

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

F I N D I N G S

in Complaint

by

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

Complainers

against

**FIONA MCKINNON, 60 Crosslees Drive,
Thornliebank, Glasgow**

Respondent

1. A Complaint dated 5 November 2024 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh (hereinafter referred to as "the Complainers") averring that Fiona McKinnon, 60 Crosslees Drive, Thornliebank, Glasgow (hereinafter referred to as "the Respondent") was a practitioner who may have been guilty of professional misconduct.
2. The Complaint was made by the Council on behalf of three complaint originators, JW, DD and JB.
3. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No Answers or productions were lodged for the Respondent.
4. In terms of its Rules, the Tribunal appointed the Complaint to be heard at a virtual Procedural Hearing on 20 January 2025 and notice thereof was duly served on the Respondent.
5. At the virtual Procedural Hearing on 20 January 2025, the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was neither present nor represented. The Tribunal confirmed that it was unable to be satisfied that the Respondent had been given proper notice of this procedural hearing, due to circumstances beyond its control. Accordingly, *ex proprio motu*, the Tribunal set down a further virtual procedural hearing for 25 March 2025 at 11am and notice thereof was duly served on the Respondent.

6. At the continued virtual Procedural Hearing on 25 March 2025, the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was neither present nor represented. The Tribunal had before it the execution of service produced by Sheriff Officers showing that a notice of this hearing had been personally served upon the Respondent on 19 February 2025. The Tribunal was satisfied that notice of this hearing had been duly served in terms of Rule 8(1)(b) of the Scottish Solicitors Discipline Tribunal Rules 2024 (“the 2024 Rules”). The Tribunal noted that there had been no Answers lodged by the Respondent following service of the Complaint upon her in November 2024 and there had been no contact from the Respondent following the service of the notice of this hearing. In all the circumstances, the Tribunal concluded that it was fair and just to proceed with this hearing in the absence of the Respondent. The Fiscal invited the Tribunal to fix a substantive in-person hearing for one day. He made a motion to be able to lead evidence from the Complainant’s witnesses by way of Affidavit. The Tribunal referred the Fiscal to Rule 15(2) of the 2024 Rules and asked if he was inviting the Tribunal to dispense with these requirements. In response, the Fiscal considered that it might be useful to allow the Respondent seven days to respond. The Tribunal gave careful consideration to all the information before it. It continued the Complaint to a substantive in-person hearing on 25 June 2025 at 10am. Notice thereof was duly served on the Respondent thereafter. The Tribunal granted the Fiscal’s motion to lead evidence by Affidavit and allowed the Respondent a period of seven days following intimation of the interlocutor within which to object to that procedure if required.
7. At the in-person substantive hearing on 25 June 2025, the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was neither present nor represented. The Respondent had sent an email to the Tribunal Office at 15:38 hours on 24 June 2025. The email stated that the Respondent had been unaware of the Hearing and asked for it to be adjourned. Two files were attached to the email in support of the Respondent’s position. The Clerk to the Tribunal gave evidence that formal notice of the Hearing was sent to the Respondent at the address on the Complaint by Royal Mail ‘Signed For’ post under cover of letter dated 2 April 2025. Also enclosed was a certified true copy of the Tribunal’s interlocutor dated 25 March 2025. The online Royal Mail ‘track and trace’ system confirmed that the items had been signed for by ‘Mckinnon’ on 3 April 2025. The Fiscal opposed the motion to adjourn for the following reasons: (i) the medical information provided by the Respondent did not comply with Rule 10 of the 2024 Rules (ii) consideration of the procedural history of the case, in particular lack of engagement of the Respondent (iii) this request for an adjournment was an attempt to frustrate disciplinary proceedings. The Tribunal was satisfied that service of the Notice of Hearing had been properly effected in terms of Rules 7 and 8 of the 2024 Rules and that the Respondent was, therefore, aware of the Hearing. The Tribunal considered whether it was fair and just to grant the Respondent’s motion to adjourn. It took

account of the information submitted by the Respondent in support of her motion and noted that it was incomplete, vague and did not adhere to the clear Health Guidance issued in line with the 2024 Rules. Lack of detailed information sent at the last minute made the decision of the Tribunal very difficult to reach as it did not have all the information required before it. The Tribunal was very clear that its decision on this motion was very finely balanced indeed. It had great sympathy for the position the Respondent had put the Complainers in, both in terms of attendance and preparation. However, on balance, it concluded that the balance was very finely tipped in favour of the Respondent on this occasion and reluctantly decided to grant the adjournment. The Tribunal considered holding the adjourned Hearing virtually but concluded that it would be most efficient for the Respondent to be present given the volume of productions. It fixed an in-person Hearing for 11 September 2025, set out Case Management Directions and reserved the question of expenses.

8. At the adjourned substantive Hearing on 11 September 2025 the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was neither present nor represented. The Clerk to the Tribunal gave evidence in relation to intimation of the Notice of Hearing. Thereafter, the Tribunal unanimously granted the Fiscal's motion to proceed with the Hearing in absence of the Respondent in terms of Rules 4 and 9 of the 2024 Rules. Evidence was led and concluded.
9. Having given careful consideration to the terms of the Complaint, The Tribunal found the following facts established:-
 - 9.1 The Respondent is Ms. Fiona McKinnon, 60 Crosslees Drive, Thornliebank, Glasgow. She was born on 27 July 1968. She was enrolled as a solicitor on 21 September 1994. The Respondent was an employee with the firm Robertson & Ross, Paisley then Downie, Aiton & Co, Glasgow and W.W. & J. McClure Ltd, Glasgow between 1994 and 1996. She was then an employee with Caesar & Howie, Bathgate between 1996 and 1998. Then Conroy McInnes Limited, Glasgow between 1998 and 2002. Between 1 April 2002 and 17 April 2017, the Respondent was a partner in the said firm Conroy McInnes Limited, Glasgow. The Respondent became a sole practitioner and traded as McKinnon & Co, Glasgow from the 18 April 2017. Her practising certificate was suspended on the 12 April 2022. Her right to practise has not been re-instated. She remains on the roll.

Complaint Originator 1 (JB)

- 9.2 JB instructed the Respondent to act on her behalf on 13 May 2020 in relation to a dispute between JB and her ex-husband. She sought to amend a Court Order re the shared care of her son, which had been granted in January 2018
- 9.3 The Respondent followed the JB's instructions to enter into communication with JB's ex-husband.
- 9.4 On 25 August 2020 JB emailed the Respondent she advised she made a police report against her ex- husband. She explained that she had been advised to seek advice in relation to the safeguarding of her son. Prior to this time the Respondent's instruction was in relation to reinstating regular contact.
- 9.5 By September 2020 there had been limited progress. The Respondent advised on 4 September 2020 that if there were no suitable alternative services (there had been discussion about mediation and social service assistance) "*I can only recommend an application to Court to address matters*".
- 9.6 On 5 October 2020 JB confirmed she now wished to proceed with the court application. She explained to the Respondent she wished to "*proceed with contempt of court and a request to vary the court order*". She asked the Respondent what was required to commence the process. The Respondent did not reply.
- 9.7 On 23 October 2020 JB emailed the Respondent to ask if there was any update on the proceedings. She stated, "*I imagine we will go into a queue as court must be very busy*". She enquired what the procedure was in relation to her ex-husband being notified.
- 9.8 JB emailed the Respondent on 4 November 2020. She advised she would like to go ahead with the court action and asked if the payment to account in the sum of £1,000 was required and requested bank details. She confirmed she would provide her son's birth certificate and asked questions regarding the process. The Respondent did not provide advice re the court process.
- 9.9 JB emailed the Respondent to confirm she had made the requested payment to account and posted the birth certificate. The Respondent replied on 10 November 2020 to acknowledge

receipt of the payment and confirmed she would revert when the birth certificate was received.

- 9.10 On 22 November 2020 JB emailed the Respondent's secretary and requested an update. The Respondent did not reply.
- 9.11 On 26 November 2020 JB emailed the Respondent's secretary and requested an update, the Respondent's secretary advised the Respondent was unavailable but expected an update from Court by the end of the following week and would contact her to discuss. JB asked if the Respondent had lodged the papers with the Court. The Respondent did not reply
- 9.12 On 15 December 2020 JB emailed the Respondent requesting an update in relation to the court proceedings. She asked if proceedings had not commenced could this be delayed in until January. She asked the Respondent to confirm whether any letters would be issued to her ex-husband's address prior to 25 December 2020. The Respondent did not reply.
- 9.13 JB called and left messages seeking a response from the Respondent on the 12 and 19 January 2021. The Respondent did not contact JB.
- 9.14 On the 2 February 2021 JB emailed the Respondent, she stated that her efforts to contact the Respondent had not been acknowledged and she did not know what was happening with her case. She advised that if the Respondent was no longer in a position to act she would appreciate being informed. She noted it had been three months since she had last heard from her. The Respondent's secretary acknowledged the email.
- 9.15 On 12 February 2021 the Respondent emailed apologising for the delay and advising she would send correspondence the following week. No correspondence was sent the following week.
- 9.16 On the 10 March 2021 JB emailed the Respondent
"I would like the update on my case by the end of this week so that I may plan my next steps I emailed you on Monday to ask you do not progress with any court action with regards to contact. I assume you have not as it has been 4 months since I asked for you to do this.

The lack of communication has unnerved me and I no longer wish to proceed at this moment. Please advise by Friday as to what progress, if any you have made since November and of any monies owed..."

- 9.17 On the same day the Respondent advised she had been in RTA and had whiplash.
- 9.18 On the 23 March 2021 JB pressed for the information requested in her email of the 10 March 2021.
The Respondent replied advising she would prepare a final account and provide her with the Minute to Vary application in the event she wished to pursue the matter in due course.
- 9.19 On the 30 March 2021 JB wrote by email
"I know you had a car accident and your assistant was hospitalised but I feel very much that I don't know what happened between paying the fee for court action to now. I've had little in the way of explanation for the no court action after I made a very difficult decision to go ahead with this in November. You know how difficult my situation has been and what a bombshell I was about to set off yet nothing progressed and I heard no reason as to why despite repeated attempts to get updates on my case. I then got cold feet and lost faith in the whole plan due to no updates from you, the person who is supposed to guide me through this legal situation, for around three months. Can you confirm no court action was set in motion as I still don't know what happened there and also provide me with either the refund of the court fee or a bill as to what I owe you for work you may have done since November"
- 9.20 The Respondent wrote on the 7 May 2021 she stated inter alia the delay was due to her secretary's prolonged absence and the papers prepared in her case would be emailed no later than Monday. No papers were emailed.
- 9.21 JB made a complaint to the Respondent. She was not satisfied with response. She made a complaint to the SLCC. The complaint was intimated by the SLCC to the Respondent on the 27 July 2021. The Respondent did not reply.
- 9.22 The SLCC made an eligibility decision and wrote further by email on 26 August 2021 inviting a formal response to the eligible complaint. The email noted the Respondent had 21 days to respond. The email also noted in bold:
"This letter is notice under section 17(1) of the [Legal Profession and Legal Aid (Scotland) Act 2007 Act requiring you to produce or deliver your firm's business file(s), and provide

your explanation regarding the matters to which this complaint relates, to the SLCC by 9 September 2021".

- 9.23 On the 22 September 2022 the SLCC wrote to the Respondent by email indicating that if the Respondent had not provided her full response to the complaint, her file and details of the fee notes issued, within 7 days they would pass the file to their solicitors to initiate proceedings under Section 17 of the Legal Profession and Legal Aid (Scotland) Act 2007.
- 9.24 No response, file or details of fee notes were delivered by the Respondent.
- 9.25 The SLCC raised a fresh issue of complaint on the 16 November 2021 in relation to the Respondent's failure to engage with them.
- 9.26 The SLCC raised a Petition in the Court of Session against the Respondent seeking delivery of the Respondent's file (See further at 9.136).
- 9.27 The file was delivered to the SLCC on 8 March 2022
- 9.28 The SLCC referred certain matters to the Society to investigate as a conduct complaint per the Legal Profession and Legal Aid (Scotland) Act 2007.
- 9.29 The Society intimated the conduct complaint to the Respondent by e-mail on the 29 March 2022 asking for her response within 21 days. The response was due no later than the 19 April 2022. No response was provided by the Respondent.
- 9.30 The Society pressed the Respondent for a reply on the 19 April 2022.
- 9.31 The Respondent advised on 27 April 2022 she had had Covid 19. She asked for re-intimation of the papers sent by email on the 29 March 2022 and a further 14 days to reply.
- 9.32 The Society re-sent the intimation papers to the Respondent on the 28 April 2022 by email and indicated that her response was due by the 11 May 2022. The Society's record shows the Respondent accessed the email on the 3 May 2022.
- 9.33 The Respondent did not provide a response by the 12 May 2022. The Society sent a further email to the Respondent on the 12 May 2022.

