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 JW.

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 herself. The Respondent was neither present nor represented.

6. The Tribunal found the following facts established:-

   6.1 JW 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 JW had lodged a written claim for compensation, claiming the sum of £5,000.

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

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, JW, has been directly affected by the Respondent's misconduct and considered that it is appropriate to award compensation to the Complaint Originator; Ordains the Respondent in terms of Section 53(2)(bb) of the Solicitors (Scotland) Act 1980 to pay to the Complaint Originator, JW, the sum of £4,000 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 Complaint Originator and 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 Direct 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 Complaint Originator's typed claim for compensation originally submitted to the Law Society (dated 23 October 2024) and her written claim for compensation (dated 20 December 2025) and submitted to the Tribunal, an Extract Decree of Divorce from Glasgow Sheriff Court dated 10 March 2020, a copy of an Investigation Report (undated) by the Scottish Legal Complaints Commission ("SLCC"), a list of prescribed medication provided by JW and emails from JW to the Tribunal office. The Tribunal also had before it an email from the Respondent dated 27 April 2026 which referred to "outstanding fees" but did not specify an amount.

The Tribunal noted that the SLCC Investigation Report had been lodged by JW less than 14 days before the hearing. The applicable timescale and procedure had been set out to JW in a letter from the Tribunal clerk dated 6 May 2026. JW explained that she had an operation and had been off sick which led to her lodging the items late. She asked the Tribunal to accept the information. The Tribunal accepted JW's explanation and accepted the SLCC report late.

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 JW that the Respondent did not appear to be asking for a further adjournment of the Hearing. JW was asked if she wished to proceed with the Hearing. She confirmed that she 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 to the parties.

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 JW 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. JW was clear that she wanted to proceed in absence of the Respondent. In all the circumstances, the Tribunal decided that the Compensation Hearing should proceed.

The Chair explained to JW that there were two possible heads of claim available to her. 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, JW had to show that any loss was directly attributable to the Respondent's conduct. JW confirmed that she understood this.

SUBMISSIONS FOR THE COMPLAINT ORIGINATOR (JW)

JW referred to the documents she had lodged. She confirmed that her position was as detailed in the two claim forms before the Tribunal. The Chair read the content of the forms to JW as she did not have the papers before her.

First of all, JW addressed possible quantifiable loss.

The Tribunal noted that the SLCC had ordered a payment of £2,500. The claim form originally submitted by JW to the Law Society stated that she had not received payment of that sum. However, JW confirmed that she subsequently did receive this money. JW said she said given it to her Mother to cover legal aid payments. JW understood that this sum was awarded due to service issues in relation to the Respondent's handling of matters.

In relation to the Extract Decree of Divorce, JW said that she had not received the specified settlement figure of £100,000. This was a significant sum of money. JW had discussed this with the Law Society but was informed that they could not advise on recovery or take enforcement action. JW described frustration at being unable to recover the settlement amount.

JW had sought advice from other solicitors with a view to recovering the sums due to her but had been unable to instruct someone. Solicitors she had approached, and the court, told her that this was due to problems with taxation of accounts. JW made reference to some issues with her ex-husband's pensions but could not provide further details or vouching.

In addition, potential new solicitors had asked JW to provide her file. However, she was unable to do so as the Respondent had not given the file to her. JW said that she asked the Respondent and the SLCC for the file on several occasions but it had not been provided. JW said that she "gave up completely".

In relation to the Respondent's opaque reference to unpaid fees in her email to the Tribunal dated 27 April 2026, JW said that she paid £7,000 to the Respondent. She could not locate a receipt or invoice and commented that she had not kept all the paperwork as it was 13 years ago. However, she thought she would have received an invoice as the Respondent also dealt with the conveyancing in respect of the matrimonial home and fees were agreed for that. JW believed that she was due to be paid a balance of £4500 following the sale but said that she did not receive payment of that sum either.

