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

DECISION

in Appeal under Section 42ZA(12) of the Solicitors (Scotland) Act 1980 as amended

by

REHAM EL MENSHAWY, [redacted]

Appellant

against

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

First Respondents

and

JOSEPH HANN, Solicitor, Hann & Co, 1 Bridgend, High Street, Annan

Second Respondent

1. An Appeal dated 29 March 2021 was lodged with the Scottish Solicitors' Discipline Tribunal ("the Tribunal") under the provisions of Section 42ZA(12) of the Solicitors (Scotland) Act 1980 ("the 1980 Act") by Reham El Menshawy, [redacted] (hereinafter referred to as "the Appellant") against the amount of compensation directed by the Council of the Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh (hereinafter referred to as "the First Respondents") to be paid by Joseph Hann, Solicitor, Hann & Co., 1 Bridgend, Annan (hereinafter referred to as "the Second Respondent") to the Appellant in respect of the complaint made by her against him. The Direction was made on 11 February 2021 and was intimated by letter dated 8 March 2021.

2. In accordance with the Rules of the Tribunal, the Appeal was formally intimated to the First Respondents and Second Respondent. Answers were lodged for the First Respondents. The Second Respondent did not lodge Answers. By email dated 13 May 2021, the Second Respondent intimated that he did not intend to enter the proceedings.

3. Having considered the Appeal and Answers for the First Respondents, the Tribunal set the matter down for a virtual procedural hearing on 3 August 2021 and notice thereof was duly served on the parties.

4. At the virtual procedural hearing on 3 August 2021, the Appellant was absent but had submitted a letter from her doctor explaining her inability to participate in the hearing. The First Respondents were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. The Appellant had lodged a motion with the Tribunal to adjourn the procedural hearing. The First Respondents had lodged a motion inviting the Tribunal to (a) dismiss the appeal; or alternatively (b) order the Appellant to find caution; or alternatively (c) order the Appellant to sist a mandatory. Both parties had lodged written submissions with the Tribunal. The Fiscal invited the Tribunal to deal with his motion in the absence of the Appellant. After careful and detailed consideration of the issues, the Tribunal determined that it was not in the interests of justice or fairness to hear the Fiscal's motion in the absence of the Appellant. The Tribunal granted the Appellant's motion to adjourn the procedural hearing and on the Fiscal's motion, ordered that the appeal be set down for a virtual preliminary hearing in December 2021, on a precise date to be afterwards fixed. The Fiscal's written motion was continued to that date.

5. A suitable date being agreed with the parties, the Tribunal set down the virtual preliminary hearing for 14 December 2021 and notice thereof was duly served on the parties.

6. At the virtual preliminary hearing on 14 December 2021, the Appellant was present and represented herself. The First Respondents were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. There was an interpreter present to translate proceedings for the Appellant. Both parties had submitted written Notes of Argument. The Tribunal heard submissions in relation to the First Respondents' plea to the relevancy and specification of the Appeal. After careful consideration of the written and oral arguments, the Tribunal repelled the preliminary plea. The Fiscal thereafter made submissions to the Tribunal in support of his continued motion for the Tribunal to either (a) ordain the Appellant to lodge caution or (b) ordain the Appellant to sist a mandatary. The written submissions from both parties also covered the First Respondents' motion. The Tribunal heard supplementary oral arguments. Having carefully considered both the oral and written arguments and in the interests of justice and fairness to both parties, the

Tribunal refused the First Respondents' motion. The Appeal was set down for a full hearing to take place on 1 March 2022 at 10am. Both parties agreed that it was appropriate for the hearing to be heard by way of Zoom.

7. At the virtual hearing on 1 March 2022, the Appellant was present and represented herself. An Interpreter was present to translate proceedings for the Appellant. Both parties had lodged written submissions and the Appellant had lodged two supporting documents. The First Respondents objected to the lodging of all three documents for the Appellant on the basis of lateness and additionally objected to the two supporting documents on the basis of relevancy. The Tribunal allowed all three documents to be received, with the two supporting documents allowed to be received under reservation of the question of relevancy. The Tribunal heard submissions from the Appellant. Given the late hour of day and the stage of proceedings, the Tribunal, *ex proprio motu*, continued the hearing to a date to be afterwards fixed.

8. The continued virtual hearing was set down for 11 May 2022. Due to the unavailability of one of the members of the Tribunal hearing this case, the continued virtual hearing was adjourned *ex proprio motu* by the Tribunal, administratively in terms of Rules 44 and 56 of the 2008 Rules to 2 September 2022.

9. At the continued virtual hearing on 2 September 2022, the Appellant was present and represented herself. The First Respondents were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. The interpreter was present to translate proceedings for the Appellant. The Tribunal heard submissions from the First Respondents and submissions in reply from the Appellant.

10. Having given careful consideration to all of the documents lodged and the submissions, both oral and written, of both parties, the Tribunal refused the Appeal against the amount of compensation awarded.

11. Having regard to the detailed reasons for the Tribunal's decision, the Tribunal considered it appropriate and fair that both parties had the opportunity of considering these prior to making submissions in relation to expenses. Accordingly, the Tribunal having intimated its decision to refuse the Appeal, continued the questions of expenses and publicity to a date to be fixed after the intimation of this written decision.

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

By Video Conference 2 September 2022. The Tribunal, in respect of the Appeal under Section 42ZA(12) of the Solicitors (Scotland) Act 1980 by by Reham El Menshawy, [redacted] (hereinafter referred to as "the Appellant") against the amount of compensation directed by the Council of the Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh (hereinafter referred to as "the First Respondents") to be paid by Joseph Hann, Solicitor, Hann & Co., 1 Bridgend, Annan (hereinafter referred to as "the Second Respondent"); Refuses the Appeal and confirms the Direction of the Council of the Law Society; and continues the questions of expenses and publicity to a date to be afterwards fixed.

(signed)

Beverley Atkinson

Vice Chair

13. 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 Appellant by recorded delivery service on 27 SEPTEMBER 2022.

IN THE NAME OF THE TRIBUNAL

[redacted]

Beverley Atkinson

Vice Chair

NOTE

A complaint made by the Appellant against the Second Respondent was referred by the Scottish Legal Complaints Commission ("the SLCC") to the Law Society of Scotland. The complaint was in the following terms:-

I, Ms Reham Menshawy, wish to complain about Mr J H of H & Co Solicitors Ltd who acted on my behalf between April 2016 and August 2016 in relation to my appeal to the Sheriff Appeal Court, specifically:

27. Mr H failed to adequately supervise the work carried out by Mr O, a trainee solicitor in the firm, as he (Mr O) failed to act in my best interests as on the 3rd of August, the court emailed H and co asking them to provide more details in section 113 of the application with 14 days; however, H and co hid this email from me until the end of the 18th of August (i.e after the deadline is over!!). This no doubt proves that they were doing everything possible to ruin the case.

This complaint was considered by the Professional Conduct Sub Committee of the Law Society ("the Sub Committee") on 11 February 2021. The complaint was upheld under deletion of the last sentence and the Sub Committee made a finding of unsatisfactory professional conduct against the Second Respondent. The Second Respondent was censured, fined in the sum of £1,000 and directed to pay to the Appellant the sum of £1,000 in compensation for inconvenience and distress.

The Appellant lodged an Appeal to the Tribunal against the amount of compensation directed to be paid. Answers were lodged on behalf of the First Respondents. The Second Respondent, by email dated 13 May 2021, intimated that he did not intend to enter the proceedings.

Following the sundry procedure noted above, the Tribunal fixed a virtual hearing of the Appeal for 1 March 2022. At that hearing, the Appellant was present and represented herself. The First Respondents were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. An interpreter was present to translate the proceedings for the Appellant, at her request, English not being her first language and taking into account that she had no legal experience. Prior to commencing submissions on the substance of the Appeal, the Fiscal indicated that he wished to raise some preliminary issues.

The Appellant had submitted to the Tribunal Office a written note of submissions by email dated 18 February 2022. This was intimated to the Fiscal by the Tribunal Office by email dated 21 February

2022. The Fiscal objected to this document being received by the Tribunal, arguing that it was lodged late and should have been lodged by 16 February 2022.

By email dated 21 February 2022, the Appellant submitted and intimated two further documents. The Fiscal objected to both of these documents being received, arguing that they were lodged late and additionally, were irrelevant. He submitted that the Tribunal's role was to review a decision of a Law Society Sub Committee of February 2021, based on the material before the Sub Committee at that time. He submitted that neither of the documents lodged by the Appellant were before the Sub Committee and so were irrelevant.

The Appellant explained that the two documents she had lodged with the Tribunal were in substance the same as two documents she submitted to the Law Society. She had added opening paragraphs to each of the documents, in order to address them to the Tribunal rather than the Law Society and to explain some anonymisation that had occurred. However, she insisted that the substance of these two documents was in fact before the Sub Committee.

The Tribunal asked the Fiscal if he disputed that the substance of both documents had in fact been before the Sub Committee. He responded that he did not know but insisted that the two documents in their current form could not have been before the Sub Committee. He further emphasised that the note of appeal made no reference to the documents before the Sub Committee and so this issue did not in fact form part of her appeal.

The Appellant explained that, prior to this hearing, she had contracted COVID which had compounded her other health conditions and had led to the late lodging of her submissions. The supporting documents she had lodged in response to the written submissions of the Fiscal.

The Tribunal adjourned to consider the preliminary objections.

With regard to the written submissions, it was noted that no order had been made directing that submissions be lodged within a specific time limit. The Tribunal considered that written submissions do not fall within the requirements of Rule 27 of the 2008 Rules. It therefore took the view that the written submissions were not in fact late and allowed the written submissions to be received.

