

**THE SOLICITORS (SCOTLAND) ACT 1980  
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL  
(PROCEDURE RULES 2008)**

**DECISION**

**in hearing on Compensation in Complaint**

**by**

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

**Complainers**

**against**

**MATTHEW PHILIP BERLOW, 9 Lochbroom  
Court, Newton Mearns, Glasgow**

**Respondent**

1. On 27 April 2023, Matthew Philip Berlow, 9 Lochbroom Court, Newton Mearns, Glasgow ("the Respondent"), was found guilty of professional misconduct.
2. There was a Secondary Complainer in the Complaint, Mick Napier on behalf of the Scottish Palestine Solidarity Campaign, 23 Woolfords, West Calder.
3. Following the finding of professional misconduct, the Tribunal allowed the Secondary Complainer 28 days from the intimation of the findings of misconduct to lodge a claim for compensation. The written findings were intimated to the Secondary Complainer on 1 June 2023.
4. The Tribunal set the matter down for a virtual compensation hearing on 18 September 2023. Notice of the hearing was duly served upon the Respondent and the Secondary Complainer.
5. At the virtual compensation hearing on 18 September 2023, the Secondary Complainer was present and represented himself. The Respondent was present and represented himself. The Tribunal received the Respondent's productions which had been lodged late due to a problem with formatting. The Tribunal adjourned the compensation hearing to 23 October 2023, due to a medical issue experienced by one of the parties. Parties confirmed that it was not necessary to send formal notices of hearing to them.

6. At the virtual compensation hearing on 23 October 2023, the Secondary Complainer was present and represented himself. The Respondent was present and represented himself. Both parties made submissions.

7. The Tribunal found the following facts established:-

7.1 The claimant at this hearing was the Secondary Complainer in the Complaint against Matthew Philip Berlow, 9 Lochbroom Court, Newton Mearns, Glasgow. The Respondent had previously been found guilty of professional misconduct in that:-

“His actions lacked integrity and to that extent breached Rule B1.2, when in a Facebook comment he deliberately associated members of the Scottish Palestine Solidarity Campaign with the criminal act of graffiti, knowing no crime had taken place and that the original post was false”;

7.2 The Secondary Complainer lodged a written statement of claim with the Tribunal claiming £5,000 compensation.

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

By Video Conference, 23 October 2023. The Tribunal having considered the Complaint at the instance of the Council of the Law Society of Scotland against Matthew Philip Berlow, 9 Lochbroom Court, Newton Mearns, Glasgow and having previously determined that the Respondent was guilty of professional misconduct; Find that the Secondary Complainer has been directly affected by the Respondent’s misconduct and considered that it is appropriate to award compensation to the Secondary Complainer: Ordain the Respondent in terms of Section 53(2)(bb) of the Solicitors (Scotland) Act 1980 to pay to the Secondary Complainer, Mick Napier on behalf of the Scottish Palestine Solidarity Campaign, 23 Woolfords, West Calder, the sum of £250 by way of compensation in respect of inconvenience resulting from the professional 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; Make no finding of expenses due to or by either party; and Direct that publicity will be given to this decision and that this publicity should include the names of the Respondent and the

Secondary Complainer but that this publicity should be deferred until the Tribunal's findings of 27 April 2023 are published.

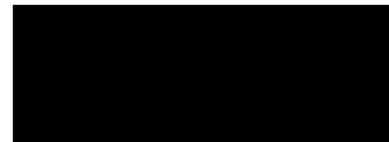
**(signed)**

**Catherine Hart**

**Vice Chair**

9. 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 Secondary Complainer by recorded delivery service on **21 NOVEMBER 2023**.

**IN THE NAME OF THE TRIBUNAL**



**Catherine Hart**  
**Vice Chair**

**NOTE**

At the virtual compensation hearing on 23 October 2023, both parties represented themselves. The Tribunal had before it the findings in the professional misconduct case, the compensation claim form and an Inventory of Productions for the Respondent which included his written submissions.