- 9.34 On 23 May 2022, the Society issued to the Respondent a Notice in terms of section 48(1)(a) of the 2007 Act in which she was called upon to deliver a written explanation of the matters to which the complaint related. The Respondent was also warned that if she failed to respond to the Notice within 21 days the Society would invite JB to submit an additional issue of complaint to the SLCC, which failing, would itself submit *ex proprio motu* a further conduct complaint to the SLCC in relation to her failure to provide the relevant documentation/explanation and/or her failure to respond to the Law Society. Said Notice was issued by email and by recorded delivery post to the Respondent's home address.
- 9.35 On the same day, the Society also issued to the Respondent a Notice in terms of section 15(2)(i)(i) of the 1980 Act in terms of which the Law Society considered that she had failed to reply in such a way which would enable it to complete its investigation of the matter. The Notice required her to send "a response as previously requested along with an explanation for the delay in replying" within 21 days. Said Notice was issued by email and recorded delivery post to the Respondent's home address.
- 9.36 The Respondent did not respond to either notice.
- 9.37 On 13 June 2022, the Society gave notice to the Respondent, she now required to give six weeks' notice to the Council of her intention to make an application to take out a Practising Certificate for the year commencing 1 November 2022 in terms of section 15(2)(i)(i) of the 1980 Act. The Notice was issued by recorded delivery to her home address and by email.
- 9.38 On 18 July 2022, the Society intimated an additional complaint to the Respondent in respect of her failure to co-operate the Society. The Respondent was asked to provide her response to all three issues of complaint within 21 days (8 August 2022).
- 9.39 The Respondent did not respond before or after 8 August 2022 and has not done so to date.

Complaint Originator 2 (DD)

- 9.40 The Respondent acted for DD's wife. JWL solicitors acted for DD. DD and his wife were separating. JWL wrote to the Respondent on the 14 & 31 January 2019 advising *inter alia* she had not provided any vouching of her client's financial position and asked her to confirm if matters could be settled on the basis that no balancing payment be made by either party so a divorce could proceed as undefended. The Respondent did not reply to

either piece of correspondence. Court proceedings were commenced by JWL on 24 May 2019. The Respondent intimated a NID, motion to sist for legal aid and financial claim in July 2019. The proceedings were lengthy. Much correspondence passed between JWL and the Respondent seeking information to allow informed negotiations to take place.

- 9.41 The Respondent did not reply in substance to correspondence from JWL dated the 21 February, 14 March, 10 July, 5 August, 27 August and 13 September all 2019.
- 9.42 On 30 October 2019, having heard nothing further from the Respondent, JWL e-mailed a letter to her enclosing their motion for recall of the sist and noting that they had still not received notice from SLAB of her legal aid application on behalf of her client nor received any vouching nor offers in settlement nor a commencement of negotiations.
- 9.43 On 7 November 2019, the sist was recalled unopposed and an Options Hearing was assigned for 4 February 2020 with the defences due by 21 November 2019. JWL pressed the Respondent for defences on 17 January and the 16 February 2020, the Respondent did not reply.
- 9.44 On 4 February 2020, JWL attended court for the Options Hearing. Immediately prior to the case calling the Respondent advised she wished a further period to adjust and that the hearing be continued. The Options Hearing was continued to the 17 March 2020.
- 9.45 On 4 February 2020, JWL e-mailed the Respondent referring to the Options Hearing that morning and suggested that matters could be resolved as soon as they received vouching for both alleged dates of separation.
- 9.46 Prior to the continued Hearing JWL pressed for confirmation re legal aid application and financial documents. The Respondent intimated she had not met her client recently.
- 9.47 On 18 February 2020, JWL chased the Respondent by e-mail for a response to theirs of 4 February. The Respondent did not reply.
- 9.48 JWL required to press the Respondent on numerous occasions during 2020. At no time did the Respondent provide a full explanation why she had not recovered the financial information required. She did not explain whether she had met her client. The case was sisted to allow the Respondent to speak to her client (over the pandemic period).

- 9.49 Further procedure was fixed by interlocutor of the 12 October 2020. A proof was fixed for the 12 February 2021 (with dates for proper administration of the case) and pre proof hearing fixed for the 15 January 2021. JWL pressed for information from the Respondent in the months of November and December, the Respondent did not reply.
- 9.50 On 11 January 2021, at the pre-proof hearing JWL advised the sheriff that they were fully vouched of their position but in a difficult position standing their ignorance of the Respondent's client's position and the fact that they had heard nothing from the Respondent until that morning.
- 9.51 The Respondent told the sheriff that her client had given her vouching, but she still needed to go through all of it and needed a couple of weeks. She queried whether her client would be able to partake in a proof conducted remotely as she had anxiety issues. She asked that the case be continued to a further pre-proof hearing in two weeks which the sheriff granted to 9 February 2021.
- 9.52 On 25 January 2021, JWL e-mailed the Respondent asking her if she had instructions and advising that if they didn't hear from her by Wednesday then they lodge a motion to ordain her client to make disclosure in terms of "Section 20".
- 9.53 On 1 February 2021, the Respondent e-mailed JWL to say she had made further enquiries with her client and some vouching remained outstanding arising from the disputed date of separation and said she would revert with vouching under separate cover. She said she would consolidate matters and revert under separate cover. She also advised that "*due to Wi-Fi and equipment issues it is not sustainable due to connection practicalities*" for either herself or her client to conduct a proof remotely. Further, she said she had two days before sustained a whiplash injury in an RTA. Based on the foregoing, she said she would be making a motion to have the proof discharged. The Respondent did not revert to JWL per her email.
- 9.54 On 9 February 2021, the proof was discharged on joint motion and the case continued by the sheriff to a procedural hearing on 17 March 2021 to allow the Respondent's client to produce vouching and for potential settlement negotiations. JWL noted that they had received no vouching of her position despite corresponding with the Respondent since late

2018/early 2019 and an intention to defend had been lodged in July 2019, and as promised following the options hearing in February 2020.

- 9.55 On 11 March 2021, JWL e-mailed the Respondent chasing her for a response and expressing disappointment that yet again they had not heard from her.
- 9.56 On 17 March 2021, the Respondent advised the sheriff at the procedural hearing that her client had provided her with information but which she was unable to access because it was on her secretary's computer and her secretary was unwell. She intended to access this information and send it on to JWL. On this basis she wanted a further continuation which the sheriff granted to 26 April 2021.
- 9.57 On 26 April 2021 at 14.12, the Respondent e-mailed JWL a second Inventory of Productions containing some bank statements, a pension statement, a credit card statement, two loan accounts and a provisional schedule of assets and liabilities. On the same day at 14.30 hours the continued court hearing called virtually and was further continued to 24 May 2021.
- 9.58 On 10 May 2021, JWL e-mailed the Respondent pointing out that her vouching was incomplete. JWL requested five separate pieces of information as well as vouching for five alleged liabilities which appeared unvouched. JWL requested that this information be provided well in advance of the next court hearing and stated that it was unacceptable for her to provide such information 15 minutes before the case called in court as she had on the 26 April.
- 9.59 The Respondent did not provide any further information in advance of the continued options hearing on the 24 May. JWL e-mailed DD on the 24 May 2021 to advise that they had heard nothing from the Respondent regarding the incomplete vouching, they did not intend to chase her again only to be given more excuses. Instead, they intended to bring the matter to the sheriff's attention and noted that it was disappointing yet again
- 9.60 On 24 May 2021, the case called in court. The Respondent advised that she had not managed to obtain instructions to deal with JWL's latest correspondence. Her client was a keyworker with two children. The Respondent told the court that she had information that she could send over to JWL by the end of the following week. The Respondent sought the

case either be sisted or continued another 4-6 weeks. JWL opposed the former and the sheriff granted the latter until 26 July 2021.

- 9.61 On 24 May 2021, JWL e-mailed the Respondent noting the Respondent had told the sheriff she would provide information to them by the end of the following week and said that they looked forward to receiving it. The Respondent did not provide that information within the undertaken timescale.
- 9.62 On 21 June 2021, JWL e-mailed the Respondent again asking in terms for a reply to their e-mail of 24 May 2021 noting that it had now been four weeks. They also reminded the Respondent that she had told the sheriff that she would be able to provide by the end of week beginning 31 May and that they were now another four weeks down the line. The Respondent did not reply.
- 9.63 On 7 July 2021, JWL phoned the Respondent's office chasing a response and was advised that their message would be passed on to the Respondent who would be asked to revert to them as soon as possible.
- 9.64 On 15 July 2021, JWL phoned the Respondent's office chasing a response and were again advised that they would ask the Respondent to get back to them.
- 9.65 On 26 July 2021 at 11:24, the Respondent phoned JWL to say that she had been having problems with her broadband. JWL pointed out that they had sent her a detailed e-mail on 10 May 2021 that she had admitted receiving before the Sheriff on 24 May 2021 and it was now 26 July 2021. The Respondent said that she had had a bad year and wanted one last continuation for another 4-6 weeks. JWL said this would be opposed. The Sheriff granted a "final" continuation request to the 27 October 2021.
- 9.66 On 2 September 2021, JWL e-mailed the Respondent pressing for a response and vouching. None was forth coming. JWL pressed again on the 1 October 2021, they asked her to provide a response to their questions regarding vouching by 5pm on 8 October. Nothing was provided by that date by the Respondent.
- 9.67 JW pressed again on the 15 October 2021. JWL called the Respondent's office on the 26 October 2021 to be told she was absent from the office and advised nothing would be provided in advance of the Options Hearing the next day.

- 9.68 On 27 October 2021, the case called in court, prior to the calling JWL lodged an Inventory of copy correspondence sent to the Respondent which had gone unanswered. The sheriff appointed a diet of proof and pre-proof hearing. Further he ordained the Respondent's client to write to DD within 7 days with details of vouching and setting out her position as to the non-disclosure of assets.
- 9.69 On 4 November 2021, JWL e-mailed the Respondent reminding her that the sheriff had ordained her client to provide them with information in relation to her client's vouching and a reason for the delay by 3 November 2021. No such communication had been received. They asked the Respondent if she would be providing the information. The Respondent did not reply.
- 9.70 On 10 November 2021, DD e-mailed a complaint to the Respondent about her conduct. The Respondent did not provide a response. DD made a complaint to the SLCC. This was intimated by the SLCC to the Respondent on or around the 9 December 2021 (requesting a response within 21 days). The Respondent on the 10 January 2022 requested an extension of time to provide her response.
- 9.71 On 4 March 2022, JWL e-mailed a letter to the Respondent regarding a change requested by DDs two children to their pattern of contact with him. JWL also reminded the Respondent that there had been a court order to provide vouching in respect of her client's matrimonial assets and debts which they had still not received despite her being ordered to do so within 7 days. Once again, they asked the Respondent for a copy of the vouching. Respondent did not reply.
- 9.72 The court assigned 6 May 2022 as the diet of proof with a pre-proof hearing on 9 April 2022. However these dates required to be discharged by the sheriff at a pre-proof hearing conducted by telephone conference call on 19 April 2022. In the note to his interlocutor the sheriff noted that his calls to the Respondent had gone to her voicemail. He also noted his understanding that the "*Defender has not written to the Pursuer in the manner which I ordered in my interlocutor of 27th October 2021*". A procedural hearing was assigned for 9 June 2022.

- 9.73 On 9 June 2022 at 10:35, the Respondent e-mailed the court and JWL to advise that she had withdrawn from acting on behalf of her client.
- 9.74 On 9 June 2022, the sheriff continued the case to a peremptory diet on 29 August 2029 (sic) for the defender (the Respondent's client) to be personally present or legally represented given the Respondent's withdrawal from acting that morning.
- 9.75 On 6 July 2022, JWL received an e-mail from LD solicitors who had been approached by the defender to take on the case. They confirmed that the defender's position was that the Respondent did not tell her that she was withdrawing from acting or that there was a prior hearing in June. Further, it was her position that she had been unaware of the significant procedural history referred to in JWL's impending motion for expenses and was very keen to finalise the divorce, financial matters and was content with the current arrangements for the children.
- 9.76 On 19 April 2022, the Society e-mailed the letter of intimation of the conduct complaint it had received from the SLCC (see B70 above) to the Respondent and asked her to respond within 21- days. The e-mail was accessed by the Respondent at the same day.
- 9.77 On 27 April 2022, the Respondent replied by e-mail to acknowledge receipt and stated that she was recovering after covid-19 and would respond within the timeframe given.
- 9.78 On 23 May 2022, having received no reply from the Respondent, the Society served formal Notices on her in terms of Section 48(1)(a) of the Legal Profession and Legal Aid (Scotland) Act 2007 and Section 15(2)(i)(i) of the Solicitors (Scotland) Act 1980. Said Notices were sent by "Royal Mail Signed For" post and delivered and signed for by the Respondent on 24 May 2022.
- 9.79 On 15 June 2022, the Society served Notice on the Respondent that in respect that she had failed to respond by the date specified in the Notice served on her on 23 May 2022 and to report as required to the Society, she was now required to give six weeks' notice to the Council of her intention to make application to take out a Practising Certificate for the year commencing 1 November 2022 in terms of Section 15(2)(i)(i) of the Solicitors (Scotland) Act 1980. Said Notice was sent by "Royal Mail Signed For" post and delivered and signed for by the Respondent on 16 June 2022.

