in breach of Rule B1.9.1.

(d) In respect of the overall delay and failure of the Respondent to commence and secure a final decree of divorce within a reasonable time on behalf of her client in breach in breach of Rules B1.10.

(e) By failing to obtemper two interlocutors of the Inner House timeously following the SLCC's instigation of two petitions before the Court of Session based upon Section 17 of the Legal Profession and Legal Aid (Scotland) Act

2007 (the Court in one petition required to hold a hearing to explore the issue of contempt of court) in breach of Rule B1.13.1.

(f) By failing to communicate effectively, timeously and fully with the Complainers' investigation thus hampering same; failing to co-operate with the Complainers when investigating a conduct complaint; failing to communicate and co-operate with the separate investigations of the SLCC and the Complainers which were being carried out in terms of their respective statutory duties; in breach of Rules B1.9.1 and B1.16.

6.3 DD lodged a written claim for compensation.

6.4 DD was directly affected by the Respondent's misconduct. As a result of the aforesaid misconduct, DD suffered inconvenience and stress.

7. The Tribunal pronounced an Interlocutor in the following terms:-

By Video Conference, 19 August 2026. The Tribunal having considered the Complaint at the instance of the Council of the Law Society of Scotland and having previously determined that the Respondent was guilty of professional misconduct; Finds that the Complaint Originator, DD, has been directly affected by the Respondent's misconduct and considered that it is appropriate to award compensation to the Complaint Originator; Ordain the Respondent in terms of Section 53(2)(bb) of the Solicitors (Scotland) Act 1980 to pay to the Complaint Originator, DD, the sum of £1,750 by way of compensation in respect of loss, inconvenience and distress resulting from the misconduct within 28 days of the date on which this Interlocutor becomes final with interest at the rate of 8% per annum from the due date until paid; Finds the Respondent liable in the expenses of the Tribunal including expenses of the Clerk, chargeable as the same may be taxed by the Auditor of the Court of Session on a party and party basis in terms of Schedule 1 of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019 as amended with a unit rate of £18.00; and Directs that publicity will be given to this decision and that this publicity should include the name of the Respondent but need not identify any other person.

(signed)

Vincent McGovern

Acting Vice Chair

8. 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 and the Complaint Originator by tracked delivery service on 16 SEPTEMBER 2026.

IN THE NAME OF THE TRIBUNAL

[redacted]

Vincent McGovern
Acting Vice Chair

NOTE

At the virtual Compensation Hearing on 19 August 2026, the Tribunal had before it the written findings of the Tribunal following the Hearing on professional misconduct, the Complainer Originator's typed claim for compensation, various copy interlocutors from Glasgow Sheriff Court dated between November 2019 and October 2021, copy correspondence and copy fee notes from DD's agents, together with email correspondence from DD. DD called one witness who gave evidence before the Tribunal during the course of the Hearing.

At 8.44am on 19 August 2026, the Tribunal Office received an email from the Respondent, together with an attached statutory sick note or "fit note" dated 26 June 2026. The content of the email was read to JW. It stated as follows:-

"Dear Sirs,
Please see the attached. I remain unfit to participate in these proceedings. I understand they will proceed in my absence. My GP does not provide a soul and conscience certificate.
I have not been in practice since 2022. I have no realistic prospect of returning to practice. I have no income and I'm insolvent.
Yours
Fiona McKinnon"

The Tribunal explained to DD that the Respondent did not appear to be asking for a further adjournment of the Hearing. DD was asked if he wished to proceed with the Hearing. He confirmed that he did want to go ahead in the absence of the Respondent.

Given the terms of the Respondent's email, the Tribunal was satisfied that she was aware of the Compensation Hearing. The Tribunal carefully considered whether it was fair to proceed in the Respondent's absence. The Respondent had not asked for a further adjournment to proceedings. She clearly stated that she understood that the Hearing could continue in her absence and made no objection to that possibility. The Tribunal had regard to R v Jones (Anthony) [2002] UKHL and General Medical Council v Adegoba [2016] EWCA Civ 162; [2016] 1 WLR 3867 and the need to balance the interests of justice and fairness.

The Compensation Hearing was originally scheduled to take place on 28 April 2026. The Tribunal reluctantly granted the Respondent's motion to adjourn that Hearing. It was very concerned about the inconvenience caused to DD and to Tribunal proceedings. The Tribunal did not consider that it would be fair to adjourn proceedings again. In any event, there was no motion to adjourn. DD was clear that he wanted to proceed in the absence of the Respondent. In all the circumstances, the Tribunal decided that the Compensation Hearing could proceed.