**SUBMISSIONS FOR THE SECONDARY COMPLAINER**

The Secondary Complainer noted that in his written submissions, the Respondent argued that no award should be made. However, in the Secondary Complainer's submission, the Respondent was guilty of dishonesty and subterfuge. When engaging with a fake persona on Facebook, he had fabricated a crime. The Secondary Complainer said this was a very serious issue. He had researched the issue but had been unable to identify any examples of vandalism of a political opponent's home. The crime itself was so egregious and unparalleled it merited compensation.

The Secondary Complainer said that "Glasgow Friends of Israel", of which the Respondent was a member, was financed by an Israeli minister and existed to delegitimise the international movement supporting Palestine. This, he said, was the whole purpose of the organisation. The Respondent had not acted in a "moment of madness" when he had responded to the post on Facebook. He accused the Respondent and his friends of inventing Anti-Semitic behaviour.

The Secondary Complainer said the Scottish Palestine Solidarity Campaign (SPSC) had been directly affected by the Respondent attributing criminality to the organisation. He said it had resulted in venues cancelling their meetings. That kind of conduct impedes the organisation's work. The SPSC relies completely on donations from the public. The incident caused concern. He could not put an exact figure on it, but SPSC income was falling.

The Secondary Complainer suggested that "exemplary damages" would be appropriate in the circumstances. He said that the Respondent had expressed no regret about the incident, other than about getting caught. He had not apologised or promised not to repeat the behaviour. He denied liability to the Law Society for a long time. He continues to criticise the organisation. The SPSC was not involved in this situation. The fake posts were intended to damage someone else but then the Respondent essentially said the SPSC vandalised his house. Anyone reading the words understood he meant the SPSC had been involved in an atrocious crime and that it was typical of the SPSC.

The Secondary Complainer said that the SPSC faces constant allegations about their behaviour. The body stands for universal human rights. They collide or come up against ethnic supremacy.

The Secondary Complainer said that the Respondent's shocking and serious behaviour should be seen in its context of a long-term campaign. It should not be viewed in isolation. If the story had not been identified as a fake, it would have hit the papers and the SPSC would have been wrongly identified with criminality.

The Tribunal asked the Secondary Complainer whether his claim was for damages for the organisation or himself personally. He confirmed it was for the organisation, of which he was a founding member and member of the national committee. The Tribunal asked about the difficulties the SPSC had experienced when booking meeting rooms. The Secondary Complainer said that when they booked venues, the Respondent and his friends would email them saying that the SPSC were Nazis and Anti-Semites. They had lost two bookings that way. The Tribunal queried whether that had been the result of the emails rather than the misconduct in this case. The Secondary Complainer said the alleged graffiti did not help. It had caused alarm and consternation amongst their supporters. The Tribunal asked for more specification regarding the alleged loss. The Secondary Complainer said the SPSC relies on multiple small donations. No one indicated that they were cutting their donations as a result of this incident, but it is very much a strong feeling that this has been a cause.

## **SUBMISSIONS FOR THE RESPONDENT**

The Respondent said this was a complicated matter. Few people understood it. He was frequently confronted by anti-Israeli activists who thought he had vandalised his own home to frame the SPSC. No one seemed to grasp the fact that there was no vandalism of the house. Instead, a friend of the Respondent had set up a fake Facebook profile to monitor threats to the Glasgow Friends of Israel street stall. He pretended to be an anti-Israeli activist. He would advise the police of potential threats to the stall. An anti-Semitic person contacted the fake profile. He entered into a discussion about vandalising the Respondent's home and offered personal information about the Respondent's home and cars and offered to assist with the crime. The Respondent has received the opinion of two senior counsel to the effect that this constituted the crime of conspiracy. These were provided to the police. The matter is still under investigation. The Respondent said his mistake was identifying the SPSC when his friend pretended that the vandalism had taken place. He did this because he panicked. The story which appeared in the papers was not that the SPSC had vandalised the Respondent's house. Rather, it was that a Jewish lawyer (the Respondent) had tried to frame the SPSC by vandalising his own home. This false story went worldwide.