- 9.80 On 20 June 2022, DD confirmed that he wished to add an additional issue to his complaint regarding the Respondent's failure to cooperate with the Society's investigation of his complaint.
- 9.81 On 4 July 2022, the SLCC wrote to the Respondent with their preliminary eligibility decision regarding the issue of failing to cooperate with Society which was that it was an eligible complaint. They offered her the opportunity to respond to that preliminary decision, however, no response was received.
- 9.82 On 18 July 2022, the Society sent their letter of intimation of this additional issue of complaint to the Respondent and asked her to respond by 8 August 2022. Said letter was sent by "Royal Mail Signed For" post and delivered and signed for by the Respondent on 19 July 2022. The Respondent has not provided a response to the Society.
- 9.83 The Respondent has at no time engaged with Society following the intimation of DD's complaint.

Complaint Originator 3 (JW)

- 9.84 In December 2013, JW instructed the Respondent in relation to her separation from her then husband. At that time the Respondent was a partner of Conroy McInnes.
- 9.85 The Respondent issued a Terms of Business letter to JW on 14 January 2014. Conroy McInnes were noted to have been instructed "*in respect of negotiation for the preparation and execution of Minute of Agreement to regulate matters arising from your separation*".
- 9.86 Following initial instructions, the Respondent negotiated a split of matrimonial assets, a Minute of Agreement – dealing with distribution of proceeds from the future sale of the matrimonial home and the splitting of insurance policy proceeds – was agreed and executed by parties on 4 November 2014. Further discussion took place regarding pension sharing.
- 9.87 In early 2015, the Respondent appears to have recovered information relating to the value of the JW's personal pension. She noted this in an update email of 21 April 2015.
- 9.88 The Respondent took no steps until 3 December 2015 when there is the receipt of correspondence from JW husband's agent advising the defender had been in touch regarding the preparation of a Supplementary Minute of Agreement dealing with the

splitting of the defender's pension with a view to allowing parties to proceed to obtain a divorce. The Respondent did not respond to this communication nor forward it to JW.

- 9.89 The Respondent was pressed on the 9 March 2016 by JW's husband's agent, she did not respond.
- 9.90 On 2 September 2016 JW emailed the Respondent, "...I ... *was wondering if there has been any correspondence with my ex and his lawyer.*" The Respondent replied the same day advising "[t]here is no news yet. I will revert when I receive a response."
- 9.91 JW pressed the Respondent 25 October and 30 November 2017 – the Respondent did not reply to JW.
- 9.92 JW pressed the Respondent on 19 April, 10 May, 12 May, 2,12, 23, and 28 June all 2017, the Respondent offered no substantial response, nor did she take action to progress the divorce. In response to a further email of the 30 June from JW the Respondent advised she would send a letter to JW's husband's agent the following week, the Respondent did not send that letter.
- 9.93 JW pressed the Respondent 5 times in July 2017 the Respondent did not action JW's instructions.
- 9.94 JW pressed the Respondent 14 times in August 2017 the Respondent did not action JW's instructions.
- 9.95 On the 6 September 2017 the Respondent wrote with further terms of business for McKinnon & Co. She provided a copy of the letter to JW's husband first discussed in June 2017. This letter was sent to JW's husband's agent on the same day.
- 9.96 JW husband's agent advised the Respondent on the 2 October 2017 the husband had transferred his pension to a foreign scheme and had since ascertained that it would not be possible to pension share under the new scheme. Accordingly, he could not proceed with a pension sharing arrangement. The letter went on to outline "*some outstanding issues relating to the matrimonial property*", namely the defender's SERPS fund (which was being valued); the preparation of a schedule for the various bank accounts held by parties

at the relevant date, including accounts which JW was alleged to hold funds in; and the defender's vouching for his own bank accounts.

- 9.97 Between the 2 October and 22 February 2018, the Respondent was pressed in excess of 20 times by the JW asking her to move matters on. The Respondent did not respond to many of JW's communications, nor did she did press JW's husband's agent about the outstanding vouching. On the 22 February on the JW's instructions the Respondent gave JW's husband 14 days to provide all outstanding vouching. JW instructed a court action be commenced if the information was not provided.
- 9.98 A legal aid application was sent to JW in March she returned the application with all attachments on the 26 March 2018. JW had to chase the Respondent twice in April to obtain the supporting statement from her sister. JW chased the Respondent 7 times in May 2018 to ensure the application had been submitted to SLAB. The Respondent had not lodged the same by 31 May 2018.
- 9.99 The application was submitted to the Legal Aid board on 8 June 2018, it was rejected as the Respondent had not submitted all the information required. JW required to press the Respondent 6 times to ensure the Respondent submitted the omitted evidence.
- 9.100 A further offer was made by JW's husband which JW rejected on the 18 October 2018. JW instructed the Respondent to instigate court proceedings.
- 9.101 The Respondent emailed JW on 1 November 2018 in the email she wrote "*[I am] ... await[ing] the warrant from the court. I will confirm details of service in early course, and you should have an update awaiting you upon your return from holiday*". The Respondent had not sent an Initial Writ to the Sheriff Court at this time.
- 9.102 JW pressed the Respondent 5 times in November without a substantial response detailing progress – the Respondent prevaricated in her responses.
- 9.103 In December 2018, January and February 2019 JW pressed the Respondent for details on when the writ would be served, she did so in excess of 20 times. The Respondent continued to prevaricate and stated inter alia
- i "*[w]e have ingathered the information provided and incorporated that into an Initial Writ...[t]hat documentation will be sent to you, once we have in possession of the*

warrant from the Court...That documentation is awaited from the Court" (27 November 2018).

- ii *"I regret to advise there is no response and I am assured by the Sheriff's Clerk office the paperwork will be with me next week and I will provide a detailed update by the end of next week" (7 December 2018).*
- iii *"...on the day I receive the warrant I will make the necessary arrangements to serve and update you" 11 January 2019*
- iv The Respondent would have the paperwork "...next week..." 19 January 2019.
- v *"I have had sight of your further mail. I am sorry I have been unable to advance matters as anticipated. My commitments this week mean that it will be Friday or Monday before I am able to present at the Civil office at Court to resolve matters on your behalf. I am confident I can give you a positive update by close of business on Monday. Thank you for your patience meantime." (6 February 2019)*
- vi The Respondent advised she was "...expecting to collect paperwork at court tomorrow..." 12 February 2019
- vii The Respondent advised she was "...expecting to hear back from the Sheriff later today or on Monday and I have asked them to contact me to make arrangements so that I can collect the warrant once it is available... These papers will definitely be served up [the defender] next week."

9.104 The Respondent's file holds a letter to Glasgow Sheriff Court enclosing an Initial Writ and legal aid certificate dated 22 February 2019. This was the first time the Respondent submitted an Initial Writ on behalf of JW to the Sheriff Court.

9.105 The writ was returned unwarranted due to the omission of a Form 13. JW pressed the Respondent for information over the period 22 February to 1 March on 4 occasions without a response. The writ was served on 1 March 2019. The Respondent advised JW of service.

9.106 JW's husband made an offer to settle and indicated he would not lodge a Notice of Intention to defend (NID). The period for lodging a NID expired. The Respondent sought assistance from Counsel regarding minuting for decree, SLAB initially refused sanction for Counsel but relented. The Respondent delayed instructing Counsel for 2 ½ weeks following upon granting of sanction.

Counsel's note was received on 25 May 2019.

- 9.107 JW instructed the Respondent to minute for decree on the 17 June 2019. The Respondent initially lodged a Minute for Decree on 21 June 2019. The Minute was returned for different reasons on three occasions between 24 June 2019 and 23 September 2019 it was resubmitted each time by the Respondent. In the period June to September 2019 JW required to press the Respondent for the present position on numerous occasions without a substantive response. A hearing was fixed for 12 November 2019, 5 months after the instruction, in respect of the Minute for Decree.
- 9.108 Decree was granted on the 12 November 2019 in the following terms
 “The sheriff, having heard from the pursuer's solicitor and having considered the foregoing Initial Writ, along with the documents produced therewith, the affidavits and the pursuer's minute,
1. Grants decree against the defender for payment to the pursuer of a capital sum of ONE HUNDRED THOUSAND POUNDS (£100,000.00) STERLING with interest thereon at the rate of eight per centum per annum from 1 March 2015 until payment;
 2. ... Grants decree of divorce;
 3. Refuses the pursuer's motion for a pension sharing order;
 4. Quoad ultra, Dismisses the cause;
 5. Finds the defender liable to the pursuer in the expenses of the cause; Allows an account thereof to be given in and Remits same, when lodged, to the Auditor of Court to tax and to report thereon.”
- 9.109 JW required to press the Respondent on 4 occasions in December requesting confirmation of receipt of the decree. The Respondent did not provide a substantive response.
- 9.110 In the period 20 December 2019 (when the Respondent sent JW the certified interlocutor) and 30 January 2020 JW sought confirmation of next steps from the Respondent 5 times without a substantive response.
- 9.111 The Respondent advised she would send a letter to JW's husband's agent on the 31 January 2020. The Respondent did not send a copy letter to JW. JW spoke to the Respondent on the 21 February, the Respondent confirmed by email she would proceed to the taxation of expenses.
- 9.112 JW pressed for action more than 10 times in the month of March without a clear substantive response from the Respondent.

- 9.113 On 27 April 2020 JW sought confirmation from the Respondent why the account had not been lodged (JW had been in communication with Auditor of Court)– the Respondent did not respond, nor did she reply to chasers from JW dated 5 May 2020, 19 May 2020, 20 May 2020 and 16 June 2020.
- 9.114 On or around 16 June 2020 JW instructed new agents to act on her behalf.
- 9.115 No Account of Expenses had been lodged for taxation prior to 27 April 2020.
- 9.116 JW submitted a complaint to the SLCC on the 21 July 2020. The SLCC wrote to the Respondent on 29 July 2020 advising the complaint had been received and asked for any preliminary points from the Respondent and asked her to consider sending her file at this time.
- 9.117 On 1 September 2020 the SLCC emailed the Respondent enclosing a Summary Complaint form covering issues 1 to 15. The Respondent was asked to provide her firm's file and response to the issues if she wished to do so by 8 September 2020. No reply was noted within that timeframe.
- 9.118 The SLCC pressed the Respondent for her response on the 9 September, 30 September, 15 October, 2 November, 17 November 2020, 5 & 6 January 2021. The Respondent did not reply to any of the communications.
- 9.119 The Respondent provided the file to the SLCC around June 2021; however the file only covered the period up to April 2019.
- 9.120 On 30 June 2022 the Society intimated the conduct complaint to the Respondent by email. The letter stated: "*The Society has a statutory obligation to investigate this matter, and you have a professional obligation to respond.*"
- 9.121 The Respondent was asked to provide a written response to the complaint within 21 days, failing which Notices in terms of Section 15 of the Solicitors (Scotland) Act 1980 ("the 1980 Act") and Section 48 of the Legal Aid (Scotland) Act 2007 ("the 2007 Act") would be issued to her. The author added that the Society may also intimate a further conduct complaint in respect of any failure or delay on her part in responding.

- 9.122 The Respondent did not reply within 21 days.
- 9.123 The Society wrote to the Respondent by recorded delivery letter and email on 1 August 2022 asking the Respondent to provide a written response to same within 21 days.
- 9.124 The Respondent did not reply within that 21-day time frame.
- 9.125 The Society pressed the Respondent further on the 14 September, 10 October and 6 December 2022.
- 9.126 At no time did the Respondent reply to the SLCC nor the Society following intimation of the issues of complaint.

Law Society I

- 9.127 The Scottish Complaints Commission intimated the following complaints to the Respondent.
- i. 202101384 (DD-partly dealt with above)
 - ii. 201801814 (R)
 - iii. 201801611 (AC)
 - iv. 201801252 (W)
 - v. 201701797 (MC)
- 9.128 Following the initiation of the complaint by the Commission the Respondent failed to engage with Commission as set out in the appendices (A -E). As a result of the Respondent's failure to engage the Commission was unable to or delayed in complying with its statutory obligations. The Respondent frustrated the statutory complaint process.
- 9.129 In respect of the complaint submitted to the SLCC re JW the Respondent failed to respond to the SLCC. Further to those delays the SLCC served a Statutory Notice on the Respondent. In the covering letter the Respondent was advised that the SLCC "*require[ed] you to produce or deliver your firm's business file(s), and provide your explanation regarding the matters to which this complaint relates, to the SLCC by 26 January 2021*". The Notice was served per section 17 of the Legal Profession and Legal Aid (Scotland) Act 2007.