JW went on to describe possible non-quantifiable loss. She confirmed that her description of the stress and inconvenience detailed on her claim forms, and detailed in the emails she sent to the Tribunal Office, was accurate.

JW said that she was in a "bad place" in 2013. She had made the decision to get divorced and trusted the Respondent to deal with all legal aspects of the divorce on her behalf. JW believed that the divorce would be completed in a year.

However, JW had to email the Respondent constantly to chase responses and updates on progress with the divorce proceedings. She said she could not fully explain how it made her feel but concluded that she no longer had any faith in the Law Society of Scotland or lawyers generally. JW said she did not know who to trust or where to go for help as a result of the Respondent's conduct.

JW had gone to considerable lengths to obtain a response from the Respondent but received no information in reply. She described that as "very stressful". JW said that she would not have been so stressed and anxious if the Respondent had "done her job properly". JW never imagined that she would still be dealing with these matters so long after her divorce. She was clear in saying that the length of time taken by the Respondent to deal with her divorce caused stress. JW had expressed this to the Respondent by email.

JW described feeling relief about getting divorced. However, the problems with the Respondent made her feel upset and anxious. JW reiterated that she had to constantly email the Respondent to chase responses which never came. JW said that she now tries to "block it all out".

JW had not lodged any medical evidence. When asked, she said that she had "probably not" discussed the problems she had with the Respondent with her GP. JW said she was already on the highest doses of some of the medicines and considered that nothing more could be added to her prescription.

A member of the Tribunal made reference to the list of prescribed medication which had been lodged by JW. Some of the items on the list were circled and the Tribunal asked JW if those items were of any particular note or significance.

JW replied that she had been taking some of the medications for a long period of time prior to the problems with the Respondent. JW had seen a psychiatrist prior to the Respondent's conduct. The psychiatrist had prescribed some of the medications on the list provided. JW said she had suffered from anxiety her whole life and during her marriage. However, the experience with the Respondent had heightened this condition. JW stated that she was not on medication because of the Respondent's conduct but was clear that said conduct had made her condition worse.

JW said that she was finding the Tribunal proceedings stressful and had nothing further to add.

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".

The Tribunal considered all the information before it. The written claim for compensation claimed the sum of £5,000. JW had highlighted the sum of £100,000 as detailed in the Extract Decree of Divorce from Glasgow Sheriff Court as quantifiable loss. Her submissions were that payment of the settlement sum was hindered by factors such as taxation and an issue with pensions. JW did not provide any further details or vouching. The Tribunal concluded that it was still open to JW to seek to enforce the Decree of Divorce, although that may be challenging.

JW confirmed that she received payment of £2,500 from the SLCC in respect of the Respondent's service. JW's submissions about paying £7,000 to the Respondent were not definitive and could not be relied upon.

The Tribunal had sympathy with the difficult situation JW was in. However, there was no vouching before the Tribunal allowing them to verify the figures of possible quantifiable loss referred to. The Tribunal did not have any evidence upon which to make an award of compensation in relation to quantifiable loss.

With regard to unquantifiable loss, it was clear to the Tribunal that the Respondent's misconduct caused serious distress to JW. The misconduct occurred over an extended period of time. The Tribunal concluded that the impact of the Respondent's failure to reply and lies upon JW should not be underplayed. In addition, the Respondent had failed to take steps to rectify the situation.

The Tribunal accepted JW's submissions about the impact on her quality of life, in particular that the Respondent's misconduct had exacerbated her existing mental health problems. It considered that JW had been candid in her explanations and believed her account of the impact on her.

The Tribunal had regard to its guidance on compensation tariffs and concluded that the inconvenience and distress caused to JW fell into the serious category. The Tribunal assessed the appropriate award of compensation as £4,000.

EXPENSES AND PUBLICITY

The Complaint Originator made no motion for expenses. 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 decisions 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 the Complaint Originator shall not be named.



Vincent McGovern
Acting Vice Chair