The reputational damage has been directed towards the Respondent. It fits the narrative of the “conniving Jew”. This has had a huge effect on the Respondent. It upsets him to think that members of the public and members of his own community believe the story. He looks like an idiot and feels like an idiot.

The Respondent said it was balderdash to say that Glasgow Friends of Israel had received any money from an Israeli minister. It runs a street stall with a gazebo and leaflets. However, this false narrative fits the anti-Semitic trope regarding Jews and money.

The Respondent said his comment about the SPSC on the fake Facebook profile was seen by about 30 people. Hundreds of thousands had seen the story about the Respondent vandalising his own home. The Respondent said that the SPSC being refused a venue had nothing to do with his one line on Facebook. He said there was a causation issue as well as a quantification issue. It was not correct to say that the Respondent’s small sentence on Facebook had led to financial loss or difficulty booking venues. That occurred because the SPSC is an anti-Semitic organisation. It would be shocking if the Respondent had to pay money to the SPSC, which the Respondent alleged was a terror organisation which supported Hamas. It would be too much for him to bear if his money was used by them in support of Hamas.

The Respondent said that the SPSC had used the story for its own benefit. Its narrative was it had caught a Jew involved in subterfuge and lies. The Respondent noted the Tribunal’s comments regarding expenses in another compensation case against him. He said he had a right to be angry.

#### **FURTHER SUBMISSIONS FOR THE SECONDARY COMPLAINER**

The Secondary Complainer said the SPSC did not donate money to Hamas. It has no relationship with Hamas or any Palestinian political party. It is not affiliated to any Scottish political party either. The SPSC opposes Israeli genocide. It has no animus towards Jewish people. It tries to combat the conflation of the crimes of Israel with Jews or Israelis. The SPSC was entirely the innocent party in the misconduct case. The Respondent was the perpetrator. The Secondary Complainer therefore invited the Tribunal to award damages to the SPSC.

#### **DECISION**

The Tribunal considered parties’ submissions carefully along with the documents which parties had lodged. The Tribunal also had regard to its powers relating to compensation. The relevant provision is 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 had found the Respondent guilty of professional misconduct on 27 April 2023. The Tribunal considered that a direct effect was one which would not have happened but for the professional misconduct. The standard of proof in connection with a claim of compensation is that of balance of probabilities. The Tribunal has a discretion to award compensation. It is not obliged to do so. It could only direct a solicitor to pay compensation up to a maximum award of £5,000 to a Secondary Complainer for loss, inconvenience or distress which resulted from the misconduct. There was no provision for the Tribunal to award “exemplary damages”.

The Tribunal noted that the Secondary Complainer made a claim on behalf of the SPSC for financial loss as well as inconvenience and distress. It noted that no evidence had been provided of a loss of income. It was not possible to make a causal link between the Respondent’s misconduct and any reduction in donations. There did not appear to be any causal link between the Respondent’s misconduct and the difficulties the SPSC had experienced booking venues. There was no evidence that the reputation of the SPSC had in fact been adversely affected.

The Tribunal did not consider that an organisation could suffer distress. However, it was of the view that the SPSC had been inconvenienced by the Respondent’s misconduct. The SPSC had been falsely accused of a criminal act. It had made a complaint to the SLCC. The Secondary Complainer had participated in the complaints process, culminating in his appearance at the compensation hearing. This would have affected the time spent on the operation of the organisation. Members and supporters had to be reassured that the allegation of vandalism was false. Based on the information before it, the Tribunal assessed that the consequences of the misconduct were of limited effect and duration, causing minimal inconvenience. The appropriate award was therefore £250 compensation payable by the Respondent to the Secondary Complainer on behalf of the SPSC.

The Tribunal invited submissions on publicity and expenses. The Secondary Complainer indicated that he had no expenses. The Tribunal made no award of expenses. It directed that publicity would be given to the decision and that this publicity would include the names of the Respondent and the Secondary



Complainer. However, publicity will be deferred until publication of the Tribunal's findings of 27 April 2023 in relation to professional misconduct.



**Catherine Hart**  
**Vice Chair**