The Tribunal considered that the two supporting documents did fall within Rule 27 and so were late by five days. The Appellant had explained her recent health problems. The Fiscal had not suggested

that the First Respondents had been prejudiced in any way by the delay. The Fiscal placed more emphasis on his objection to their relevance to proceedings. The Tribunal considered that the fair approach to both parties was to allow the documents to be received late, subject to the question of relevancy. Should reference be made to these documents, the Tribunal can then consider whether they are relevant or not.

On reconvening, the Tribunal emphasised to the parties that this hearing was restricted to the issue of the amount of compensation awarded to the Appellant. It was confirmed that the Tribunal could not review the level of fine imposed on the Second Respondent. The Tribunal confirmed that it could not simply rehear the issue of compensation but had to be persuaded that, in reaching its decision, the Sub Committee either made an error of law, or made a finding for which there was no evidence or contrary to the evidence, or it made a fundamental error, or it reached a decision that no reasonable Committee could have reached. The Tribunal confirmed that these questions were restricted to the information that was available to the Sub Committee at the time it made its decision.

SUBMISSIONS FOR THE APPELLANT

The Tribunal confirmed to the Appellant that the Tribunal members had read her written submissions which were as follows (emails and letters cut and pasted into the submissions have not been replicated here for reasons of privacy) :-

1. I - The appellant – had a conduct complaint for investigation by the Law Society of Scotland against Joseph Hann - of Hann and Co. - since 2018.

2. The issue of the complaint was as edited by the SLCC investigator " Mr Hann and/or Hann & Co Solicitors Ltd failed to adequately supervise the work carried out by [Mr O], a trainee solicitor in the firm, as he (Mr O) failed to act in my best interests as on the 3rd of August, the court emailed Hann and co asking them to provide more details in section 113 of the application with 14 days; however, Hann and co hid this email from me until the end of the 18th of August (i.e. after the deadline is over!!). This no doubt proves that they were doing everything possible to ruin the case".

3. I have to clarify that I was complaining from both Joseph Hann and [MrO] as representatives of Hann and co.

4. Their hiding the letter led to missing the deadline to appeal to the court of session and to the permanent dismissal of the case with huge expenses after losing the last chance to appeal and resume the case given that I could not raise a fresh action and lost the 2 legal aid certificates as Hann and Co confirmed in their email to me shown later in this document. This followed their sudden withdrawal on the deadline to appeal without any prior notice, submitting the appeal with the required section 113 totally empty, and a long series of unethical actions since they handled

the case. These will be illustrated partially here and also in the attachment named – history of unethical actions of Hann and Co

5. The reporter of the Law society of Scotland issued her first report based on the responses received from the solicitor only before I submit any responses or comments and took the solicitor words for granted and considered him not guilty to the degree that she used the solicitor words (without any documents or evidences) and described them as "facts have been proved beyond reasonable doubt."!

6. The direction of the reporter was very biased, subjective and unbalanced because it was built upon only one side of the story. The investigation should have a scope and focus on the issue of the complaint. The reporter did not request any information regarding the background of the case from me as her role is not to evaluate the court case as a whole, nor revise its progress, but rather focus on the scope of investigating the issue of the complaint. However, the reporter took the view of the solicitor on his story of the background of the case and praised his work! She did not focus on investigating the issue of the complaint and thought that her role is to praise the solicitor and describe his unethical actions and dismissing the case with huge expenses as success!

7. Later, I submitted many evidences and documents that prove the lies of the solicitor including original documents that show that he forged and altered the contents of the printed documents he submitted in a later stage to the Law society of Scotland and dishonestly deceived them as I will show in details in the attached documents. I also gave her evidences on the background of the case as I noticed that she included the background story of the solicitor. However, the reporter ignored all my submissions and background evidences and issued a short one page supplementary report confirming her previous conclusion which negatively affected the subcommittee in a way even if they reversed her decision.

N.B It is illogical that the reporter will admit that she was wrong in her first report nor reverse her conclusion. This is a mistake in the procedure of the LSS that should be corrected. The supplementary report/investigation should be done by another more senior reporter even before the subcommittee finally decides.

8. What proves my note above and the bias of the reporter is that the subcommittee of the Law Society of Scotland found the solicitor Joseph Hann guilty of (unsatisfactory professional conduct) and they categorised his conduct as SERIOUS which is the worst category, however, they dealt very leniently with the unethical action of the solicitor of hiding the court letter till after the deadline passed. That is how the previous 2 reports of the reporter affected the subcommittee negatively. The subcommittee saw that just categorising the solicitor action as SERIOUS is enough and a big progress from the ZERO sanction previously decided by the reporter regardless of the low compensation, fine and least sanction imposed.

9. The subcommittee erred in many aspects and in applying their guidance rules as I pointed out in all previous submissions.

10. According to the Hood, Petitioner 2017 CSIH 21at para 17, which the fiscal of the first respondent referred to - 'Where the Sub-Committee's reasoning discloses an error of law, which may be an error of general law or an error in the application of the law to the facts'- it is very clear that the LSS made errors of law and the application of law and their own rules as pointed out below.

11. I pointed out the errors made by the subcommittee in details with illustrations and references from the Guidance rules of the LSS in:

    a. My note of appeal in March 2021 in paragraphs 2, 3, 4, 5, 6, 7, 9, 10, 11.
    b. My Note of Argument submission in the procedural hearing in August 2021 in paragraphs 16, 17, 18, 19, 20, 21, 22.
    c. My Note of Argument submission in December 2021 in the preliminary hearing in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12.

12. I will mention the same details again for the fourth time for the avoidance of doubt and as the fiscal keeps repeating his claims every time that I do not mention details of the LSS errors.

13. I proved in the previous 3 submissions that the LSS made three errors in applying their own guidance rules and sanctions categories. I attach their guidance rules here as taken from their website. Please look at the tables in pages 5 and 7 of the guidance UPC and compare them to the conclusion they made. I extracted these tables in the previous 3 submissions and again below.

14. The law society of Scotland categorized the misconduct into 4 categories (minor – clear – significant - serious) each one of them meets a category of awards for the inconvenience and stress (minor – clear – significant - exceptional) as shown in the 2 tables below. The worst category of misconduct (serious) meets the highest category in the compensation level (exceptional).

15. I put the 2 tables adjacent to each other to show each misconduct category and its relevant level of award as decided by the law society of Scotland. They may not be clear in the page layout limitations, so I will put each individual table alone again in the following paragraphs with more explanations.

A suggested indicative scale, addressing both inconvenience and distress, is set out below:

Level of Inconvenience or Distress	Range of Compensation
Inconvenience of having required to complain	£25 - £100
Minor	Additionally £101 - £500
Clear	Additionally £501 - £1,000
Significant	Additionally £1,000 - £2,500
Exceptional	Additionally £2,500 - £5,000

A broad categorisation covering the available scale is suggested below:

Seriousness of UPC	Basic penalty
Minor	£50 - £200
Clear	£201 - £800
Significant	£801 - £1200
Serious	£1201 - £2,000

16. When the LSS categorized the misconduct of the solicitor as SERIOUS which imposes a fine from (1201 – 2000) GBP according to their own table and rules, but they violated the table they put for the fine level for the serious action and imposed a fine of only 1000 GBP which lies in the middle of the significant action from (801-1200) GBP which is a lower level and less worse than the serious level. So that is a clear ERROR in applying the law and their own guidance rules. That ground was basically to show an example of the leniency and bias the LSS used in punishing the unprofessional solicitor for his serious action.

A broad categorisation covering the available scale is suggested below:

Seriousness of UPC	Basic penalty
Minor	£50 - £200
Clear	£201 - £800
Significant	£801 - £1200
Serious	£1201 - £2,000

17. The same applies for the compensation level. Despite all the losses I clarified in the appeal form which exceed 58,000 GPB and that resulted from the serious misconduct of the solicitor as described and categorised by the subcommittee of the Law Society of Scotland, the subcommittee considered that my losses are significant, not exceptional. The exceptional category in the table below reflects the effects of the serious misconduct in the table above which is according to their category should award me from 2500 -5000 GBP. However, the LSS saw that the serious action of the solicitor in my case with all the losses mentioned meets ONLY the significant level of compensation which – according to their rules – should award me from 1000 to 2500 GBP. They awarded me the least amount in the significant category while the clear category awards from 501 to 1000 GBP. This means that my compensation is equal to the clear category of inconveniences- not even the significant level - as in the table extracted from their Guidance on the Unsatisfactory Professional Conduct below.

N.B Details of the losses will be explained later in this document.

18. Why did the subcommittee award me the lowest figure in the significant category which is equal to the clear category which constitutes only 20% of the compensation scale which is very low, why not 2500 GBP for example according to their categorization? How come a serious (worst) conduct lead to a 20% only of the compensation scale? That is another example of the council leniency and bias with the solicitor.

A suggested indicative scale, addressing both inconvenience and distress, is set out below:

Level of Inconvenience or Distress	Range of Compensation
Inconvenience of having required to complain	£25 - £100
Minor	Additionally £101 - £500
Clear	Additionally £501 - £1,000
Significant	Additionally £1,000 - £2,500
Exceptional	Additionally £2,500 - £5,000

19. So they erred in categorizing the compensation level twice (significant instead of exceptional and the lowest figure in the significant level which is equal to clear level). It is as if they categorized my level of inconvenience and distress as clear which can never be a result of a serious misconduct. These are two more errors of applying their own guidance rules.