- 9.130 The Respondent did not provide the files. The SLCC instructed Harper Macleod to instigate court proceedings to recover the files. Process Number 446/21 was assigned to the SLCC petition. The Inner House granted Interlocutor dated 10 August 2021 ordaining the Respondent to deliver her files to the SLCC in term of the S17 and Schedule 2 of the Legal Profession and Legal Aid (Scotland) Act 2007. The interlocutor was served by recorded delivery. The Respondent did not deliver her files.
- 9.131 The SLCC sought further Court orders, the Inner House issued an interlocutor dated 13 October 2021 ordaining the Respondent to attend court on 18 November 2021 to explain her failure to obtemper the interlocutor of 10 August 2021. This was served personally by Messengers at Arms on the 18 October 2021. The Respondent did not attend court on the 18 November 2021.
- 9.132 A further interlocutor ordaining the Respondent to appear at the Court of Session was issued. She was ordained to appear on the 1 December 2021 to explain her failures. This was served by Messengers at Arms on the 23 November 2021.
- 9.133 The hearing on the 1 December 2021 was fixed to allow the Court to consider whether the Respondent was in contempt of court.
- 9.134 On the morning of the Hearing the Respondent handed over some files re JW – they were not complete.
- 9.135 On the 1 December 2021 the Court having heard the Dean of Faculty on behalf of the Respondent decided that it required to hear evidence from the Respondent and continued the hearing to a diet of proof, at which an amicus curiae was asked to appear. The proof was heard on the 26 January 2022.
- 9.136 Further in relation to the conduct complaint by JB (as noted at para B27) the Respondent did not deliver the files to the Commission. The Commission required to instruct Harper MacLeod to raise Court of Session proceedings to recover the Respondent's file. A petition reference P14/22 was raised. The petition was served. The Respondent did not lodge answers. The Court issued interlocutor dated 10 February 2022 requiring the Respondent deliver her files and fee note in respect of Julie Boyle and awarded the expenses against her.

- 9.137 The interlocutor was served by Messengers at Arms on the 15 February 2022. The Respondent did not comply with the interlocutor. The Respondent did not produce files within 21 days of service. She did send her file by special delivery on the 7 March 2022 which was received on the 8 March 2022.
- 9.138 The Society intimated a conduct complaint covering the matters referred to in paras B128-B138 by email on the 10 June 2022 this email was accessed by the Respondent on 14 June 2022. She was requested to write to the Law Society setting out her position in respect of the complaint within 21 days by 1 July 2022.
- 9.139 On 7 July 2022, the Society issued to the Respondent a Notice in terms of section 48(1)(a) of the 2007 Act in which she was called upon to deliver a written explanation of the matters to which the complaint related. Said Notice was issued by email and by recorded delivery post to the Respondent's home address.
- 9.140 On the same day, the Law Society also issued to the Respondent a Notice in terms of section 15(2)(i)(i) of the 1980 Act in terms of which the Society considered that she had failed to reply in such a way which would enable it to complete its investigation of the matter. The Notice required her to send "a response as previously requested along with an explanation for the delay in replying" within 21 days. Said Notice was issued by email and recorded delivery post to the Respondent's home address
- 9.141 On 2 August 2022, the Society gave notice to the Respondent that she had failed to reply by the date specified in the Notices served on her on 7 July 2022. The Society raised a new compliance complaint with SLCC.
- 9.142 On 18 August 2022, the Society intimated the additional issue of complaint to the Respondent's business email address. The Respondent was asked to provide her response to all issues of complaint.
- 9.143 The Respondent did not access the email sent by Egress. The additional issue was re-intimated to the Respondent by signed for mail on 13 December 2022 requesting a response by 3 January 2023. It is noted this letter was signed for on 16 December 2022.
- 9.144 The Respondent did not, and has not, responded.

Law Society II

- 9.145 On 11 January 2022, the Law Society's Financial Compliance team (FCT) notified the Respondent of an upcoming Compliance Inspection. Amongst other things, accounting records were requested to be produced for inspection by 25 January 2022. The Respondent did not reply to the email.
- 9.146 On 31 January 2022, the FCT emailed the Respondent again. Referring to their previous email (and noting that no reply had been received), the author asked the Respondent to forward the requested information by close of business on Friday 4 February 2022.
- 9.147 On 2 February the Respondent emailed the FCT (11.25am) she advised inter alia-
“...I am experiencing IT issues and an engineer is coming to my office tomorrow to assist. In addition, I am writing to confirm that I appeared before the SSDT last month and await the written judgment but I have been advised that I am to have a restriction on my practising certificate which means the end of my current practice as a sole practitioner from 12th April 2022.
I am writing to enquire if it is possible to review matters at business end or to give me another 6 weeks to progress matters and respond then?...”
- 9.148 The FCT replied to the Respondent suggesting a meeting be arranged to address the outstanding compliance inspection and cessation of business. The FCT did not receive a reply.
- 9.149 FCT sent further emails on the 8 February and 9 February noting the Respondent had not replied to the FCT's emails. The email requested the Respondent's
- i accounting records and information for review for the month-end to 31 January 2022;
 - ii Firm Trial Balance;
 - iii Client Trial Balance;
 - iv Client Bank Nominal Ledger Print from 1 January 2022 – 31 January 2022;
 - v Client Bank Reconciliation;
 - vi Client Bank Statement – 1 January 2022 – 31 January 2022 Be delivered to the FCT by the 16 February 2022.
- 9.150 The Respondent replied on 10 February 2022 relaying ongoing IT issues as the cause of the delay. She emailed FCT on the 17 February again referring to IT issues as the reason for

noncompliance with the request for financial information. She did provide a bank statement dated 9 February 2022.

- 9.151 A further request for financial documentation was sent by FCT in which it was noted the Society records showed the Respondent held manual records for maintaining her accounting records. The Respondent was asked to deliver these. In addition, the Respondent was asked for confirmation (including screenshots) of the level of client balances currently held; whether the balance held on the Client Account represented the firm's only surplus; and the extent of any current and ongoing client transactions that had still to be finalised by the Practice Unit prior to 12 April 2022. A deadline of 23 February 2022 was set.
- 9.152 On the 24 February 2022 the Respondent emailed advising her IT issues persisted, she did not provide any information.
- 9.153 FCT replied on 2 March 2022 (9.21am). Noting the IT difficulties the author noted inter alia "*information that has been requested from you on several occasions has still not been produced... IT difficulties, ...would not have prevented you from confirming the information that has been requested (as highlighted) below.*" The author explained that, due to the continuing difficulties and delays in obtaining the information, members of FCT would visit the firm's offices on Tuesday 8 March 2022 at 10.30am to review the documentation on-site.
- 9.154 The on-site meeting was to discuss plans for the cessation of the firm including the transfer or disposal of any ongoing transactions and client monies held. The Respondent was asked to email her plans regarding by close of business on Friday 4 March 2022. No response was received.
- 9.155 The FCT confirmed the meeting the next day by email.
- 9.156 On the 7 March 2022 the Respondent emailed FCT twice, firstly highlighting (copying the Crown Office letter) that she required to appear for a client at Glasgow Sheriff Court on the 8 March, and secondly enclosing two bank statements, (1) showing a balance of £6,818.63 on 16 February 2022 and (2) showing a balance of £2,218.61 on 28 January 2022. She advised she would provide further documentation to FCT.

9.157 The FCT highlighted by email to the Respondent the same day “*...there has been no accounting information provided for February 2022..., nor the position regarding the client ledgers and the funds that make up the balance in the client bank account. We also require sight of your Firm Bank Statements, and the Firm Trial Balance for January and February 2022.*

All accounting information, together with details of your plans for the forthcoming cessation of your Practice Unit were to be discussed with you during our meeting tomorrow, 8 March 2022. I will come back to you on our attendance at your office as soon as possible as I am awaiting information regarding this.”

9.158 The Respondent provided further documentation late on the 7 March 2022. The FCT replied

- i 6 client ledgers holding funds which have all been held for approximately 3 years, or longer, without movement. It is not clear whether these transactions are still ongoing or whether the sums held require to be disbursed and / or returned to the client
- ii the February 2022 Firm and Client Bank Statements are noted, however the full accounting records and reconciliations have not been provided from you as requested.

The Respondent was asked again to provide

- a. month-end accounting periods of 31 January and 28 February 2022
- b. details of the plans being put in place for the cessation of the firm by the 16 March advising if these were not provided the FCT would visit the Respondent at her office on the 17 or 18 March 2022.

9.159 The Respondent emailed FCT on the 17 March advising she was in Fuerteventura Spain. She advised she was unwell. She undertook to forward the accounts by 28 March 2022.

9.160 FCT advised in response they would attend at the Respondent ‘s office on the 29 March 2022. The FCT noted “*No information on the arrangements for the transfer of your client transactions or balances has been provided from you, and this information now requires to be advised as a matter of urgency. Please provide full details regarding the arrangements being made in respect of your clients, by email, prior to the visit to your offices on 29 March 2022. This matter can then be discussed with you further during the visit, and any additional guidance provided at that time. For the avoidance of doubt, all client funds must be disbursed from your Client Bank Account by close of business on 12 April 2022, as you will no longer have a Practice Unit after this date.*”

9.161 The Respondent emailed FCT on 28 March 2022 indicating she had tested positive for Covid 19. She did not provide the missing documentation.

9.162 On the 28 March 2022 at 5.19pm the Law Society's Director of Financial Compliance advised

“...I do however need to stress the urgency there now is for you to provide the information we have requested in advance of your practice units cessation on 12 April. There have been a number of attempts to obtain information from you in advance of your practice unit's cessation on 12 April which unfortunately go back to the 11th of January. As the deadline for cessation is approaching and we have made no progress in obtaining the information, the matter will now be considered by the [CPSC] at their meeting on 7 April

For the avoidance of doubt we require:

- *The client accounting records listed [previously]...*
- *Full information on your plans for the cessation of your Practice Unit and the arrangements being put in place for the transfer of all ongoing client transactions, client files and client balances to another Practice Unit(s).*

I understand that you are self-isolating just now but as soon as you are able I would be obliged if you could send as much of this information as possible. For your plans regarding the cessation of the practice unit all that is required is a short email explaining the arrangements you have made and with which firm.”

9.163 The Client Protection Sub-Committee of the Council of the Law Society of Scotland met on Thursday 7 April 2022 at 9.30am. Following full deliberation the Sub-Committee “*did not consider that [the Respondent] was engaging appropriately with the process or with the Society, and there was no reasonable excuse for failing to cooperate or for failing to share information regarding appropriate cessation of the practice unit to the satisfaction of the Society*” and “*It was a concern that accounting records had not been produced when sought by the Society, nor had accounting records or reconciliations been produced.*” The subcommittee resolved to invite the Respondent for interview.

9.164 The Respondent was invited to an interview, and she attended the same by ZOOM on 11 April at 2pm the Respondent advised inter alia

- i ...a routine accounts inspection, turned into a final inspection ... She has never been in this position before. She has provided some of the information to SB (a FCT inspector) as has been requested, but acknowledges that not everything has, but that

these failures can be explained

- ii that she had not refused to provide the information. She had relayed to SB that she had been experiencing terrible IT issues, since November 2021.
- iii She accepted that providing hard copies was an option offered to her, but this was offered when she was on holiday. Her IT issues were resolved only recently
- iv She stated that she was finishing off client ledger cards today and her intention was to send everything electronically tomorrow because she was now finalising end of business matters. She was updating her client ledger cards and she has one final card to update where she holds £128 which is a client contribution for Advice & Assistance. All or part of this will be taken for fees. If there isn't £128 of work on the file, she'll arrange to remit the surplus back to the client. After that final card is dealt with, there will not be any funds in the client account
- v It was observed by the Chair the Respondent has made previous assurances to provide information by certain dates, and failed to adhere to these assurances? The Respondent stated that this was due to the problems she has previously explained regarding IT issues and ill health
- vi SB offered to ... attend at her office the following morning (12 April 2022) at 9am to physically inspect her records and ensure that everything was up to date. The Respondent stated that her intention was to send everything to SB by email either tonight, or tomorrow morning.
- vii she repeated was updating her client ledger cards and she has one final card to update where she holds £128 which is a client contribution for Advice & Assistance. All or part of this will be taken for fees. If there isn't £128 of work on the file, she'll arrange to remit the surplus back to the client. After that final card is dealt with, here will not be any funds in the client account
- viii In response to the question whether any funds had been transferred to her new firm, or would be transferred to her new firm? The Respondent stated that there would not be any funds to transfer... By close of business tonight, there would be a zero balance in the client account and all books and records would be up to date.

- 9.165 A note of the meeting was sent to the Respondent the same day she did not suggest substantial alterations were required. The emails enclosing the note also asked once again that the Respondent

“...please forward a copy of your Client Bank Account Statement as at today's date, from your online banking system.