The Chair that explained to DD that there were two possible heads of claim available to him. The first was quantifiable loss (i.e. actual, tangible loss in the form of money or assets for example). The second was non-quantifiable loss (i.e. general stress and inconvenience). In order to be successful in a claim for compensation, DD had to show that any loss was directly attributable to the Respondent's misconduct. DD confirmed that he understood this.

SUBMISSIONS FOR THE COMPLAINT ORIGINATOR

DD referred to the copy fee notes which he had lodged. Those were provided by his solicitors. DD was not the Respondent's client. He was affected by her misconduct as the other party in a divorce action. The Respondent was instructed by DD's former wife.

DD accepted that some of the additional fees charged by his solicitors were "unavoidable" and related to, for example, court outlays and procedural matters. However, DD said that his solicitors made significant efforts to resolve matters with the Respondent, and the Respondent was simply not willing to engage. DD said that his divorce was not contentious. It should not have taken as long as it did to resolve. The delay was due to the Respondent's misconduct.

DD understood the need to specify a figure for his financial loss in relation to his claim for compensation. He stated that he could not identify which fees were directly attributable to additional legal work necessitated by the Respondent's misconduct. In particular, DD stated that he would be "guessing" if he were to provide a figure. The Tribunal offered DD an opportunity to make further enquiries of his solicitors to allow him to clarify which fees were incurred directly due to the Respondent's misconduct. DD stated that consulting his solicitors further would incur further charges. He said that, although it was irritating that he had to pay higher fees as a result of the Respondent's misconduct at the time, he had "made peace" with that and, after further consideration, he was content to "write it off". DD said that he did not want a further opportunity to attribute a figure to his quantifiable loss. He was clear that he wanted his claim to be dealt with at the Hearing. DD withdrew his claim for quantifiable loss from his overall compensation claim.

Thereafter, DD addressed the Tribunal on his claim for non-quantifiable loss. He confirmed that his position was as detailed in his written compensation form. He stated that he and his ex-wife separated in late 2013 and the main discussions involved matters pertaining to the couple's children.

DD said that, from the outset of divorce proceedings, the Respondent was always seeking more time. DD explained that his job involves a lot of thinking and occupies his mind. Due to the stress DD suffered as a result of the Respondent's delays, he had to make adjustments to his work pattern as a result as those matters were playing on his mind a lot.

DD said that his sleep was disturbed as a result of the Respondent's conduct. On some occasions, he could only sleep for 2 to 3 hours a night. The effect on DD was worse leading up to a court date as he "knew what was coming", namely, that the Respondent would request another adjournment. DD gave one particular example which he described as "the most frustrating". On that occasion, vouching was required in advance of a court date. However, the Respondent only provided the vouching hours before the case was due to call in court. As a result, DD's solicitors did not have time to consider matters in time. DD felt disgusted by the Respondent's behaviour. He felt that it was pre-meditated.

DD described feelings of letting his children and partner down. He said that he was "not the best version of himself" due to the effect of the Respondent's misconduct upon him.

When asked, DD stated that he was not absent from work as a result of the Respondent's misconduct, neither did he consult his doctor at the time. He described himself as someone who believes in "keeping his mind strong without medication". Although DD did not feel suicidal, he could understand why such thoughts could be invoked for some people as a result of behaviour such as the Respondent's. DD said he was glad when the ordeal was over.

The Tribunal asked DD about his working environment. He said his "very understanding" boss had made adjustments to his responsibilities and duties at the time. Adjustments were in place for around 6 months. This enabled DD to keep working and there was no effect on others at work (including those who relied upon his work) due to that support.

The Tribunal asked DD for his view on how the divorce would have progressed had the Respondent not been involved. He replied that, if his ex-wife had instructed a "proper lawyer", there would have been nothing for the former couple to argue about.

DD said that he had spoken "from the heart" and been as honest as possible.

WITNESS 1 FOR THE COMPLAINT ORIGINATOR (AG)

The witness took an affirmation. She described herself as DD's partner.