20. If we use numbers, there are 4 categories in the misconduct, and 4 categories in the compensation level that are

1. Minor
2. Clear
3. Significant
4. Serious.

** The Law Society of Scotland categorized the misconduct as 4 (worst), but put the compensation level as 2 (low middle), the fine level as 3 (middle), while the compensation and fine level must be 4 according to the Law Society of Scotland categorization.**

21. While the role of the fiscal is to defend the Law Society of Scotland and prove by evidence and details that the LSS subcommittee did not make any error of law, the fiscal of the law society of Scotland keeps repeating his claims as in his previous submissions that "The Note of Appeal does not provide any detail or evidence of how the Appellant maintains the Sub-Committee's decision falls within one of the three Hood grounds. It simply reflects the Appellant's disagreement with the Sub-Committee's decision. It fails to set out any factual or legal basis upon which any of the aforementioned grounds could be considered by the Tribunal in this Appeal"

22. As I pointed out in paragraph 10 above, I mentioned them in details in the previous three submissions. I also repeated them again here in paragraphs 11-20. So repeating the same claims by the fiscal although I defended them with evidence several times is a waste of time and effort to the tribunal and me especially during my tough health circumstances as illustrated with certificates in August 2021 submissions and my current COVD infection I informed the clerk with.

23. The fiscal again repeats his previous claims in his previous submissions assuming that I want the tribunal to reinvestigate the case by saying "The Tribunal does not, and cannot, re-hear or re-investigate the case".

24. Again and as I mentioned in my previous submissions in August 2021, and December 2021, I did not request re-investigation of the whole complaint, nor mentioned this in any event or document as the fiscal claims. The appellant did not waste the tribunal time and effort in discussing any details about the complaint or the investigations process. I only discussed the contradictions in the decision of the LSS as per the rules of and regulations put by the LSS itself. The part of the conclusion in which the law society of Scotland categorized the misconduct of the solicitor as serious is satisfying to me as it is the worst category a solicitor conduct can be described with and rightly describes the solicitor action, but I am not satisfied with the amount of compensation awarded to me and compare it to the guidance rules of the LSS and find contradictions and violations of them. I - The appellant - also find that the fines and sanctions imposed do not comply with the guidance rules of the LSS as explained above.

25. The fiscal again insists to reverse the roles and show me as an accused person, and instead of defending the LSS in his error in applying the law, he attacks me and defends the guilty solicitor who refused to participate in the appeal process and left it to the LSS to handle on his behalf. The LSS was lenient with the solicitor and is now defending him through the fiscal!

26. The fiscal did not witness any of the unethical incidents by the solicitor during the whole case duration, nor is supposed to defend him, However, the fiscal claims that it is as simple as not sending a letter before the deadline, while the disaster is in not sending the letter before the deadline as it was the reason for ending the case forever with huge expenses on me.

27. The fiscal insists to continue accusing me by claiming that I failed to accept the solicitor's advice, while he has no idea about the solicitor attitude with me during the case and how he ruined the case on purpose by many incidents that I pointed out in the attachment –

28. While I care not to waste the tribunal time, but since the Fiscal is attacking and accusing me all the time, I have to prove the wrongness of his allegations and show the honourable tribunal that this conduct - though serious – can not only be evaluated alone away from all his other actions. All his actions should be linked together to understand why he intentionally hid the letter and wasted the last chance to rescue the case.

29. Attacking is the best way to defend is the methodology Mr. Knight uses against me. He again claims that

30. The fiscal is trying to distract the tribunal away from the issue of the complaint and raise many issues that are out of scope to negatively affect the tribunal against me.

31. This necessitates that I give the honourable tribunal a brief about the background of the case as long as it was wrongly mentioned by the fiscal who did not witness it nor is here to defend the solicitor although I wanted to focus only on the issue of the complaint to save the tribunal time and effort and concentration.

32. The original case was an illegal eviction case that lasted from June 2009 till April 2016. I was the tenant during my study in Scotland. It was a very complicated case that had so many documents, evidences, incidents, and police investigations because it included death threats, fabricated threatening letters, defamation, harassment and psychological war by the landlady and her fellows. 7 years of interactions, correspondences, investigations, translations, hearings, and legal aid applications is very hectic and stressful. The compensation as calculated by the surveyor was 43,500 GBP and an approximate compensation for the possessions was 5,000 GBP with a total of 48,500 GBP. This cannot cover non-quantifiable losses like stress, fear, insecurity, harassment, depression, and defamation, and negatively affecting the academic performance to the degree that I was going to cut my study and lose my scholarship to be back home to Egypt safely. I was planning to stay after graduation to work in Scotland, but I cancelled all my plans. Of course, it ruined my experience in Scotland.

[email dated 21/3/11 to Appellant]
[letter dated 25/6/10 from surveyor]
[letter dated 25/1/11 from surveyor]

33. I was granted legal aid later in 2015 because the legal aid board evaluated my case and saw very strong prospects of success. The original solicitor - with whom I had a 6-years work relationship - went on a maternity leave in July 2015 and transferred her work to a newly employed solicitor in [ ] who did not want to spend time understanding the complex case file and refused to prepare for the final hearing in April 2016. It was only one final step to win the case. He was strangely arranging all remaining steps with the opponent's solicitor to the degree that he adjourned the

final hearing from November 2015 till April 2016 to allow the opponent to work on her legal aid certificate and he refused to send my representations to the legal aid board! He was serving the interests of my opponent instead of mine!

34. An joint meeting sheet was found in the case file showing that the solicitor wanted to hide the amount of compensation calculated by the surveyor in case of economic settlement. This reflects dishonesty and cheating. The solicitor did not know that the surveyor report was sent to me in 2011 i.e. 5 years earlier. This sheet is pasted in the next page.

[File note]

35. Only 4 weeks before the final hearing, the new solicitor withdrew suddenly without any prior notice and the firm did not respond to my complaint to replace him before the hearing or repair that sudden unethical action while I was in Egypt and could not by all means be present in UK before the hearing because of visa processing times and other personal and financial reasons.

36. The sheriff court refused to allow me to appear by live link although I made all arrangements for that and insisted to deal with a legal representative on my behalf. The very short notice caused all solicitors, law firms and organizations to refuse handling that complex long history case in that very critical final stage. The sheriff did not consider my reasons of being physically absent although I emailed the court and clarified that sudden unexpected situation while I am abroad, and he granted a decree of absolvitor.

37. The counsel - whom the fiscal refers to – criticized the sheriff in his decision as extracted below from his 28 pages report. The counsel opinion shows that I DID NOT FAIL IN THE CASE, BUT THE SUDDEN WITHDRAWAL AND THE SHERRIF'S MISUNDERSTANDING OF FACTS LED TO THAT DECREE OF ABSOLVITOR.

breakdown in relations with her solicitors, along the lines of the submission made before the Sheriff Appeal Court.

26. As for the loss of the proof on 5–7 April 2016, it was arguably plainly wrong of the Sheriff to lay that at the feet of the appellant herself when, as he observed himself in his note at [6], the withdrawal of solicitors one month before the proof would almost certainly have made a hearing of the case on 5 April impossible anyway:

> I was unable to see how, in practicality, any solicitor could be instructed appropriately, go through the necessary money laundering and other regulatory steps to ensure that their instructions were properly obtained and be able to enter the proof at this stage given the number of days of evidence which had already taken place. Accordingly, I could see no realistic prospect for anything other than a motion to be made at the continued proof for the matter to be continued yet again …

27. There is then the question of the emails. The Sheriff records at [8] that he did not take these into account when pronouncing the interlocutor of 1 April 2016 (the reference in the interlocutor to his having done so is therefore an anomaly). But he adds that he 'does not consider that they would have altered [his] decision'.

28. However, it is difficult to see how the Sheriff can have reached a sound conclusion without taking account of

(1) the appellant's explanation that her solicitors had not been in communication with her for approximately 9 months

(2) the appellant's attempts to instruct solicitors and get legal aid transferred to them (cf. the Sheriff's reference at [6] to 'her failure thus far to instruct a solicitor'). From the emails which I have seen, these efforts began at the latest on 14 March 2016 when the appellant wrote to Citizens Advice Direct after being told by Glasgow Sheriff Court on 11 March 2016 of the effect of the interlocutor against her.

29. A final issue that the Sheriff appears to have misunderstood is the appellant's visa. At [7] he refers (as the first of the five factors on which he relies) to 'the inability of the [appellant] to obtain a visa'. That is foreshadowed at [6] where he records, 'I was told that the appellant *could* never appear—apparently now confirmed by her

38. I had only 28 days to appeal. I emailed again all solicitors and law firms for the appeal stage who all refused because of the very short notice and the complex nature of the case until 9 days before the deadline Hann & Co agreed to represent me IN ALL APPEAL STAGES and introduced [Mr O] as a legal advisor. As a non- Scottish person who has no legal knowledge, I did not know that he was a fresh graduate with ZERO work experience. Their mission was to appeal the absolvitor decree and resume the case back in the sheriff court.

39. The honourable tribunal definitely know that appeals are advanced litigation stages which require higher professional experience and advanced knowledge. However, Joseph Hann left everything to [Mr O] although he was copied in all correspondences. It seems that [MrO] took my case as a way to get legal aid funds because that was the first thing he asked me about, and also as a non-graded assignment although he did not exert any effort on that assignment during the appeal stages for 3 and a half months. I discovered that their scope of work was real estate and property selling although they are enrolled as solicitors. That is very unethical to accept a case which they had no experience or knowledge in its specialty just for the sake of money and training?!