From the funds that may still held in the Client Bank Account, please provide a breakdown of:

- *What sums represent client funds (providing individual client details),*
- *What sums represent surplus funds,*
- *And the action being taken to disburse what remains held as client funds from the Client Bank Account by tomorrow, 12 April 2022, at the latest, confirming if the funds are being transferred to L D Solicitors, or back to your clients.*

In view of the [CPSC] meeting scheduled to take place ... tomorrow, and the urgency surrounding the decision of whether or not to withdraw your practising certificate under the terms of Section 40, unless satisfactory accounting information can be provided by later today, I will attend your offices tomorrow morning, 12 April 2022, at 9.00am to review the relevant client accounting information on-site."

- 9.166 On the 12 April at 6.32 am the Respondent emailed the FCT
- "Please see the attached confirming no funds are now in my client account. No funds required to be reimbursed or transferred to my new Firm. The last two entries represent interest accrued on the account - £2.24 and the transfer of my surplus - £250.00.*
- I apologise that the information was not transmitted yesterday but I became unwell in the afternoon.*
- I will revert with the remaining requested information. I trust this is of assistance."*
- 9.167 The bank statements attached showed a nil balance however they also showed
- (a) at the beginning of 11 April 2022, a credit balance of £3,207.41.
 - (b) at the beginning of 12 April 2022, a credit balance of £1,494.24 Contrary to what she told the PCSC on the 11 April 2022.
- 9.168 At the meeting of the Client Protection Sub Committee held on Thursday 12 April 2022 at 9.30am the sub committee resolved to withdraw the Respondent's Practising Certificate in accordance with section 40 of the Solicitors (Scotland) Act 1980.
- 9.169 On the 13 April 2022 the FCT email the Respondent setting out the documents which were still required they included
- Accounting Records to be produced –
- The undernoted books and records are required in full for the month-end accounting periods of July 2021, October 2021, and February 2022:
- Firm Trial Balance

- Client Trial Balance (List of Client Balances)
- Firm and Client Bank Ledgers / Cashbooks (showing all transactions posted to the accounting records for the Firm and Client Banks) – Full months
- Firm and Client Bank Reconciliations
- Firm and Client Bank Statements
- Surplus Statements
- Client Ledgers for all Client Balances held (both debit and credit) and all closed Client Ledgers (showing zero balances)
- The following books and records will also be required for review as soon as these have been completed and prepared:
 - Firm Trial Balance – 31 March 2022 and 12 April 2022 (date of cessation)
 - Client Trial Balance (List of Client Balances) – 31 March 2022 and 12 April 2022
 - Firm and Client Bank Ledgers / Cashbooks (showing all transactions posted to the accounting records for the Firm and Client Banks) – full months of March and April 2022
 - Firm and Client Bank Reconciliations
 - Firm and Client Bank Statements – Full months of March and April 2022
 - Surplus Statements
 - Client Ledgers for all Client Balances held (both debit and credit) and all closed Client Ledgers (showing zero balances) during March and April 2022
 - SLAB Remittance Advice Notes – from September 2021 to date

Please confirm whether the above accounting records are to be sent electronically by email attachment, sent in hard copy format to the Law Society's offices ... or whether the Compliance Team will make arrangements to attend your offices in Glasgow.”

- 9.170 The Respondent did not and has not replied to the request despite 2 further attempts to recover the documents by the FCD.
- 9.171 The Society submitted a complaint to the SLCC in respect of the conduct narrated at (B145 – B170). It was assessed as an eligible conduct complaint.
- 9.172 The Society formally intimated the complaint to the Respondent by email on 10 October 2023. The email address used was the address used by both FCT and the SLCC for correspondence up to and including 26 September 2023.

- 9.173 The Respondent was asked to write to the Law Society within 21 days (i.e. by 31 October 2023) setting out her position in respect of the complaint. The letter continued: “[I]f no response is received from you within 21 days, no reminder will be sent. Instead, Notices in terms of Section 48 of the Act and Section 15 of the Solicitors (Scotland) Act 1980 will be issued to you. The Law Society may also intimate a further conduct complaint in respect of any failure on your part in responding. If you are in any doubt as to what is required in terms of this letter, please contact me, or seek independent advice.”
- 9.174 A further email was sent to the Respondent’s email address on 17 October 2023 to draw attention to the previous intimation email. No response was received.
- 9.175 A final email was sent to the Respondent’s email address on 30 October 2023. Attention was drawn to the deadline for a response, which was due to expire the next day. No response was received.
- 9.176 On 2 November 2023, the Society issued to the Respondent a Notice in terms of Section 48(1)(a) of the 2007 Act in which she was called upon to deliver a written explanation of the matters to which the complaint related. Said Notice was issued by email and by recorded delivery post.
- 9.177 On the same day, the Society also issued to the Respondent a Notice in terms of Section 15 (2)(i)(i) of the 1980 Act in terms of which the Law Society considered that she had failed to reply in such a way which would enable it to complete its investigation of the matter. The Notice required her to send “a response as previously requested along with an explanation for the delay in replying” within 21 days. Said Notice was issued by email and by recorded delivery post.
- 9.178 The Respondent did not respond to either Notice.
- 9.179 On 23 November 2023, the Society gave notice to the Respondent that, in respect that she had failed to reply by the date specified in the Notices served on her on 2 November 2023, she now required to give six weeks’ notice to the Council of her intention to make application to take out a Practising Certificate for the year commencing 1 November 2024 in terms of Section 15(2)(i)(i) of the 1980 Act. The Notice was issued by recorded delivery and by email.

- 9.180 On Monday 27 November, the Respondent emailed the Law Society stating she had been unwell with long covid. The Society confirmed an extension to 22 December 2023. The Respondent did not respond prior to 22 December 2023. The Society made complaint to the SLCC narrating the Respondent's failure to co-operate with the Society.
- 9.181 On 18 January 2024, the Law Society intimated the complaint regarding her failure to co-operate with Society in respect of the complaint to the Respondent's personal and work email addresses. The Respondent was asked to provide her response to the additional issue within 21 days.
- 9.182 The Respondent did not, and has not, responded to the substantial or additional complaint.
10. Having considered the foregoing circumstances, the Tribunal found the Respondent guilty of professional misconduct *singly* and *in cumulo*:-
- (a) By failing to respond to numerous pieces of correspondence from other agents, provide vouching or explain why same was not provided; failing to adequately progress court proceedings by seeking continuations without notice or prior explanation to the other agents and failing to keep her word to other agents and not providing documentation to them in relation to court proceedings; misleading a client by advising her that a warrant from the Sheriff Court was to follow while knowing that no Initial Writ had been lodged with the court and, therefore, no warrant would be provided; misleading the Complainers' Client Protection Sub-Committee Interview Panel by misrepresenting the balance of her practice unit; all in breach of Rules B1.2, B1.9.1, B1.10, B1.13.1, B1.14.1 and B1.16 of the Law Society of Scotland Practice Rules 2011.
 - (b) By failing to carry out instructions to raise court proceedings to vary an existing court order, failing to explain why she had not done so and failing to respond to requests for updates from the client all in breach of Rules B1.4.1, B1.9.1 and B1.10.
 - (c) By failing to engage with the Scottish Legal Complaints Commission ("SLCC") or provide various information and files; failing to communicate effectively with a client during her period of instruction, in particular by failing to provide relevant information, advise of significant developments in the case and by providing assurances to the client which she ultimately did not adhere to in breach of Rule B1.9.1.

- (d) In respect of the overall delay and failure of the Respondent to commence and secure a final decree of divorce within a reasonable time on behalf of her client in breach in breach of Rules B1.10.
- (e) By failing to obtemper two interlocutors of the Inner House timeously following the SLCC's instigation of two petitions before the Court of Session based upon Section 17 of the Legal Profession and Legal Aid (Scotland) Act 2007 (the Court in one petition required to hold a hearing to explore the issue of contempt of court) in breach of Rule B1.13.1.
- (f) By failing to communicate effectively, timeously and fully with the Complainers' investigation thus hampering same; failing to co-operate with the Complainers when investigating a conduct complaint; failing to communicate and co-operate with the separate investigations of the SLCC and the Complainers which were being carried out in terms of their respective statutory duties; in breach of Rules B1.9.1 and B1.16.

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

Edinburgh, 11 September 2025. The Tribunal having considered the Complaint dated 5 November 2024 at the instance of the Council of the Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh against Fiona McKinnon, 60 Crosslees Drive, Thornliebank, Glasgow; Find the Respondent guilty of professional misconduct in respect of her breaches of Rules B1.2, B1.4.1, B1.9.1, B1.10, B1.13.1, B1.14.1 and B1.16 of the Law Society of Scotland Practice Rules 2011; Orders that the name of the Respondent be Struck Off the Roll of Solicitors in Scotland; Finds the Respondent liable in the expenses of the Complainers and of the Tribunal including expenses of the Clerk, chargeable as the same may be taxed by the Auditor of the Court of Session on a party and party basis in terms of Schedule 1 of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019 as amended with a unit rate of £18.00; and Directs that publicity will be given to this decision and that this publicity should include the name of the Respondent but need not identify any other person; Allows the Complaint Originators a period of 28 days from the date of intimation of these findings to lodge a written claim for compensation with the Tribunal Office.

(signed)

Colin Bell

Chair

12. A copy of the foregoing together with a copy of the Findings certified by the Clerk to the Tribunal as correct were duly sent to the Respondent by recorded delivery service on 9 DECEMBER 2015.

IN THE NAME OF THE TRIBUNAL



Colin Bell

Chair

NOTE

At the Hearing on 11 September 2025, the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was neither present nor represented.

When giving evidence about service of the Notice of Hearing, the Clerk to the Tribunal confirmed that Sheriff Officers had been instructed to effect service. She referred to a letter which was before the Tribunal dated 3 July 2025 and which was received by the Tribunal Office from Rutherford & Macpherson Messengers-at-Arms in response to the instruction. It enclosed an Execution of Service in the following terms:-

“Glasgow, 3rd July 2025.

I, RM, Sheriff Officer, hereby certify that I served the letter, notice of hearing and certified copy interlocutor dated Edinburgh 25th June 2025, upon the therein named and designed Fiona McKinnon. This I did by delivering said documents to the said Fiona McKinnon, personally, at 60 Crosslees Drive, Thornliebank, Glasgow, G46 7DS. This was so done upon the Second day of July, Two thousand and twenty five years, before and in presence of CM, 102 Bath Street, Glasgow, witness to the premises and hereto with me subscribing.

[Signed and witnessed]”

The Fiscal referred to Rules 4 (Overriding Objective of the Tribunal Rules) and 9 (Non-attendance of a party or parties to a case) of the 2024 Rules and submitted that the Tribunal was entitled to proceed in absence of the Respondent in this case. He made reference to the Tribunal's interlocutor dated 25 June 2025 and the Case Management Directions contained therein, submitting that the Respondent's failure to comply with those was indicative of her ongoing lack of engagement with proceedings. When asked, the Fiscal confirmed that he had received no contact from the Respondent in relation to this matter.

The Tribunal accepted the Clerk's evidence and was satisfied both in terms of its Rules and section 64 of the Solicitors (Scotland) Act 1980 that the Respondent had been given proper notice of the hearing. The Tribunal carefully considered whether it was fair to proceed in the Respondent's absence. The Tribunal had regard to R v Jones (Anthony) [2002] UKHL and General Medical Council v Adeogba [2016] EWCA Civ 162; [2016] 1 WLR 3867 and the need to exercise discretion in this matter. The Tribunal noted that the Respondent had not engaged with the proceedings and it had no reason to conclude that a decision to delay the hearing again would result in a different outcome or any benefit to parties. The decision to adjourn the previous hearing on 25 June 2025 was very finely balanced indeed. The Respondent had not communicated with the Tribunal Office since then. The Tribunal considered that if it heard the case in the Respondent's absence, there would

be a disadvantage to the Respondent in being unable to give her account of events. However, in light of the procedural history of the case, there was no reason to be confident the Respondent would attend on another

occasion if the hearing were adjourned. It is in the public interest that regulatory proceedings take place within a reasonable time. The fair, economical, expeditious and efficient disposal of allegations against solicitors was an important consideration. In these circumstances, the balance lay in favour of proceeding in the Respondent's absence and the Tribunal unanimously granted the Fiscal's motion to proceed.

The Tribunal noted some apparent errors in some of the dates narrated in the Complaint and made enquiries of the Fiscal in relation to those. The issues identified were:

- Averment B23 referred to 2022 instead of 2021.
- Averment B91 referred to 30 November 2017 instead of 30 November 2016.
- Averment B103(iv) referred to 19 January 2019 instead of 18 January 2019.