AG stated that DD suffered a financial impact due to his divorce and said that had a massive impact on him mentally. AG described SS having many sleepless nights. At the time, AG was aware that DD was receiving bills from his solicitors on a weekly basis as they were constantly chasing responses from the Respondent. Although DD had support, AG said that he did not want to get into debt as a result of his divorce and the associated costs.

AG said that the Respondent's misconduct had an impact on DD's daily life. As a couple, they were unable to do the things they wanted to do as a result of the financial pressures of the legal matters which, AG acknowledged, had to take priority. DD had no closure and that was difficult to deal with.

A member of the Tribunal asked the witness to explain the background to the financial pressures; in particular, who caused the bills from DD's solicitors? AG said that DD's solicitors were trying to bring the divorce to a close. They had to look into DD's pensions as well. There were some issues about finances which had occurred before DD and his ex-wife were married. In addition, many court hearings were continued at short notice. DD's solicitors were chasing the other lawyer but receiving no response.

DECISION

The Tribunal's powers to award compensation are set out in Section 53(2)(bb) of the Solicitors (Scotland) Act 1980 which provides that:-

"Where the solicitor has been guilty of professional misconduct, and where the Tribunal consider that the Complainer has been directly affected by the misconduct, direct the solicitor to pay compensation of such amount, not exceeding £5,000, as the Tribunal may specify to the Complainer for loss, inconvenience or distress resulting from the misconduct."

The Tribunal considers that a direct effect is one which would not have happened but for the professional misconduct. The standard of proof to be applied in applications for compensation is the balance of probabilities. The Tribunal has a discretion to award compensation, but it is not obliged to do so. It is important to note that the amount of any compensation awarded must reflect the nature of the loss,

inconvenience or distress resulting from the misconduct and is not based on the seriousness or otherwise of the conduct itself. There is no provision for the Tribunal to award "punitive damages".

DD had withdrawn his claim in respect of quantifiable loss. The Tribunal was satisfied that it had given him ample opportunity to provide an exact figure for the additional fees incurred as a result of the Respondent's conduct. However, DD clearly stated that, although he originally made a claim for quantifiable loss, he understood the need to precisely quantify it and provide conclusive evidence of the figure he was claiming. He could not do so and, therefore, stated that he had "written it off".

DD maintained his claim for non-quantifiable loss. The Tribunal considered all the information before it in respect of that. The Tribunal noted that the Respondent's misconduct affected DD for a considerable period of time. Court papers were lodged in 2019 and the divorce was concluded in 2022.

Although DD did not seek medical advice, he described the palpable effect of the Respondent's conduct upon him. It was clear from the submissions made by the DD that he had a high level of self-insight. The Tribunal concluded that the fact that he did not seek medical help did not mean that he was not affected by the Respondent's conduct.

AG described financial pressures as having the biggest impact upon DD and alluded to delays being caused by complexities with pensions, as well as those attributable to the Respondent. Her evidence did not confirm that DD's behaviour towards her changed although she described being aware that DD felt he was not fully present for his children. Nor did AG directly attribute the stress and inconvenience suffered by DD to the Respondent's misconduct in particular. However, AG did confirm that DD suffered from lack of sleep as a result of divorce proceedings taking longer than anticipated.

Overall, the Tribunal accepted DD's submissions about the impact on his quality of life. It was clear to the Tribunal that the Respondent's misconduct caused distress to DD. Although DD had a positive experience with his own solicitors (which may have mitigated the overall effect of stress on DD), the Tribunal acknowledged the stress and inconvenience which inevitably results from the process of complaining about a legal professional, albeit on the other side of a case. The Respondent's misconduct impacted DD for around two years, then beyond that with these subsequent complaint proceedings.

The Tribunal had regard to its guidance on compensation tariffs and concluded that the inconvenience and distress caused to DD fell into the lower end of the serious category. The Tribunal assessed the appropriate award of compensation as £1,750.

EXPENSES AND PUBLICITY

DD was asked if he considered that the Respondent should bear the cost of these proceedings. He stated that he did. Expenses generally follow success. The Tribunal considered it appropriate for the Respondent to be held liable for any expenses of the Complaint Originator and the expenses of the Clerk. It exercised its discretion and made an award of expenses against the Respondent.

The Tribunal has an obligation to publish its decision under Paragraph 14 of Schedule 4 to the Solicitors (Scotland) Act 1980. The Tribunal made an order for publicity to include the name of the Respondent but no other parties shall be named.

[redacted]

Vincent McGovern

Acting Vice Chair