40. The joint meeting sheet extracted above was found by [MrO] in part of the case file that was sent to them from [ ]. [Mr O] knew how devastated I was because of that decree and the sudden withdrawal. [Mr O] was sure that they were the only remaining firm that can represent me in my last chance to resume the case. He insisted to speak to the withdrawing solicitor several times, not to discuss the case, but to know why he withdrew. After that, I found that [Mr O] changed the

way he dealt with me and started to be very aggressive and careless about the case. He accused me of failing with the solicitor although I had a good relationship for 6 years with the previous solicitor. He was defending the solicitor instead of me. He stopped communicating with me till the deadlines day every hearing and refused to lodge any documents or write any strong grounds.

41. It seems that they had a deal with the opponent as the previous solicitor had. The opponent was an abnormal lady who threatened me to death just because she wanted to spend a few weeks in her flat during my finals. So I do not exclude the possibility that she made deals with my solicitors to ruin the case especially that there was only one step for me towards winning the case and she would have to pay huge amounts as a compensation and expenses. So Hann and Co would benefit twice, once from the legal aid and another from the land lady. The below paragraphs and the history attached show why this possibility is strong.

42. Hann & Co. wasted all opportunities to submit good and strong appeals. They did not work on any submissions and made me work instead of them for several days before every hearing, and asked me to prepare all grounds of the appeal and analyse the sheriff decision and interlocutors with evidences and supporting documents, and then they did not submit them and mentioned strange reasons to the sheriff like that I was not reachable in the holy month of Ramadan after having 47 days to prepare and although I emailed them many times in Ramadan and even phoned them. So [MrO] was deceiving and lying to the court. Other strange reasons - that the counsel criticized them for - include that I was not informed of the pre-emptory diet – which is not true at all. This happened in April and August 2016. They also admitted not preparing for the hearing though they had 47 days and asked for an adjournment in June 2016!!

[email dated 15/6/16 from Mr O to Appellant]

43. The solicitor said at 1:00 am that he would look at my emails while the remaining 8 hours were not enough for him to sleep and travel to Edinburgh!! He delayed the work till the last hour before the hearing! These actions and examples are illustrated clearly in the attachment.

44. The sheriff refused their adjournment request and dismissed the case with huge expenses on me. Is that the success the fiscal and the LSS reporter described!!

45. Unlike the allegation of the fiscal, the counsel identified 17 strong grounds of appeal which are listed in the email snapshot below. A lot of these grounds were prepared by me in previous stages in strong submissions which they refused to submit. This is proved in the below snapshots of the email I sent them before the deadline.

[email dated 31/7/16 from Appellant to Second Respondent]

46. The counsel was ready to represent me in the appeal to the Court of Session, but as per the Scottish law, there must be a solicitor to liaise between the client and the counsel (advocate). I was granted legal aid for the appeal as well. Hann and Co were still representing me at that time, but they refused and threatened to withdraw if I continue the case although their mission was to resume the case in court and succeed in the appeal, not to fail it on purpose.

47. They also hid the 28 pages counsel opinion for 4 days and only sent it to me in the last working hour before the deadline for me to read a detailed legal opinion, analyse, understand, and decide in only one hour. However, they were already decided.

48. On that last hour, they gave me only 2 options which are both disastrous:

    a. To end the case and not proceed in the appeal, which would be the end of their work claiming that they would try to modify the expenses with no guarantee that they will be removed (which would not allow me to raise a fresh action). They did not raise any motion to remove the expenses even before their withdrawal.

    b. If I decided to appeal, they would withdraw, which is also the end of the case and their work.

    N.B both options lead to the permanent end of the case unlike the purpose I resorted to them for which was to resume the case and remove the expenses. Is that success?

- So what advice is the fiscal talking about? Either to end the case or to end the case?!
- And from whom, from a fresh graduate who is inexperienced in such appeals?
- And when? Always in the last minute?
- And how? By hiding information and forcing only one route rudely on me in the last minute every time!!

49. Their usual attitude is that they take sole decisions and impose them on me in the last minute so as to prevent any discussions or alternatives I may seek.

50. Their actions led the sheriff to dismiss the case with expenses of both the original case and the appeal exceeding 10,000 GBP as admitted by Hann and Co in their email below.

51. The counsel criticized their performance, arguments and submissions as in the above email. He advised them to go for the appeal because:

    a. It is the last chance to remedy the huge expenses caused by the dismissal they caused.
    b. There is no chance to re-raise a fresh action since the time bar was over, there is no more chance for me to get legal aid, and the huge expenses will prevent raising a fresh action. This is also confirmed by Hann and Co email below.

    [email dated 20/7/16 from Mr O to Appellant]

52. [Mr O] aggressively and rudely fought with me on the phone, threatened me, declared that he would not work in the weekend although he is the one who hid the counsel opinion and delayed work till the last hour before the weekend, and hanged up the phone impolitely.

53. Joseph Hann was copied in all emails, and refused to neither repair the situation nor work on the appeal because he was spending a vacation in Sweden while he had a very critical last chance appeal. He did not want to interrupt his vacation even with a phone call to repair a disastrous situation he and his subordinate caused. So their withdrawal decision was decided in advance

and they hid it also till the last hour. I was dying while he was having fun. He did not get back to me before submitting the appeal.

[email dated 29/7/16 from Second Respondent to Appellant]

54. It is worth mentioning that the few emails I received from Joseph Hann were all threats:
    a. Once in June 2016, threatening to withdraw if he does not receive legal aid funds and that he did not prepare for the hearing.
    b. Once in July 2016, declaring he was on a holiday.
    c. Once in August 2016, declaring that he withdrew.
    d. In August 2016, refusing to send the case file to me by email and asking for a big amount of money although they received legal aid funds and although they scanned it to extract some pages after alterations in their correspondences with the LSS.

    N.B I proved these alterations and changes to the reporter with evidences. They tried to deceive the reporter and convince her that Joseph Hann was not aware of this by editing the printed papers and removing his email address from the correspondences. I sent the reporter the original emails with his email address in them and with his replies as well. All letters were also received by his secretary.

    They are cheating all the time.

    I will send the tribunal my observations sent to the reporter for your reference. I showed an example below in paragraphs 65 and 67.**

    N.B So it is all about money. No work ethics, no legal work, and no humanity!!

    N.B It is also worth mentioning that he did not pay me the compensation specified by SLCC in 2018 and the LSS in 2021till now.

55. Hann and co knew that the withdrawal of the previous solicitor 4 weeks before was devastating me, so they decided to totally torture and kill me by withdrawing in the last hour!! I wonder why they accepted the appeal from the very beginning if they did not work on it, unless there was a big benefit for them!

    N.B These are 2 terrible shocks in 4 months by 2 solicitors!

56. If they continued in the case, their role was only to liaise with the counsel who would do the work. So by insisting to withdraw, they deprived me of the counsel help and were sure that I would not be able to find an alternative, nor utilize the legal aid, nor represent myself in the court as I could not travel and leave my elderly sick parents, and also the court at that time did not allow live link for me. It was impossible by all means to continue the case without a solicitor.

57. I contacted the owner of the firm George Hann, but he ignored my email!!

58. Although I sent them the grounds of the appeal identified by the counsel as in paragraph 45, Hann and co refused to discuss it and submitted the appeal lacking the grounds I wrote and with section 113 totally empty.

59. So the question here, why did they leave it empty? And why did not they write the counsel grounds of appeal?

60. The court sent them a letter marked with URGENT requiring a fresh application within 14 days and stated that ""failure to do so (i.e. sending a fresh form 11.2 within 14 days) may result in this application for permission to appeal to the Court of Session being determined for lack of specification".

[letter dated 3/8/16 from Sheriff Appeal Court]

61. While Joseph Hann and [Mr O] in Hann and Co knew that this appeal form was very essential for me to save the case, and that it was the last opportunity for me to resume the case after their failures:

a. They should have informed me immediately given that they have my email address, telephone number, and postal address.

b. They should have also repaired the mistake they made in the application when they submitted it incomplete, and filled the incomplete section in it with the grounds I sent them in a copy-paste manner which takes only seconds even if they withdrew because it is a task they received legal aid payment for and they did it incompletely before declaring their official withdrawal.

c. They should have informed the court with all my contacts for future communication as requested by the court in its second letter.

62. In the second letter of the court which was sent by email on the next day, the court declared that they did not find any address or envelope for me although the solicitors previously confirmed submitting them! The court clarified that they have no contacts of me and officially requested them from Hann & Co.; however, Hann & Co did not respond to the court with my contacts whether email or postal addresses given that the international post takes weeks to be delivered and usually gets lost in the airport. Hann and co were aware of the post problem in Egypt.

63. Even if Hann&Co withdrew and decided to cut any communication with me, they should not cut or end the communication with the court they will always work with. It is just a mouse click in one second to forward the email to me, or 10 seconds to reply to the court with my contacts.

[letter dated 4/8/16 from Sheriff Appeal Court]

64. So Hann &Co neither sent me the letter by email nor informed the court with my address (postal or email) although they knew of the short notice of 14 days. Does that have any other meaning than insisting to CAUSE ME MORE DAMAGE? We send emails all the days to different people even those we do not work with, so the one second spent in forwarding me the court email would not cost them anything at all.

65. While they should have forwarded the court letter to me immediately on the 3rd of August 2016 when they received the letter by email from the court, and the form should have been finalized and sent within the 14 days period specified by the court which ended on the 16 August 2016, THEY hid the letter from me till after the 14 days period was over which prevents me from any future submissions to the court and cause another final failure and a permanent termination of the case.