The Fiscal confirmed that these were, indeed, errors and submitted that the amendments detailed above were required to ensure an accurate chronology in those averments. He moved to formally amend the Complaint and produced additional documents to the Tribunal in support of the correct information. Reference was made to paragraph 4.5.9 of the Reporter's Recommendation annexed to Production 6 for the Complainers (Affidavit of Greg McEwen) in support of the change to averment B91. The Fiscal stated that the production reflected the correct date. The following items were also referred to:

- Letter to the Respondent from SLCC dated 22 September 2021 (Notice before formal legal action) (supporting change to averment B23).
- Letter to the Respondent from SLCC dated 28 January 2019 (re complaint by JW) (supporting change to averment B103(iv)).

In the circumstances, the Tribunal allowed these amendments to the Complaint.

The Tribunal had before it the amended Complaint dated 5 November 2024, a List of Productions and a List of Witnesses, both for the Complainers. The List of Productions contained Affidavits which were adopted by the Complainers as the witnesses' evidence-in-chief. The Fiscal also referred to and produced the CPSC Note of Interview in respect of McKinnon & Co dated 11 April 2022 during his submissions at the request of the Tribunal. There were no Answers or Productions lodged by or on behalf of the Respondent.

EVIDENCE FOR THE COMPLAINERS

WITNESS ONE: COMPLAINT ORIGINATOR 1 (JW)

The Affidavit for this witness confirmed her personal details then stated:

"2. In 2013 on a recommendation, I instructed Fiona McKinnon in relation to my separation from my then husband. I have been provided with a terrible service by her. I have been left with a feeling that my predicament is my fault. She promised the earth and gave me nothing but hassle.

3. I have been left completely frustrated by Fiona McKinnon's repeated failures/delays/ I feel cheated that I have not received the money due to me by my ex-husband nor any of the expense awarded in my favour. Indeed, I have paid her around £7000 in fees before she got me legal aid. She has still not paid the compensation the SLCC awarded me.

4. I had suffered from anxiety before instructing Ms McKinnon but following the instruction and the frustration caused my anxiety symptoms increased. I had to repeatedly go to my doctors because of the worsening of the symptoms over the last 10 years.

5. I am no further forward – I am divorced but have not received any money. I didn't go to another solicitor because I didn't think that anyone would take on my case. I have repeatedly asked for my files but still do not have them.

6. Those are my general thoughts.

7. I have re-read the report prepared by the Law Society reporter dated 14 September 2023, I confirm it is generally true and accurate however my feelings during that period were much more intense.

8. I am content the attached report, which I have signed on even date, is to the best of my memory accurate subject to my following comments.

9. At page 37 it should read the solicitor did not ultimately carry out all tasks. She did not ensure there was a separate pension sharing minute of agreement (my ex was able to transfer funds); she did not obtain any information on my ex's salary, bank accounts & SERPS (I gave all that information to her) and there has been no taxations of my account of expenses.

10. I have not been able to secure alternative solicitors. I do not have my file. Ms McKinnon refused to give me my file contrary to her email noted at 4.29 on page 42."

The Reporter's Recommendation to the Professional Conduct Sub-committee dated 14 September 2023 was annexed to the Affidavit as detailed above.

WITNESS TWO: COMPLAINT ORIGINATOR 2 (DD)

The Affidavit for this witness confirmed his personal details then stated:

“2. My marriage broke down and I required legal assistance. I first encountered Fiona McKinnon when she represented my wife in Child Welfare proceedings. I instructed Jones Whyte. I did not encounter any problems with her during those proceedings.

3. In 2019 I instigated divorce proceedings. I was represented again by Jones Whyte. This time I encountered many problems with Fiona McKinnon during her representation of my now ex-wife. I recall many times she failed to respond to my solicitor’s letters/emails and her repeated failures to provide documents or explanations in advance of court hearings. I have authorised [JW] to release my file to the Law Society to ensure the dates are accurate.

4. I confirm that report dated 6 June 2024 attached to and signed on even date of this affidavit is a true and accurate representation of my experience with Ms McKinnon when she acted in the divorce proceedings.

5. I would like to add I was divorced in 2023 some 4 years after I instigated the proceedings. The final settlement was that there was no financial payment to be made to or by my now ex-wife. This was the exact offer I had made at the start of the divorce proceedings. I have therefore incurred significant cost as a result of her delays.

6. My overall feeling of how Fiona McKinnon acted is frustration, anxiety over the cost continually mounting by her failures, I have a fairly demanding job which suffered as I always had the proceedings on my mind. I had to offload to my new partner and friends,

7. The whole process knocked me for six as it was unnecessary, my anxiety would increase just before any hearings as I would be told by my solicitor they had not heard from Ms McKinnon and we could not progress the case.”

The Reporter’s Recommendation to the Professional Conduct Sub-committee dated 6 June 2023 was annexed to the Affidavit as detailed above.

WITNESS THREE: DENISE ROBERTSON

The Affidavit for this witness confirmed that she was employed at the Law Society of Scotland as a manager within the Registrars Department. Her responsibilities include maintaining the Roll of Solicitors and all records of Solicitors including contact details, dealing with the Tribunal, dealing with restorations, removals and start-up firms as well as multi-national practices, limited companies, etcetera. Paragraph 6 of the Affidavit confirmed the employment and professional practice history of the Respondent. It stated that the Respondent was suspended from practice on 12 April 2022 and that the suspension remained in place.

WITNESS FOUR: LISA JANE BRODIE

The Affidavit for this witness confirmed that she was employed by the Law Society of Scotland as a Reporter to the Professional Conduct Sub-Committee (“PCSC”) within the Professional Conduct Team. The Affidavit explained that Reporters intimate conduct complaints to solicitors and correspond with them and the

complainant allowing each an opportunity to set out their position in relation to the issues of complaint under investigation. Once the Reporter is satisfied they have sufficient information to proceed, they prepare a recommendation to the PCSC. The recommendation sets out the relevant factual background to the complaint and makes a recommendation which guides the PCSC in making its decision. The PCSC are not bound by the Reporter's Recommendation and may reach a different conclusion.

The Affidavit confirmed that the witness had drafted the recommendation issued to the parties on 1 November 2022 in respect of a complaint by Complaint Originator 3 (JB). A copy of that Recommendation was signed of even date and attached to the Affidavit. The Affidavit confirmed that the evidence contained in the recommendation at the following paragraphs were true and accurate records from the sources listed:

- Paragraphs 4.2-4.34 (from papers presented by the Respondent and Complainant).
- Paragraphs 4.40-4.46 (from papers presented by the SLCC).
- Paragraphs 4.53-4.65 (from information taken from the Law Society electronic file).

The Affidavit also confirmed that the witness had drafted the recommendation issued on 8 March 2023 in respect of a complaint issued by the Complainants. It confirmed that the evidence contained in paragraphs 4.2-10, 4.15-16, 4.22-24 and 4.31-32 (from papers presented by the SLCC) were true and accurate records. A copy of that Recommendation was signed of even date and attached to the Affidavit.

WITNESS FIVE: JOHN CAMPBELL

The Affidavit for this witness confirmed that he was employed by the Law Society of Scotland as a Reporter to the PCSC within the Professional Conduct Team. The Affidavit explained that Reporters intimate conduct complaints to solicitors and correspond with them and the complainant allowing each an opportunity to set out their position in relation to the issues of complaint under investigation. Once the Reporter is satisfied they have sufficient information to proceed, they prepare a recommendation to the PCSC. The recommendation sets out the relevant factual background to the complaint and makes a recommendation which guides the PCSC in making its decision.

The Affidavit confirmed that the witness had drafted the recommendation report dated 6 June 2023 in respect of a third-party complaint by DD against the Respondent. A copy of that recommendation was signed of even date and attached to the Affidavit. The Affidavit stated that, during the investigation of this conduct complaint, the Complainants were unable to obtain the Respondent's file. However, a copy of the file of DD's solicitors was obtained. The Affidavit confirmed that the evidence contained in the recommendation report was a true and accurate record obtained from the information, papers and file presented to the witness by DD and his solicitors.

WITNESS SIX: GREG MCEWEN

The Affidavit for this witness confirmed that he was employed by the Law Society of Scotland as a Reporter to the PCSC within the Professional Conduct Team. The Affidavit stated that the role of a Reporter is to investigate, analyse and write reports referred from the SLCC within the established complaints process in accordance with internal and external service and quality standards. It explained that Reporters intimate conduct complaints to solicitors and correspond with them and the complainer allowing each an opportunity to set out their position in relation to the issues of complaint under investigation. Once the Reporter is satisfied they have sufficient information to proceed, they prepare a recommendation to the PCSC. The recommendation sets out the relevant factual background to the complaint and makes a recommendation which guides the PCSC in making its decision.

The Affidavit confirmed that the witness had drafted the recommendation dated 14 November 2023 in respect of a complaint by JW. A copy of same was signed of even date and attached to the Affidavit. The Affidavit confirmed that the evidence contained in the recommendation at the following paragraphs were true and accurate records from the sources listed:

- Paragraphs 4.2-4.34 and 4.56 (from papers prepared by the Respondent and Complainant).
- Paragraphs 4.36-4.37 (from papers presented by the SLCC),
- Paragraphs 4.44-4.52 (from information taken from the Law Society electronic file).

The Affidavit also confirmed that the witness had drafted the recommendation issued on 16 February 2024 in respect of two identical complaints issued by the Complainants and that the evidence in paragraphs 4.3-4.4 and 4.12-4.25 was taken from the Complainants' electronic file. A copy of that recommendation was signed of even date and attached to the Affidavit.

SUBMISSIONS FOR THE COMPLAINERS

Firstly, the Fiscal referred to the Affidavit evidence and individual Productions which comprised the Complainants' case. He made reference to Productions 1 and 2 for the Complainants, namely the Affidavits of Complaint Originators 1 (JW) and 2 (DD), which was the primary evidence. He noted that, at paragraph 8 of her Affidavit, JW accepted that the Reporter's Recommendation was accurate subject to two points raised at paragraph 9. JW was still without funds and never received her file from the Respondent. Otherwise, JW was in agreement with the report. The Affidavit of DD made it clear that the Respondent had represented his ex-wife. At paragraph 3, DD expressed general frustrations but agreed with the content of the Reporter's Recommendation at paragraph 4. The Fiscal said that the other Affidavits had been provided by Reporters

employed by the Complainers. Their experience was noted in the documents which also stated that their reports were an accurate reflection of the limited files available to them. When asked by Tribunal members, the Fiscal also referred to the Affidavit from Denise Robertson, also employed by the Complainers, which confirmed the Respondent's employment history and that she was a Scottish solicitor.

There was no Affidavit from Complaint Originator 3 (JB) as she became frustrated with the process. However, Lisa Brodie was the Reporter involved in JB's complaint and her Affidavit referred to information provided by JB, the Complainers and the SLCC at paragraphs 5, 6 and 7. The Fiscal acknowledged that this was hearsay and submitted that the Tribunal could admit this evidence in terms of Rule 14(1) of the 2024 Rules.

The Fiscal said that the most efficient way to proceed with his submission was to address the most serious allegations against the Respondent first, namely those of dishonest conduct. Thereafter, he intended to refer to the remaining averments. He referred to the definition of professional misconduct contained in Sharp v Council of the Law Society of Scotland 1984 SLT 313 and submitted that the conduct of the Respondent was a clear departure from the standards of conduct expect of competent and reputable solicitors.

The Complaint contained two allegations of dishonesty which were averred at paragraphs A7 and A15. The Fiscal made submissions in relation to these by narrating the averments and referring to specific sections of particular Affidavits and individual Productions which, he argued, would allow the Tribunal to make individual findings in fact.

The Fiscal submitted that the test for dishonesty was set out in the case of Ivey v Genting Casinos [2018] 2 All ER 406 at paragraph 74 as follows:-

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

He then emphasised that the applicable test for dishonesty was a subjective test in the first instance and, thereafter, an objective test. A Tribunal member asked the Fiscal how the two elements in the Ivey case applied to this case. He was asked to explain how the aspects of the test applied to this case if the Respondent believed,

subjectively, that she was acting honestly but the evidence shows that, objectively, that her conduct was dishonest in minds of ordinary, decent people. The Fiscal replied by referring to paragraph A7 of the Complaint. His submission was that the Respondent made statements (as fact) about court proceedings in letters to a client but those statements could not, objectively, be correct given the actual situation (i.e. that a court action had not been raised). The information given by the Respondent was wrong and it did not matter whether or not she had a genuine belief that it was correct.

Expanding on this, the Fiscal said that the Respondent's conduct in paragraph A7 was dishonest in breach of Rule B1.2 which requires solicitors to be trustworthy and act honestly at all times and states that they must not act in a way which is fraudulent or deceitful. He said that the Respondent's conduct was dishonest in that she knowingly misled a client (JW) on various occasions over a four month period in relation to a court action which she had not, in fact, raised. The Fiscal directed the Tribunal to correspondence from the Respondent to JW dated 1 November 2018 which indicated that court proceedings had been instigated on JW's instructions. Those instructions were given by JW to the Respondent on or around 18 October 2018. The Fiscal also highlighted that JW had chased the Respondent for updates more than 20 times. The Fiscal narrated the "prevaricated" responses from the Respondent to JW. There was further correspondence from the Respondent to the Sheriff Court which showed that a court action was not, in fact raised until 22 February 2019. The Fiscal confirmed that all correspondence referred to had been found on the Respondent's file and had been signed by her. He said that the Respondent knew she had not submitted an Initial Writ to Court as per JW's instructions, however, to the objective reader of the correspondence issued by the Respondent, it appeared that this had been done. The Fiscal submitted that this misleading conduct was a breach of Rule B1.2 and could be categorised as dishonest in terms of the Ivey case.

