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 JB.

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 with the Tribunal Office by email on our around 21 January 2026. The compensation form was undated.

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 JB was the 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 JB had lodged a written claim for compensation. The sum claimed for was not specified.

6.4 JB was directly affected by the Respondent's misconduct. As a result of the aforesaid misconduct, JB suffered loss, 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, JB, 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, JB, the sum of £5,000 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 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, email correspondence from JB and a typed document dated "August 2026" from JB's sister.

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, which stated:-

"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"

Given the terms of the Respondent's email, the Tribunal was satisfied that she was aware of the Hearing. The Tribunal carefully considered whether it was fair to proceed in the Respondent's absence. The Respondent had not moved for a further adjournment of the Hearing. She clearly stated that she understood that the Hearing could continue in her absence and raised 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 cause to JB and 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. In all the circumstances, the Tribunal decided that the Compensation Hearing should proceed.

JB had lodged a typed document from her sister beyond the time limit for lodging productions with the Tribunal. She also sent an email containing further information to the Tribunal by email dated 17 August 2026. JB asked the Tribunal to consider this additional information.

The Tribunal Clerk had been in correspondence with JB by email about the additional information. By email dated 18 August 2026 to the Clerk, JB said that her sister would not be able to attend the Hearing in person and that she may not be available to attend either due to the nature of her job. In all the circumstances, the Tribunal considered it was fair to receive the additional late information from JB and did so on cause shown.

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".

There were two possible heads of claim in relation to compensation which may be awarded by the Tribunal. 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, JB had to show that any loss was directly attributable to the Respondent's conduct.

In relation to quantifiable loss, JB claimed that she had paid the Respondent £1,000 for work which was not carried out. JB did not produce any vouching. However, the Tribunal noted that it had made a finding in fact at paragraph 9.8 of its written decision on professional misconduct as follows:-

"JB emailed the Respondent on 4 November 2020. She advised she would like to go ahead with the court action and asked if the payment to account in the sum of £1,000 was required and requested bank details.

She confirmed she would provide her son's birth certificate and asked questions regarding the process. The Respondent did not provide advice re the court process."

The Tribunal made that finding based on the evidence before it at the substantive Hearing on misconduct. On that basis, the Tribunal was satisfied that JB had made payment of £1,000 to the Respondent. The Respondent had not provided any information to contradict this or made any allegations of non-payment of fees by JB. The Tribunal was satisfied that JB had suffered quantifiable loss as a direct result of the Respondent's misconduct. It awarded the sum of £1,000 compensation to JB in respect of that head of claim.

With regard to unquantifiable loss, it was clear to the Tribunal that the Respondent's misconduct caused serious distress to JB who had lost the opportunity of trying to maintain a relationship with her son as a result.

Although the Respondent's misconduct did not occur over a particularly long period of time, the matter did reach the Court of Session which showed the Respondent's failure to take steps to rectify the situation. This was a serious matter. In addition, the Tribunal concluded that the overall effect of the Respondent's misconduct could last a lifetime for JB. This added to the seriousness of the effect upon her.

The Tribunal also took account of the stress endured by JB as a result of having to formally complain about the Respondent. It acknowledged that the legal complaints process was stressful for a lay complainer.

JB had stated that she suffered from alopecia and that her health suffered as a result of the Respondent's misconduct. She did not provide any medical evidence in support of this. However, the Tribunal noted that the Respondent chose not to contradict JB's claims. Although no vouching was produced, it was clear from the information before the Tribunal that the Respondent's misconduct had a massive impact on JB's life.

The Tribunal had regard to its guidance on compensation tariffs and concluded that the inconvenience and distress caused to JB fell into the serious category. The Tribunal assessed the appropriate award of compensation in relation to non-quantifiable loss as £4,000.

Therefore, the total amount of compensation awarded to JB by the Tribunal was £5,000, which is the maximum sum available to it.

EXPENSES AND PUBLICITY

Parties were not present and there was 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.

[redacted]

Vincent McGovern

Acting Vice Chair