So that is a loss of the whole case forever, not only for the potential appeal; as the fiscal claimed.

66. After the 14 days period passed, they sent me the letter. So if they claim that their withdrawal allows them not to communicate with me or send me any correspondences, so why did they send me the letter after 14 days?

**SIMPLY TO BURN MY NERVES AND CAUSE ME MORE SUFFER, TO TELL ME "YOU HAD ONE LAST CHANCE, BUT WE MADE YOU LOSE IT"!!
This is EVIL? Ironically and provocatively, [Mr O] tells me "...you may wish to consider lodging a fresh notice for permission to appeal or seeking fresh legal advice" after the deadline is over!!

[email dated 18/8/16 from Mr O to Appellant]

67. On the contrary, even if they withdraw, they should professionally and ethically send any correspondences to me. That happens with other solicitors who withdraw; they keep the communication when needed.

68. Kindly compare the below email to the above one in paragraph 65, you will find that they edited the printed version to remove Joseph Hann email from the CC section to deceive the LSS reporter to claim that he was not aware of anything and show him as innocent!! This is just a small example of their dishonesty.

[email dated 18/8/16 from Mr O to Appellant]

69. As long as they sent me the letter, they could have sent it early in order for me not to miss the deadline. And As long as they hid the letter, he could have kept it hidden forever without me knowing that. Both actions reflect dishonesty and betrayal. But hiding it then sending it after the deadline passed is mainly to burn my nerves, provoke me and cause me anger and extreme sorrow while they knew that I suffer from hyper tension and had many other tough circumstances at that period and did not recover from the previous solicitor shock! My hyper tension (blood

pressure) readings went to a very high level since that time till now and no medications lower them. This could have resulted in a brain stroke or an angina pectoris. We had such health problems a lot in my family because of such traumas, some of which resulted in paralysis, and death in a short period.

70. Honestly, I felt imprisoned like someone who fell in a deep tight dark well, and could not find a way to get out and survive. Even if he screamed, no one would hear him. I could not travel to Scotland, I could not make any international calls, I could not contact any one, and even email did not help since I already lost the last chance and the deadline passed for the case I work hardly on for 7 years and winning it would mean a lot to me because of the defamation that happened to me in my community which negatively affects a woman in our culture!! No wonder that my health is deteriorating since then till now and whenever I see a doctor, s/he refers it to the stress and depression I suffer from. The cost of the medical treatment is huge especially that I do not have medical insurance and do not work as well.

** The clerk has a medical certificate that shows that I am medically treated for a long time.

71. ** If it is in the authority of the SSDT to suggest legislations, may I request that the Scottish law be adjusted to prevent last minute withdrawal by the solicitor or even withdrawing in a short period before a hearing or an important submission? Because any solicitor who betrays his/her client and wants to ruin the case, will withdraw in such a fatal time suddenly. Nothing justifies sudden last minute withdrawal**

72. It is worth mentioning that till today, they never came back with a feedback or a reply, or a solution to my complaint.

73. Not only that, but I discovered that they did not notify the legal aid board that they withdrew for a number of months and kept receiving funds as the email below shows!!

[email dated 1/11/16 from Scottish Legal Aid Board]

74. Only late 2020, when the LSS sent me the correspondences of Hann and co, I found out that they had a partner in Edinburgh whom they were referring to ask about basic things like calculation of the deadline duration! This proves that they had no legal knowledge. I never knew there was a partner working on my case whom I never communicated with nor was told about. I do not think it is ethical that they appear as if they were working while the work is done by another firm. The observation file named – 7 Jan comments on JH and report - attached shows that.

75. Hann and co solicitors violated the professional ethics in several incidents, and are a shame on the legal profession.

76. The LSS imposed the least sanction which is to censure only Joseph Hann although I informed them of the consequences of the action and the losses and the history of their unethical actions, and they saw evidences for the solicitors' dishonesty and betrayal.

77. If a serious conduct (the worst) as categorized by the LSS leads to only censuring the solicitor, then when else will the suspension or striking off the roll be imposed? That is another example of the LSS subcommittee leniency with the solicitor.

78. As per the Guidance UPC in page 3, censure is mandatory in all cases including the minor category. So this reflects that there was no real sanction for the serious conduct of Hann and co.

79. The LSS described the solicitor action as SERIOUS. This means that it requires a higher sanction, or in fact the highest sanction.

80. As per the guidance UPC of the LSS, the principles to apply sanctions are:

a. To protect the public;
b. To maintain the reputation of the profession, and maintain the public confidence in the fairness and effectiveness of the regulation of the profession;
c. To uphold the proper standards of conduct in the profession;
d. To correct and deter breaches of these standards;

81. If the 427A appeals deal with both the compensation and the sanctions, I would therefore ask the honourable tribunal to impose the most severe sanction on Joseph Hann and Charles Oliver and Hann and co as a firm managed by Joseph Hann because any solicitor who works in that firm will definitely be directed to act unethically like him.

82. As per the indicative sanctions guide of the SSDT, the solicitor can be directed to pay a fine up to 10,000 GBP, and be punished with a sanction.

83. As per the indicative sanctions guide of the SSDT, A Strike Off may be an appropriate sanction to consider where most or all of the following indicative factors are present:

a. the solicitor has been involved in dishonesty or other criminal behaviour
b. lack of remorse and insight
c. on-going course of conduct over a long period of time
d. conduct which would be a danger to the public
e. conduct which is likely to seriously damage the reputation of the legal profession
f. the respondent's conduct shows that he is not a fit person to be a solicitor
g. lot of aggravating factors present

** These all apply in Joseph Hann and [Mr O] conducts throughout the whole case and the specific conduct in the issue of the complaint. Their dishonesty was proved. What he did is a professional

and human crime. Their on-going actions throughout the whole case were shameful. Their conduct is a danger to the public if they deal with other clients the same way. Their conduct seriously damages the reputation of the legal profession which made me decide to appeal to the SSDT alone and never resort to a solicitor again. I lost faith and confidence in solicitors. They are not fit to be solicitors. There were many aggravating and provoking factors like those I illustrated before with evidences. They definitely lack insight.**

84. As per the SSDT sanctions guide, I request a compensation of 5,000 GBP which does not cover all the losses I had especially the distress, anger, depression, anxiety which all led to physical health problems that I am medically treated for till now with a huge cost. This may only cover the value of the possessions.

85. The losses also include:

    a. Losing the last chance of rescuing the case and resuming it in the court.

    b. Awarding expenses to the opponent against me of more than 10,000 GBP.

    c. Losing the chance to raise a fresh action because of the expenses awarded against me which were not modified by the solicitor before their withdrawal.

    d. Losing the original legal action compensation of 48,500 GBP because they failed in the appeal stage and caused my case to be dismissed.

    e. Losing the legal aid I was granted for both the original action and the appeal after trying for 6 years to get them.

    f. Losing all my efforts exerted and time spent on my case for 7 years.

    g. Spending a lot of time over 5 years (2017 - 2022) in trying to get a small part of my right by complaining to the SLCC and the LSS and submitting detailed documents and evidences and responding to the investigations. Unfortunately, the issues were time barred as I only knew that I can complain in 2017 after a year when the time bar of most of the issues had passed except 2 issues including the issue the tribunal is judging now which was referred by SLCC to the LSS in 2018.

86. Health, psychological, financial, time and effort losses are exceptional losses that resulted from their serious conduct.

87. Although I am not a native English speaker, but I understood the sarcastic tone of the fiscal when he used words like "Why does Appellant say she is exceptional". I did not say that I am exceptional. I described the level of inconvenience as categorized by the LSS and as the losses pointed out before qualify to an exceptional level of inconvenience. Regardless of the differences, limits of respect should not be exceeded.

88. I would also invite the honourable tribunal to award me expenses against the Law Society of Scotland because of the time I wasted in the investigations by a biased reporter who ignored all my submissions and the time and effort I exerted in defending the fiscal repeated claims over 3 hearings and 4 submissions. He forced me to dig into details and retrieve sad memories and old documents to defend his irrelevant accusations that are out of the scope of the issue. He writes 2 pages full of allegations and wastes my time to defend them in 10's of pages.

The Tribunal invited the Appellant in her oral submissions to say what it was that she thought the Sub Committee did wrong in fixing the amount of compensation it awarded.

The Appellant submitted that there was a contradiction between the contents of the Law Society's Guidance Rules and the actual application of these Rules by the Sub Committee. She explained that paragraphs 1 to 32 of her submissions set out mistakes made by the Sub Committee and paragraphs 83 to 87 explained her losses.

The Appellant directed the Tribunal's attention to paragraph 83 and 84 of her written submissions. The Tribunal invited the Appellant to point the Tribunal to the documents where she said she had provided this information to the Sub Committee. The Appellant explained that she would need to review her documents in order to remind herself of the detail.

It was suggested that the Appellant begin by concentrating on paragraphs 1 to 32 of her submissions. Thereafter, the Tribunal would grant a short adjournment to allow her to consider her documents.

The Tribunal invited the Appellant to point it to the parts of her submissions that explained the mistakes she believed the Sub Committee made in fixing the amount of compensation. The Appellant submitted that the relevant paragraphs were 8 to 32 of her submissions.

The Tribunal enquired if there were specific errors made the Sub Committee the Appellant wanted to draw to the Tribunal's attention.

The Appellant explained that the Sub Committee had admitted that the Second Respondent's conduct had been serious. She invited the Tribunal to compare the two tables provided in the Law Society guidance, one relating to the penalty to be imposed on the solicitor, the other relating to the level of compensation to be awarded to the complainer. She submitted that the guidance referred the level of compensation to the level of seriousness of the conduct. She argued that it was the logical conclusion that if the conduct was "serious" then the consequences of that conduct must be "exceptional".