A member of the Tribunal asked the Fiscal if there was any conceivable reason in the Respondent's mind for acting in this way. The Fiscal replied that he was unable to answer that as he was not in the mind of the Respondent. When asked by another Tribunal member, the Fiscal confirmed that the Respondent was responsible for issuing Letters of Engagement to clients as she was the Principal of the firm. The Productions made reference to a "Form 13" and another Tribunal member asked what this related to. The Fiscal was unable to comment. It appeared to be a form relating to court procedure in family law matters and was not pertinent to the allegation of dishonesty.

The second allegation of dishonesty was averred in paragraph A15. The allegation was that the Respondent had misled the Client Protection Sub-Committee ("CPSC") Interview Panel on 11 April 2022 by stating that her practice unit had a balance of £128 in its client account on that date, whereas her bank statement dated 12 April 2022 showed an actual balance of £1563.24 in the client account. The Fiscal submitted that this was dishonest in breach of Rule B1.2. However, if the conduct was not deemed to be dishonest, then he argued

that it demonstrated a lack of integrity in breach of Rule B1.2 and in terms of the test in the case of Solicitors Regulation Authority v Wingate (CA) [2018] 1 WLR from paragraph 95. He quoted Rupert Jackson LJ as follows:

“Let me now turn to integrity. As a matter of common parlance and as a matter of law, integrity is.....a more nebulous concept than honesty....

In professional codes of conduct, the term “integrity” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members.....

Integrity connotes adherence to the ethical standards of one’s own profession.”

Continuing from paragraph 102:

“Obviously, neither courts nor professional tribunals must set unrealistically high standards.....The duty of integrity does not require professional people to be paragons of virtue.”

At paragraph 103:

“A professional disciplinary tribunal has specialist knowledge of the profession to which the Respondent belongs and of the ethical standards of that profession. Accordingly such a body is well placed to identify want of integrity.”

A Tribunal member asked the Fiscal to clarify if his submission was that the alleged lack of integrity of the Respondent met the “serious and reprehensible” test contained in Sharp. The Fiscal replied that it would be for the Tribunal to determine whether what was said by the Respondent amounted to professional misconduct in terms of the law. He alluded to different levels of integrity.

Continuing with submissions, the Fiscal explained that the Complainers invited the Respondent to attend the CPSC meeting and that the averment reflected the statement given by the Respondent at that meeting. She had time to check the position and prepare her response in advance of the meeting. The Fiscal explained that Solicitors are invited to bring their legal representatives to CPSC meetings. He said that the Respondent on this occasion made an untrue statement in that she gave evidence to the CPSC to say that £128 was held in the client account whereas the next day the bank statement showed a balance in excess of £1500.

A member of the Tribunal asked if a transcript of the CPSC meeting was available. The Fiscal referred to the minute of the meeting and said that a recording would also have been made. He produced the minute on request but no recording was made available.

The Fiscal was asked if his submission was that the Tribunal could draw an inference of dishonesty from the production of bank statements showing the actual balance in the client account. He replied that this was the best evidence before the Tribunal. A Tribunal member made a distinction between the apparent implication that the Respondent had not administered her practice properly and an allegation of dishonesty. This was deemed to be important in terms of the accusation of dishonesty facing the Respondent.

The Fiscal confirmed that paragraph A15 did not aver mismanagement of the Respondent's practice, rather it related to what she told her professional regulator. He pointed out that, if the Respondent had been present at the Hearing, she could have been asked about the management of the practice and may be able to provide an explanation which may have been taken into account. However, the Respondent was not present and had not provided any explanation so the bank statement was simply presented to the Tribunal. The Fiscal referred to Rule 15 of the 2024 Rules and stated that the Tribunal can rely on the hearsay evidence of the Reporter contained within the Affidavit produced.

A Tribunal member observed that it was for the Fiscal to prove the case of the Complainers beyond a reasonable doubt. He referred to Production 7, Interlocutor in Petition P446/21 dated 10 August 2021 and the Statement of Reasons delivered by Lady Dorrian contained therein; in particular an observation by Counsel that the Respondent's office systems were "a shambles". The same member asked the Fiscal if the Tribunal could take the decision and statement of reasons into account when determining whether or not the Respondent's conduct in these proceedings were dishonest. In response, the Fiscal said that the averment was that the Respondent made an untrue statement. He was unable to comment on whether she was unprepared or reckless but the allegation was that her conduct was dishonest in breach of Rule B1.2.

Another Tribunal member asked the Fiscal to take the panel through the CPSC Minute. The Fiscal referred to the Reporter's second Recommendation Report in Production 6 and narrated the text contained at paragraph 4.4.24 which was a copy of the Note of Interview document from the CPSC meeting on 11 April 2022. Within that, the Respondent had made a clear, unequivocal statement to the CPSC that funds in the client account were £128. The Fiscal was seeking to rely on the sequence of events thereafter. According to the minute, the Respondent had suggested that funds would be remitted to the client leaving a nil balance in the client account. However, the account showed all client funds appearing and the actual sum was far greater. It is not clear whether the Respondent was referring to one ledger. A Tribunal member observed that the bank account figure could show a different amount and could offer a potential explanation for the discrepancy. The Fiscal said that the Tribunal must look at what could be objectively proved and the evidence showed the actual balance and the difference between that and what the Respondent told the CPSC. The Respondent gave the CPSC

incorrect information. The Fiscal pointed out that the Respondent was not present to explain the position and the Tribunal could only consider information presented to it.

The Fiscal submitted that the Respondent had been aware that the information she gave to the CPSC was contrary to the real position. Production 6 showed that the Respondent accessed the client account on the same day as the CPSC interview and made 10 transfers. It also showed that the Respondent accessed the client account the day after the CPSC interview and made 8 transfers. The Fiscal submitted that the Tribunal could infer from this that the Respondent had knowledge of the true position of the client account and argued that knowingly making an untrue statement to the CPSC the previous day amounted to dishonest conduct. The Fiscal added that the function of the CPSC was to protect client funds.

A Tribunal member pressed the Fiscal on whether it was sufficient for a finding of dishonesty that the Respondent had reported a figure but that figure was, in fact, inaccurate. The Fiscal replied that the Respondent had an opportunity to correct any genuine error by contacting the CPSC and appraising them of her mistake the following day when the true position was known. However, she did not do that. The Fiscal confirmed that the Respondent was the Cashroom Manager of the firm. She was a sole practitioner.

The Fiscal moved on to the other allegations in the Complaint. Paragraph A1 averred that the Respondent failed to carry out JB's instructions to raise court proceedings to vary an existing court order, failed to explain why she had not done so and failed to respond to requests for updates during the period November 2020 until May 2021 in breach of Rules B1.4.1 (acting in the best interests of the client), B1.9.1 (effective communication) and B1.10 (competency, diligence and appropriate skills). The period of delay was 7 months and over 10 attempts at communication by JB were unanswered by the Respondent. The Fiscal pointed out that the Respondent's conduct affected contact arrangement with a child as well as JB. The evidence in support of this was contained in Production 4 for the Complainers, namely Lisa Brodie's Affidavit and annexed Reporter's Recommendation.

Paragraph A2 averred that the conduct alleged in paragraph A1 led JB to complain to the Scottish Legal Complaints Commission ("SLCC") about the Respondent. Paragraph A2 also referred to the Respondent's alleged failure to engage with the SLCC when investigating that complaint. The Fiscal submitted that the Respondent had an obligation to co-operate with the regulator as detailed in Law, Practice & Conduct for Solicitors (2nd edition) by Paterson & Ritchie at paragraph 12.15. The evidence in support of the Respondent's failures to engage with the SLCC was contained in Production 4 for the Complainers, namely the Affidavit of Lisa Brodie. Paragraph A2 also averred a breach of Rule 1.9.1 which states that solicitors must communicate effectively with their client and others.

The averment in paragraph A3 was that the Respondent failed to communicate effectively, timeously and fully with the Complainers and hampered their ability to investigate a conduct complaint. The Fiscal said this was a clear breach of Rule B1.16. He pointed the Tribunal to supporting evidence in Production 4 for the Complainers (Affidavit of Lisa Brodie).

Moving to paragraph A4, the Fiscal stated that DD was a pursuer in a divorce action and narrated the background to this contained in Production 2 for the Complainers (Affidavit of DD). DD had agreed the accuracy of the Reporter's Recommendation in his Affidavit. Paragraph A4 narrated 13 examples of the Respondent's failure to provide vouching (or an explanation as to why it had not been provided) to DD's agents. The Fiscal noted the duties of a solicitor in terms of Rules B1.9.1 (effective communication) and B1.14 (relations between regulated persons) and submitted that the Respondent's conduct was in breach of both of these requirements. The Fiscal added that this conduct also demonstrated a lack of integrity in breach of Rule B1.2.

Paragraph A5 averred that the Respondent had failed to keep her word in relation to DD's agents by undertaking to provide documentation then failing to do so. He referred to Law, Practice & Conduct for Solicitors (2nd edition) by Paterson & Ritchie at paragraph 13.05 in support of this contention. It was also averred that the Respondent failed to adequately progress court proceedings and sought continuations on numerous occasions without prior notice or explanation to DD's agents in breach of Rules B1.2 (trust and integrity), B1.9.1 (effective communication), B1.13.1 (relations with the courts) and B1.14.1 (relations between regulated persons). The Fiscal submitted that the Respondent's conduct delayed justice and said that the repeated nature of her conduct at several points in the litigation process also reached the standard for lack of integrity in breach of Rule B1.2.

Paragraph A6 averred that the Respondent failed to co-operate with the Complainers when investigating the conduct complaint contrary to her duty under Rule B1.16. The Fiscal said that the Respondent had "two bites at the cherry" as she had an opportunity to engage with the Complainers and provide an explanation as part of their investigation but she failed to do so.

The averments in paragraph A8 related to the Respondent's alleged overall delay and failure to commence and secure a final decree of divorce on behalf of JW. It detailed specific examples of alleged conduct over a period of time including a failure to apply for legal aid on behalf of JW and a failure to prepare, negotiate and/or lodge an Account of Expenses for taxation which, in turn, frustrated attempts to enforce the Decree in favour of JW. The Fiscal submitted that this conduct constituted breaches of Rule B1.10 (competence, diligence and appropriate skills).

Paragraphs A9 and A10 averred further alleged breaches of Rule B1.9.1 in that the Respondent failed to communicate effectively with her client JW about significant developments in her case and with the SLCC and the Complainers who were separately carrying out their statutory duties to investigate the complaint raised by JW. It was also averred that the Respondent provided JW with assurances about the case but ultimately failed to adhere to those. The Fiscal asked the Tribunal to take into consideration that JW believed this to be her own fault and did not know what to do. It was also averred that the Respondent failed in her duty to co-operate with the Complainers in breach of Rule B1.16.

The Fiscal explained that the averment in paragraph A11 related to the Respondent's failure to communicate timeously and fully with the SLCC in respect of 5 cases which were detailed by the Reporter in a recommendation annexed to Production 4 for the Complainers (Lisa Brodie's Affidavit). Some of those matters were not pursued in the Complaint before the Tribunal although information on the initial complaints were provided at appendices A, B, C, D and E annexed thereto. The Fiscal described the progression of those initial complaints to the SLCC, highlighting that the Respondent had an opportunity to respond before the SLCC cases advanced. The Respondent's failure to respond had an impact on the SLCC in terms of carrying out their statutory duties and determining how to deal with those complaints. He submitted that the Respondent's conduct here breached Rule B1.9.1. Following from the allegation in A11, paragraph A12 averred that the Respondent breached Rule B1.16 by failing to comply with the Complainers' subsequent investigation of the matters which were thereafter referred to them by the SLCC.

Paragraph A13 stated that the SLCC instigated two petitions in the Court of Session based upon Section 17 of the Legal Profession and Legal Aid (Scotland) Act 2007. It was averred that the Respondent failed to obtemper the interlocutors of the Inner House timeously and, in one petition, a hearing on contempt of court in respect of the Respondent was required. The Fiscal submitted that this demonstrated the Respondent's lack of respect for the court. Productions 7, 8 and 9 for the Complainers were interlocutors relating to said matters. Production 9 was a Decision and Statement of Reasons by the Inner House in respect of the contempt of court hearing and the Fiscal directed the Tribunal to particular sections of that in support of the Complainant's position. The Fiscal submitted that this conduct was in breach of Rules B1.9.1 and B1.13.1. He added that it was serious and reprehensible behaviour of the Respondent to fail to produce a file and, ultimately, take up the time of the Inner House with this matter. A Tribunal member asked the Fiscal why a breach of Rule B1.2 had not been averred here. The Fiscal replied that it would be up to the Tribunal to make a finding in this regard, however, arguably the Respondent had no fair notice of that. When pressed, the Fiscal said that it would be at the discretion of the Tribunal to conclude that this conduct constituted a breach of Rule B1.2 but agreed that it was not specifically averred in the Complaint.