She further submitted that, in any case, the Sub Committee had failed to take into account the losses that she had suffered.

At this juncture, the Tribunal adjourned the hearing, both for lunch and to give the Appellant an opportunity to review her supporting documents.

On reconvening, the Appellant directed the Tribunal's attention to her two supporting documents.

She pointed the Tribunal to the document referred to as "History of Unethical Acts" at paragraph 20 which included comments made by her and replicated some emails. She submitted that this demonstrated the effect the solicitor's conduct had on the award of expenses made against her. Her advocate had suggested to the solicitor that the Appellant make an application to modify the award of expenses. The hiding of the letter from the Sheriff Clerk had ended her chance of continuing the appeal and had deprived her of the opportunity of applying to modify the award of expenses. The Appellant explained that she had submitted both of these supporting documents to the Law Society to demonstrate the general attitude of the solicitor from the beginning and to show he was acting deliberately. The Tribunal asked the Appellant if much of paragraph 20 did not relate more to the question of unsatisfactory professional conduct rather than the level of compensation. The Appellant responded that she was going through her losses point by point. The Tribunal asked the Appellant if it was her submission that she had produced this document to the Law Society to show that the solicitor's failure to tell her about the deadline in relation to her appeal had deprived her of the opportunity to continue her appeal or have her expenses modified. The Appellant responded that this document showed that she lost her right to appeal, lost the ability to raise a new action and lost her award of legal aid.

The Appellant referred the Tribunal to paragraph 22 of the same supporting document. In that paragraph, there was replicated an email from her solicitor in which he spoke of re-raising the action. However, the original action started in 2009 and the action itself was raised in 2014. This was the last month of the time bar. The email refers to an award of expenses in excess of £10,000. The Tribunal reminded the Appellant that the Sub Committee could only look at the consequences of the solicitor's failure to advise her of the 14 day time limit for submitting further information in her appeal and could not look at any other things that the Appellant considered the solicitor had done wrong. The Appellant explained that what she was trying to express was that, when the solicitor hid the letter until after the deadline had passed, she lost her opportunity to appeal or modify the award of expenses.

She lost her legal aid certificates and lost her ability to re-raise the action. In other words, the solicitor's action made her losses permanent where there had been an opportunity to repair the damage.

The Appellant referred the Tribunal to paragraph 28 of the same document and explained that this set out her psychological, stress and health losses. She stated that she was devastated by what had happened and had to recall all the negative memories in order to write her submissions. She believed that a solicitor should serve the interests of his client. Here, the solicitor had done everything to end her case. By hiding the letter he had deprived her of the opportunity to update her appeal. No words could express her anger, anxiety or the pressure she was put under. She had lost faith in the legal profession. She had resorted to Hanna and Co. to repair the damage caused by the first solicitor. She had emphasised to Hanna and Co. that this was her last chance. The only reason the solicitor could have had for hiding the letter was because he wanted her case to fail.

The Appellant invited the Tribunal to consider her other supporting document referred to as "7 January". She pointed to paragraph 9 and confirmed that this related to her inability to seek modification of expenses. She lost her legal aid, lost the ability to raise a new action and had an award of expenses against her in excess of £10,000.

The Appellant referred the Tribunal to paragraph 11 of the same document. The Tribunal asked the Appellant if this paragraph related to the issue of a loss of opportunity to pursue the action. The Appellant explained that this referred to the solicitor in the appeal itself inviting the Sheriff to dismiss her appeal. She insisted that the only reason the solicitor could have had for leaving part of her application for leave to appeal blank was to make sure it was refused. The Tribunal explained to the Appellant that this was relevant to the issue of the level of penalty imposed but not to compensation. The Tribunal indicated to the Appellant that it understood that she had presented a case for loss of opportunity to proceed with the appeal or to challenge the award of expenses made against her. The Appellant emphasised that her case was more than that. She had lost the whole case for compensation of £48,500. She explained that these losses were set out in more detail in paragraph 13 of the same document.

The Appellant explained that paragraph 9, 11, 13 and 16 of that document set out her losses of a financial, psychological and legal nature. The wording on page 18 showed that this was the same document as she sent to the Law Society.

The Appellant could not understand how her case could be considered in the "clear" category of inconvenience. She had lost the original case forever. She had worked on the case for seven years. She faced an award of expenses of £10,000. She had suffered psychological problems, depression and ill-health since.

Within her written submissions she set out three errors made by the Sub Committee. The first was the level of inconvenience her compensation was categorised as. The level of inconvenience should have been classed as "exceptional". If the conduct itself was categorised as "serious", the level of inconvenience could not be treated as simple. The second mistake was that, having classed her case as significant, the Sub Committee only awarded her £1,000 which is the lowest level of "significant" and the highest level of "Clear". The Tribunal asked if the Appellant accepted that the tables within the Law Society guidance are only indicative. The Appellant questioned why they were made available to the public if that was the case. The third mistake was that the amount of compensation awarded was not equal to her financial, psychological, health and legal losses. Paragraphs 1 to 32 and 83 to 87 of her written submissions set this out more clearly.

The Tribunal asked the Appellant if she had produced any medical evidence to the Law Society. The Appellant submitted that the Law Society should have looked at all the paperwork it had in order to assess the level of her suffering. She explained that it was looked on unfavourably in her culture to seek medical assistance for psychological issues. With regard to the other medical issues, it had not come to her attention to produce any documentation, as the reporter dealing with her case was not reading anything she had submitted anyway. She did not get medical help regarding the psychological issues but suffered at home with her family. She explained that she had presented documents to the Tribunal showing that she had undergone a series of surgeries as a result of her suffering. She submitted that she attends a heart doctor and an internal medicine doctor. The Tribunal explained that the it could only consider documentation that was before the Sub Committee.

The Tribunal invited the Fiscal to make his submissions.

SUBMISSIONS FOR THE FIRST RESPONDENTS

Mr Knight indicated that he was insisting on his objection to the relevancy of the two supporting documents lodged as late Productions. He emphasised that oral submissions can be made to support the grounds of appeal in the note of appeal but they cannot supplement the written grounds of appeal themselves nor can the Appellant present evidence in her submissions.

At this point, there was a break in the internet connection with the Appellant. When this issue was resolved, the Tribunal noted the late time of day in particular having regard to the time difference with Egypt. Accordingly, *ex proprio motu*, the Tribunal adjourned the hearing part-heard to a date to be afterwards fixed.

The hearing reconvened on 2 September 2022.

The Tribunal noted that the Appellant had suffered further medical problems and invited the Appellant to ask for a break at any stage she felt necessary.

The Fiscal confirmed that he had lodged outline submissions prior to the last hearing in the following terms:-

In this matter the Tribunal may only consider an Appeal under Section 42ZA if the Note of Appeal sets out in detail any or all of the criteria as set out in *Hood, Petitioner 2017 CSIH 21 at para.17* namely that:-

"Where the Sub-Committee's reasoning discloses an error of law, which may be an error of general law or an error in the application of the law to the facts. Secondly where the Sub-Committee has made a finding for which there is no evidence, or which is contradictory of the evidence. Thirdly where the Sub-Committee has made a fundamental error in its approach to the case, as by asking the wrong question, or taking account of manifestly irrelevant considerations, or arriving at a decision that no reasonable Sub-Committee could properly reach."

The onus is all on the Appellant. It is not necessary for the Respondents to establish the negative, that the decision of the PCC did not fall within any of the grounds. The Tribunal can only disturb the decision of the PCC if one of the *Hood* grounds is met, and it should not interfere with that decision simply because the Tribunal might reach a different decision.

The Tribunal does not, and cannot, re-hear or re-investigate the case.

The Note of Appeal does not provide any detail or evidence of how the Appellant maintains the Sub-Committee's decision falls within one of the three *Hood* grounds. It simply reflects the Appellant's

disagreement with the Sub-Committee's decision. It fails to set out any factual or legal basis upon which any of the aforementioned grounds could be considered by the Tribunal in this Appeal. In particular:-

Where is the error of law either in relation to the application of the law, or application of law to facts ?
Where is finding for which there was no evidence or contradictory to evidence ?
Where is the fundamental error in approach ?

The only aspect of the solicitor's conduct which arises in this matter was him not sending a letter dated 3rd and received 4th August 2016 to the Appellant, and in sending it on 18 August when the 14 day time limit had expired, against a background of the solicitor withdrawing from acting on 3 August due to the Appellant failing to accept his advice.

The case was one raised by Appellant claiming unlawful eviction. She failed and Decree of Absolvitor with expenses were granted against her. All of that pre-dates the solicitors instruction. The solicitor assisted the Appellant with an Appeal, the result of which was that Decree of Dismissal was substituted, which in theory would allow the Appellant to re-raise her action. She wanted to appeal that. Counsel's opinion was taken and it opined there was little or no prospect of success. The Appellant would not accept that advice so solicitor withdrew, but prior to doing so attempted to mark the Appeal to preserve the Appellant's position. The Appeal was not in proper form and the court allowed 14 days to re-frame it, and it was after that 14 day period expired that the Appellant was made aware of that issue. She could therefore not proceed with any potential Appeal.

All she lost was the potential to Appeal, which Counsel had already advised had little or no prospect of success.

The Appellant failed to provide the Respondents with any evidence or vouching of her losses arising for the purported lost opportunity, just a number of random statements maintaining it has cost her £58,000. It is nonsensical to suggest those are her losses. There were no losses for the PCC to assess therefore there can be no criticism of their approach in relation to losses.

The PCC took the view that despite the solicitor withdrawing due to the Appellant not accepting reasoned advice, there was still an obligation upon him to send timeously the letter from the Appeal Court and the failure to do so until the 14 days had expired was "unconscionable", and fell below the standard expected. That went against the opinion of the Reporter. In light of that the PCC determined the UPC as serious. and imposed a fine.

The PCC then had to consider compensation. It could only consider inconvenience and distress as they had no information or evidence of any losses. It appeared borderline between clear and significant, so the PCC gave the benefit of that to the Appellant and went with the higher, but at the lower end of the scale. Can it be said the PCC erred in that regard ? No, and there is nothing within Note of Appeal to substantiate any such error.

Why does Appellant say she is exceptional and what evidence/information did the PCC have to allow it to make a finding in that category, or what did they ignore to take it into that category ? The answer is again in the negative as the Appellant produced nothing in support of her position and produces nothing now to substantiate any argument that the PCC erred.

The First Respondents would invite the Tribunal to refuse the Appeal and award the expenses of the appeal process against the Appellant.

It was the Fiscal's primary position that he intended to rely on these but with some additional comments relating to matters arising from the first day of the hearing.

He directed the Tribunal to paragraph 4 of his written submissions and submitted that the Tribunal can only look at the content of the Note of Appeal, and look to the oral and written submissions of the Appellant for support of that. Those submissions cannot present additional evidence or documents.

He submitted that the Appellant was asking the Tribunal to consider the decision of the Sub Committee but had failed to produce the decision or any of the documents that were before the Sub Committee when they made that decision. It was not for the Tribunal to request documents or to speculate on what those documents might contain. The Tribunal faces a difficult position as it cannot consider what approach the Sub Committee took as the Tribunal has no copy of the decision nor

copies of this supporting documentation. This Appellant is seeking to argue that the level of compensation awarded was too low. The Tribunal had enquired of her whether she had produced any medical report for the Sub Committee or supporting documents to vouch her alleged losses. The Appellant failed to respond to that enquiry from the Tribunal. He submitted that, accordingly, this Tribunal has nothing to consider in respect of these issues.

He explained that in paragraph 6 of his outline submissions he set out three questions. He submitted that there was a fourth more simple question which was, what did the Law Society have before it and what did they do wrong with it? Mr Knight submitted that the Tribunal had reminded the Appellant of that on 1 March 2022, although perhaps not in the same wording. It was his submission that the Appellant completely failed to do that.

In respect of paragraph 10 of his outline submissions, the Fiscal wanted to add that the Appellant had referred to the figure of £58,000 in her own submissions but had failed to indicate if the Law Society had the same information, how the information was presented to the Law Society, whether the Law Society had any documents to support that figure and which parts of that documentation the Law Society had made a mistake in considering.

The Fiscal submitted that the Appellant has failed to produce in this appeal process any of the documents she had produced in support of her position in relation to the single issue of compensation and how the Law Society made a mistake in dealing with that documentation.

The Fiscal invited the Tribunal to refuse the appeal and make an award of all of the expenses of the appeal process to the Law Society.

The Tribunal asked the Fiscal if it was his position that the Law Society had no information before it that would have allowed it to consider the Appellant's alleged financial loss, beyond inconvenience and distress. The Fiscal confirmed that was his position.

The Tribunal asked Mr Knight if he was saying that the Sub Committee did not have information available to it to consider the Appellant's loss of opportunity in being able to pursue her appeal, as described before the Tribunal. Mr Knight explained that he had difficulty in answering that question. He submitted that it was not for him to advance what information the Sub Committee did or did not have. He argued that this was for the Appellant to put forward to the Tribunal. He argued that it was

for the Appellant to establish what documents or information was before the Sub Committee and how the Sub Committee made an error in dealing with that.

The Tribunal drew the Fiscal's attention the copy of the Sub Committee's decision which had in fact been lodged by the Appellant together with her Note of Appeal. That being the case, the Tribunal enquired of the Fiscal if it was his submission that, without supporting documentation, it was difficult for the Tribunal to know on what basis the Sub Committee reached its decision. The Fiscal agreed with that summary of his submission but in addition emphasised that it was difficult for the Tribunal to identify what mistake had been made by the Sub Committee.

It was agreed that the Tribunal would adjourn to allow the Appellant a break and an opportunity to consider her response to the Fiscal's submissions. In response to a query from the Appellant, the Tribunal confirmed that all of the members of the Tribunal took handwritten notes of the hearing on the last occasion and had these available for today. In response to a further question from the Appellant, the Tribunal confirmed that if she considered that all of the Fiscal's argument had been answered in her previous submissions then she could take it that she did not need to make any further response. The Tribunal confirmed that if the Appellant considered that there were additional points that she wanted to emphasise, then the Tribunal would give her a full opportunity to do that after the adjournment.

SUBMISSIONS IN RESPONSE BY THE APPELLANT

The Appellant submitted that at no point had she requested a rehearing or reinvestigation of her complaint. She had no concern with the question of unsatisfactory professional conduct. Rather she was extremely satisfied that the Sub Committee had classified the conduct as "extremely serious". Her concern was with the level of compensation.

The documents she had submitted to the Tribunal had been submitted by her to the Law Society. They were exactly the same.

She recalled the Tribunal asking her if she had produced a medical report. She submitted that she had sent an email to the Tribunal that dealt with that.

She explained that any document she obtained from her doctor would be in Arabic. She explained that in Egypt it was not possible to ask a doctor for any medical documents. Even if she had requested such documents, they would have been in Arabic.

In any case, the financial losses sustained by her had been much more than the maximum award possible. The solicitor had promised to modify the award of expenses against her. As a result of his conduct, she was stuck. There were no means for her to modify the expenses. She was no longer in receipt of legal aid. She had no solicitor. There was no one to coordinate between her and the court. All of this was set out in her two supporting documents which she emphasised she had previously sent to the Law Society.

She emphasised that she had produced the Sub Committee decision at the beginning of the appeal proceedings. The supporting documents produced by her to the Tribunal were supporting documents she had produced to the Law Society for the Sub Committee. The Fiscal was contradicting himself in his submissions when he said that no supporting information was produced to the Sub Committee whilst at the same time criticising her for not producing to the Tribunal what information the Sub Committee had.

She questioned why Mr Knight had not made enquiries with the Sub Committee, if he did not accept her submission that her supporting documents had been provided to the Law Society.

The Law Society decided that the solicitor's conduct was "serious". The two tables produced in the Law Society's guidance compared the level of misconduct with the level of compensation. Ignoring the issues of health, the issues of financial loss exceeded the highest level of possible compensation. The Law Society only awarded her £1,000 which is 20% of the possible amount. She argued that it was illogical for "serious" misconduct to produce lower levels of compensation on the scale provided by the Law Society in their guidance.

She submitted that it was not a matter for Mr Knight to say that the Tribunal did not know the approach taken by the Sub Committee. That was a question for the Tribunal.

She argued that the fact that the Law Society did not explain its approach was in itself an error. The Sub Committee should have made its approach clear to be transparent to all. The Sub Committee had awarded her the least amount of the "significant" category. The Sub Committee made no reference to the details of the losses she suffered. The Sub Committee did not mention financial losses. It did not explain why her losses resulted in only an award of expenses falling within the "clear" category.

DECISION

Section 42ZA(3)(b) of the 1980 Act provides that the Law Society "may" on upholding a complaint take any of the steps set out in Section 42ZA(4) which includes at (4)(c) :-

(c) where the Council consider that the complainer has been directly affected by the conduct, to direct the solicitor to pay compensation of such amount, not exceeding £5,000, as they may specify to the complainer for loss, inconvenience or distress resulting from the conduct.

Section 42ZA goes on to set out the rights of appeal provided to a complainer in cases of a finding of unsatisfactory professional conduct, namely, Section 42ZA(10), a complainer may appeal a determination not upholding the complaint; Section 42ZA(11), a complainer may appeal a decision not to direct payment of compensation and Section 42ZA(12), a complainer may appeal against the amount of compensation directed to be paid.

The Appellant submitted an appeal to the Tribunal. It appeared to the Tribunal that, on a plain reading, this appeal could be read as against the fine imposed on the Second Respondent as well as the amount of compensation awarded to be paid. At an earlier preliminary hearing, the Appellant stated that she was not appealing the fine imposed and had only referred to this as an example of an error made the Sub Committee. Accordingly, this Tribunal treated the note of appeal as an appeal against the amount of compensation awarded only, no appeal against the level of fine being competent in any case.

Before considering the merits of the appeal itself, the Tribunal required to deal with an objection by the First Respondents to the lodging of two supporting documents by the Appellant. The Fiscal objected to these documents on the basis that they were lodged late and that they were irrelevant. The Tribunal had already dealt with the issue of lateness.

The Fiscal submitted that the two documents had not been before the Sub Committee and so were not relevant to the appeal. The Appellant insisted that the two documents were in essence provided by her to the Law Society prior to the Sub Committee decision and that the only difference between those provided to the Law Society and those she lodged with the Tribunal was a change made to the opening paragraph, for the benefit of the Tribunal. The Tribunal asked the Fiscal if he disputed the Appellant's explanation. He did not do so. The Tribunal noted that the Sub Committee decision refers to a number of emails from the Appellant, including one dated 7 January 2021. The Tribunal accepted the Appellant's submission that the two documents were, in essence, provided to the Law Society

before the Sub Committee decision. If this information was before the Sub Committee, the Tribunal could see no prejudice to the First Respondents in allowing the documents to be received. The Tribunal determined that both documents were relevant to the appeal.

In considering the merits of the appeal, the Tribunal considered that it was not open to it to simply review the amount of compensation awarded but that the starting point was the criteria set out in the case of Hood, Petitioner [2017] CSIH 21, at paragraph 17 where it was said:-

"When a professional disciplinary body considers a question of that nature, it must bring professional expertise to bear. The body may also, deliberately, have lay members included, so that questions of professional discipline do not become a matter solely for the profession but take account of the views of those with a different experience of the world. We were informed that the relevant subcommittee of the respondents had nine members, five lay members and four solicitors. The Discipline Tribunal had four members, two solicitors and two lay members. Given the composition of the two bodies, we are of opinion that the Court should be slow to interfere with their decision on an evaluative question. Cases where the Court may interfere occur in three main situations. The first is where the Tribunal's or sub-committee's reasoning discloses an error of law, which may be an error of general law or an error in the application of the law to the facts. The second is where the Tribunal or sub-committee has made a finding for which there is no evidence, or which is contradictory of the evidence. The third is where the Tribunal or sub-committee has made a fundamental error in its approach to the case, as by asking the wrong question, or taking account of manifestly irrelevant considerations, or arriving at a decision that no reasonable Tribunal or sub-committee could properly reach."

In looking at the criteria set out in the case of Hood, the Tribunal did not consider it a requirement that the Appellant follow any particular formulae of words. Rather, all that was required was that the Appellant's grounds of appeal fell within the criteria as described in Hood.

In her note of appeal, the Appellant sets out at paragraph 3 *"the Council of the Law Society of Scotland did not take into consideration the negative consequence of the solicitor (sic) conduct on the complainer nor the losses caused by the solicitor (sic) action."* She goes on to give a list of issues that she says the Law Society did not take into account.

In paragraph 6, the Appellant criticises the categorisation of her inconvenience and distress as "significant" rather "exceptional" and goes on in paragraphs 4, 5 and 7 to criticise the placing of her loss, inconvenience and distress at the lowest level of the "significant" categories.

In her oral submissions, the Appellant explained that the three errors she believed the Sub Committee made were, (1) not taking into account her losses, inconvenience and distress, in particular making no reference to her losses; (2) miscategorising her level of loss, inconvenience and distress as only "significant" rather than "exceptional"; and (3) assessing her award at the lowest level of the "significant" category.

The Tribunal was satisfied that these, if established by the Appellant, could amount to errors of fact and/or law.

It is important to emphasise that the only loss, inconvenience and distress that the Sub Committee, and consequently the Tribunal could consider is that "resulting from the conduct". Here "the conduct" was:-

"Having carefully considered all of the information before it, the Sub Committee determined that the conduct of the solicitor in respect that he failed to adequately supervise the work carried out by Mr O, a trainee solicitor in the firm, as he (Mr O) failed to act in my best interests as on the 3rd of August, the court emailed the firm asking them to provide more details in section 113 of the application with 14 days; however, the firm hid this email from me until the end of the 18th of August (i.e after the deadline is over!!) amounted in terms of Section 42ZA(1) of the Solicitors (Scotland) Act 1980 to unsatisfactory professional conduct."

The Tribunal considered that the first question to be asked was whether the Sub Committee erred in not taking into account the Appellant's loss, inconvenience and distress. The Tribunal considered issues of "loss" and "inconvenience and distress" separately.

Looking firstly at the question of loss, the Tribunal noted that there was no reference within the Sub Committee's written decision awarding compensation to the issue of loss. On a plain reading of the decision, it was impossible to draw an inference that the Sub Committee had considered the question of loss when assessing the amount of compensation to be awarded.

The Fiscal submitted that the Sub Committee had no information before it upon which it could consider a question of loss. The Tribunal did not accept that proposition. The Tribunal accepted that

the two supporting documents produced by the Appellant had, in essence, been produced to the Law Society in advance of the Sub Committee decision. An element of loss was inherent in the wording of the complaint itself and was noted by the Sub Committee when considering the question of unsatisfactory professional conduct. The Sub Committee had noted *"by the time the complainer received intimation of the Court's letter, it was too late for the complainer to take any action."* The Tribunal was satisfied that this omission on the part of the Sub Committee amounted to an error of fact and law and entitled the Tribunal to reconsider the amount of compensation awarded.

The only loss the Tribunal could look at was that caused by the conduct within the complaint upheld by the Sub Committee. In other words, what did the Appellant lose as a result of the Second Respondent's conduct? It is easy to see how the Appellant has concluded that her loss was the original sum sued for together with the two awards of expenses. However this is not the correct approach in law. The correct approach was to look at the Appellant's loss as a loss of chance or loss of opportunity. In this respect, the Tribunal had regard to the cases of Kyle-v-P and J Stormonth Darling WS 1993 SC57; Allied Maples Group Limited-v-Simmonds and Simmonds [1995] 1WLR 1602(CA); and Iain Robertson-v-The Law Society of Scotland [2015] CISH 95. The question to be answered by the Tribunal, on the information before it, was but for the solicitor's failure to pass on the letter from the Sheriff Clerk timeously, did the Appellant have a real and substantial, and not speculative chance of obtaining leave to appeal.

The Tribunal gave careful consideration to all of the papers before it and the Appellant's submissions in order to identify information to enable it to answer that question. The Sheriff Court wrote to the Appellant's solicitor indicating that the application for leave to appeal lodged by him did not conform to the provisions of Section 113 of the Courts Reform (Scotland) Act 2014. Section 113(2) of that Act states that the Sheriff Appeal Court may grant permission to appeal against a decision of the Sheriff Appeal Court only if the Court considers that (a) the appeal would raise an important point of principle or practice or (b) there was some other compelling reason. An email from the Appellant's solicitor to her dated 18 August 2016 and replicated at paragraph 20 of the supporting document referred to by the Appellant as "7 Jan" stated *"this is the part of your appeal which we advised you had no merit."*

An email dated 26 July 2016, from the Appellant's advocate to her solicitor replicated at paragraph 20 of the supporting document referred to as "History of Unethical Actions" states *"the problem is, as I say, that no important point of principle or other compelling point seems to me to arise from them."*

In all of these circumstances, the Tribunal could not hold that the Appellant had been deprived of a real or substantial chance of obtaining leave to appeal to the Court of Session by the conduct of the Second Respondent.

The Tribunal then went on to consider the issue of inconvenience and distress. It was clear from the information before it that the Appellant had been caused inconvenience and distress. The Sub Committee stated in its decision that the complainer had suffered "significant distress". On the face of the decision itself, there was no apparent error of law or fact. The Tribunal considered whether the amount of compensation awarded was one which no reasonable Sub Committee could have granted given the information before it. The Appellant accepted she had not provided any supporting medical reports or vouching of her medical issues to the Law Society. The Appellant made reference to having provided information from her doctor to the Tribunal. The only medical information produced to the Tribunal was a certificate from a doctor indicating that the Appellant was undergoing medical treatment for an undisclosed condition and was unable to attend an earlier procedural hearing. It was apparent that the Appellant's inconvenience and distress was contributed to by the failure of the original action, the failure of her appeal to the Sheriff Court and the conduct of the Second Respondent. Taking into account the available information and the lack of any medical vouching, the Tribunal concluded that the amount awarded was not outwith the reasonable range for such an award.

The Appellant had suggested that the Sub Committee had made an error of law by not applying its own guidance when it assessed the conduct as "serious" but the compensation only as "significant" rather than "exceptional". She submitted that the two tables contained in the Law Society guidance were linked. The Tribunal rejected this argument. Very serious misconduct can result in little inconvenience whilst the lowest level of unsatisfactory professional conduct can result in much more serious consequences for the complainer. The Sub Committee can only look at the loss, inconvenience and distress actually caused by the conduct. It should be noted that in the Law Society guidance referred to by the Appellant, it is stated *"The Sub Committee should therefore assess the inconvenience, and a level of any award of compensation, with reference to the effect of the UPC on the complainer, rather than to the seriousness of the conduct offence."* A similar statement is made with regard to distress.

The Appellant had submitted that the Sub Committee had erred when, having classed her level of inconvenience and distress as "significant", it went on to only award her the lowest level of that

category. The Tribunal rejected this argument, for the same reasons as stated above, in relation to the range of award open to the Sub Committee.

The Appellant had raised other criticisms of her solicitors in both her written and oral submissions. She criticised her solicitor for failing to represent her adequately in the appeal proceedings themselves. She submitted that the Second Respondent had undertaken to apply to have the awards of expenses modified and had failed to do so. She was critical of her solicitors in the original action. None of these issues were relevant to the level of compensation to be considered in this complaint. The Sub Committee, and therefor the Tribunal, could only look at the consequences of the complaint referred to the Law Society by the Scottish Legal Complaints Commission.

After the conclusion of her submissions and the commencement of the Fiscal's submissions on 1 March 2022 and then again at the beginning of the continued hearing on 2 September 2022, the Appellant raised the issue of lodging further documentation with the Tribunal. The Tribunal confirmed that it considered it inappropriate for the Appellant to lodge any further documents at such a late stage of the proceedings.

Having regard to all of the above circumstances, the Tribunal determined to refuse the Appellant's appeal. The Fiscal had already made a motion for expenses. Given the detailed reasons for its decision, the Tribunal considered it appropriate and fair to continue the question of expenses and publicity to a date after the parties had had an opportunity to consider the written decision.

Beverley Atkinson

Vice Chair