A Tribunal member asked the Fiscal about the decision of the Inner House and whether the court commented on the integrity of the Respondent. The Fiscal clarified that the court was asked to make a finding of contempt in relation to the Respondent's failure to attend a specific hearing. A Tribunal member narrated part of the Lord Justice Clerk's decision and noted that it was unusual. Although the court was critical of the Respondent's actions, it gave the Respondent the benefit of the doubt and made no finding of contempt of court.

Moving on, paragraph A14 averred that the Respondent's failure to co-operate with the SLCC and the court which resulted in a subsequent conduct complaint was in breach of Rule B1.16. The remaining averment in paragraph A16 narrated various alleged failings of the Respondent to provide information to the Complainers about cessation of the practice unit, transfer and safekeeping of client files following her suspension from practice and to failure to respond to statutory notices issued by the Complainers in relation to those matters. The Fiscal submitted that the Respondent had breached Rule B1.16 in this regard also.

The Fiscal was asked about the current status of the Respondent's practice unit. After checking the position, the Fiscal confirmed that following a meeting on 5 May 2022, the CPSC authorised an intervention in relation to the Respondent's practice unit. On 21 July 2022 the Complainers attended the Respondent's office and secured 25 files. The Respondent did not provide those files, they had to be retrieved by the Complainers. Contact details on the Respondent's website were amended to those of the Complainant so that members of the public were advised and could get in touch for more information.

In conclusion, the Fiscal stated that the Respondent's conduct demonstrated a long list of breaches of rules which constituted serious and reprehensible behaviour in terms of Sharp. He invited the Tribunal to make a finding of professional misconduct against the Respondent both singly for each averment and *in cumulo*.

DECISION

Firstly, the Tribunal had to determine what, if any, conduct had been proved by the Complainers. The Respondent had not entered proceedings or provided any explanation for her alleged conduct but, regardless of that, it was for the Complainers to prove their case and the conduct had to be established beyond a reasonable doubt. The Complainers had produced Affidavits for six witnesses together with three interlocutors issued by the Court of Session and a written decision/statement of reasons of the Inner House delivered by the Lord Justice Clerk.

The Affidavits of Complaint Originators 1 and 2 together with the Reporter's Recommendations attached to each supported the averments in relation to the Respondent's conduct. There was no direct evidence from

Complaint Originator 3 (JB). The Fiscal had explained that JB became frustrated with the process. The Complainers had lodged an Affidavit from Lisa Brodie which supported the averments in relation to JB's complaint and the Respondent's conduct when acting for JB. Although this was hearsay, it was the best evidence available. The Tribunal noted that it was competent for it to consider hearsay evidence, applying appropriate weight to it.

There were two specific averments of dishonesty and the Tribunal considered those before moving to the other allegations in the Complaint. The first averment of dishonesty was that the Respondent had knowingly misled a client (JW) in relation to a court action which JW had instructed her to raise. The allegation was that the Respondent had not, in fact, acted in accordance with those instructions yet gave JW the impression that she was waiting for documentation from the court. The court action was not commenced until some four months after the client's instructions. Greg McEwen's Affidavit and his attached Recommendation Report supported the averments of fact and confirmed that the basis of his report was drawn from papers provided by the Complainant and the SLCC and retrieved from the Respondent. The Fiscal had pointed to specific correspondence from the Respondent giving the impression that the court action was underway and that JW had asked the Respondent for updates on progress numerous times without success. JW's Affidavit confirmed her agreement with Mr McEwen's report and described the effect the Respondent's behaviour had on her overall. She believed that it was her own fault and she did not know what to do.

The second averment of dishonesty related to the representations made to the CPSC by the Respondent about the balance of her firm's client account. The amount narrated by the Respondent was significantly less than the true figure. The Respondent had not presented her account of events, or any explanation, to the Tribunal and it was difficult to perceive any benefit to the Respondent by acting in this way.

The Affidavits together with other productions supported the other averments of fact in the amended Complaint. They presented a cohesive and consistent picture of events. The Affidavits of Lisa Brodie, John Campbell and Greg McEwen, together with those of two Complaint Originators, supported up the averments of the Respondent's conduct in relation to the complaints made separately by JW, DD and JB. They also backed up the averments of fact in relation to the investigations, conclusions and action taken by the Complainants and the SLCC to engage with the Respondent and her lack of engagement in response to various notices served on the Respondent by both regulators. This culminated in two petitions before the Inner House. The interlocutors lodged by the Complainants confirmed the steps taken by the SLCC in response to the Respondent's lack of engagement and the Decision and Statement of Reasons issued by the Lord Justice Clerk demonstrated the extent of the Respondent's conduct in non-compliance with the regulatory processes, albeit there was no finding of contempt of court. Failure to respond, comply and engage with the professional regulators hampers them in performance of their statutory duties and brings the profession into disrepute. The

same evidence also underlined the Respondent's lack of respect for courts and failure to engage with court processes which is also harmful to the reputation of the profession.

On the basis of the evidence presented to it, together with the submissions of the Complainers, the Tribunal was satisfied beyond a reasonable doubt that the Respondent had acted in the matter detailed in the averments of fact in the amended Complaint and, therefore, found the facts to be established.

The Tribunal went on to consider whether the conduct established amounted to Professional Misconduct. The definition of professional misconduct is contained in the case of Sharp v Council of the Law Society of Scotland 1984 SLT 313,

"There are certain standards of conduct to be expected of competent and reputable solicitors. A departure from these standards which would be regarded by competent and reputable solicitors as serious and reprehensible may properly be categorised as professional misconduct. Whether or not the conduct complained of is a breach of rules or some other actings or omissions, the same question falls to be asked and answered and in every case it will be essential to consider the whole circumstances and the degree of culpability which ought properly to be attached to the individual against whom the complaint is to be made."

The Tribunal considered that dishonesty is one of the most serious matters it deals with. Solicitors belong to a profession which requires high standards of ethics. Members of the public must have confidence that solicitors are trustworthy and honest and that their integrity is beyond question. Clients and colleagues should be able to expect solicitors to act with complete honesty and integrity at all times throughout their professional lives. In relation to the question of dishonesty, the Tribunal had regard to the test described in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67. According to that case, the Tribunal should first ascertain subjectively the actual state of the individual's knowledge or belief as to the facts. When that is established the question of whether the conduct was honest or dishonest is determined by applying the objective standards of ordinary decent people.

In relation to paragraph A7 of the Complaint, the evidence demonstrated to the Tribunal that the Respondent had actively lied. The Respondent was an experienced litigation practitioner who would be aware of the steps required to commence a court action. Although she had not presented any explanation to the Tribunal, lodging an Initial Writ was a fundamental step in civil court procedure which the Respondent could be expected to action and understand. There could be no doubt in the mind of a practitioner about whether or not an Initial Writ had been lodged. However, regardless of whether or not the Respondent believed that she was acting dishonestly, the Tribunal considered that by objective standards, any person reading the correspondence from the Respondent would think that a court action was underway. JW was entitled to expect the Respondent to

act in good faith on her instructions. The correspondence from the Respondent to JW was misleading and, therefore, dishonest. The Tribunal concluded that the Respondent had acted dishonestly here.

In relation to paragraph A15 of the Complaint, the evidence presented to the Tribunal had created a picture of chaos within the running of the Respondent's firm and there was no evidence or suggestion that the Respondent intended to use the client funds inappropriately. Although the Tribunal had sight of the CPSC meeting minute dated 11 April 2002, it was uncomfortable making a determination of dishonesty without further information. It asked the Fiscal to provide a transcript or recording but neither of these were available. The Tribunal concluded that it was not satisfied beyond a reasonable doubt that the Respondent had acted dishonestly in relation to this averment.

However, the Tribunal went on to consider whether the conduct in paragraph A15 demonstrated a lack of integrity as defined in Wingate & Evans v SRA; SRA v Malins [2018] EWCA Civ 366. According to that case integrity is a broader concept than dishonesty. In professional codes of conduct, the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. The importance of this principle and the seriousness of the breach of that principle has repeatedly been emphasised in a number of cases before this Tribunal. The evidence presented to the Tribunal supported the contention that the Respondent had given inaccurate details to the CPSC. Even if this had been a genuine error (and the Tribunal could not conclude on that either way), the Respondent did not update the CPSC on the correct balance the following day when she transacted from the Client Account. The CPSC exists to protect client money and, although there was no suggestion that the Respondent used the funds inappropriately in this case, she did not present the true picture to her regulator when formally requested to do so and that was not acceptable. The Tribunal concluded that the Respondent's conduct here was a serious matter amounting to lack of integrity.

The remaining averments narrated a course of conduct which had occurred over a lengthy period of time in respect of the Respondent's clients. They also detailed several examples in which the Respondent had failed to engage with her regulators in different ways. The Tribunal noted that the Respondent's conduct had been described in evidence as a "catalogue of failures". The evidence presented to the Tribunal demonstrated that those failures were multi-faceted and related to the administration and running of the Respondent's practice, her advice and representation of clients, her interaction with other solicitors and the courts and, ultimately, allegations of Contempt of Court which reached the highest level of the Scottish judiciary. Although a finding of contempt had not been made against the Respondent, the Tribunal noted the express criticism of her actions by the court and agreed that this caused damage to the reputation of the profession. There was also evidence of the Respondent's failure to act in a manner consistent with having mutual trust and confidence in relation to other regulated persons in breach of Rule B1.14.1. Her conduct when communicating with Complaint

Originator 3's solicitor significantly affected that individual and also court proceedings. The evidence before the Tribunal in relation to these matters also underlined the Respondent's failure to act in matters in which she was competent to do so and to carry out instructions adequately and competently within a reasonable time in breach of Rule B1.10.

The conduct narrated in averments A1, A4, A5 A8, A9 related to the Respondent's conduct when advising and representing two of her clients and failing to act on their instructions. The impact of the Respondent's conduct on those clients was detailed in the Affidavit of Complaint Originator 1 and the Affidavit of Lisa Brodie in relation to Complaint Originator 3. The Tribunal noted that Respondent's conduct affected contact with a child. Clients are entitled to expect solicitors to act with integrity and communicate effectively by acting on their instructions and keeping them up to date on progress of their cases. The Respondent's failure to do this in relation to Complaint Originators 1 and 3 was repeated and serious and brought the profession into disrepute.

The conduct in those averments also significantly affected the opposition party (Complaint Originator 2) in one of the Respondent's cases. The evidence supported the averments that the Respondent had not acted with integrity in dealing with the solicitor representing Complaint Originator 2. The Respondent had failed to communicate with the opposition agents and failed to provide certain documents to progress court proceedings. It also showed that the Respondent had hindered court proceedings by asking for unnecessary continuations. The relationship between the courts and solicitors is an important tenet of the Scottish legal system. Failure to maintain a good relationship with the courts and to give false or misleading information to them is, in itself, a serious matter. In addition, the Affidavit of Complaint Originator 3 supported the allegation that the Respondent's conduct in relation to court proceedings delayed completion of his divorce significantly. The same Affidavit described the impact of the Respondent's conduct. The Tribunal concluded that the conduct of the Respondent was damaging to the reputation of the profession.

Appendices B-E of the Complaint narrated further alleged examples of similar conduct by the Respondent in relation to other clients (appendix A related to Complaint Originator 2). Although those matters were not specifically referred to in the averments in the Complaint, they formed part of the evidence relating to "Law Society I" beginning at paragraph B127 and contained in Lisa Brodie's Affidavit.

In relation to averments A2, A3, A6, A10, A11, A12, A14 and A16, the evidence presented to the Tribunal clearly demonstrated the Respondent's multiple and repeated failures to communicate with both the Complainers and the SLCC when carrying out their statutory duties. Failure to respond to both organisations as the Respondent's regulators hampers them in performance of their statutory duties and brings the profession into disrepute.

Following from this, the evidence showed that the Respondent's actions in non-compliance with the regulators led to the court proceedings narrated in averment A13. The court proceedings required as a result of the Respondent's conduct had reached the highest level of the Scottish judiciary and that was a serious matter. The interlocutors, Decision and Statement of Reasons delivered by the Lord Justice Clerk were lodged and before the Tribunal which was, therefore, able to conclude that the Respondent had breached Rules B1.9.1 and B1.13.1. The Respondent's failure to treat the courts with courtesy and respect and to communicate effectively in that regard also brought the profession into disrepute. Although there had been a discussion about a possible breach of Rule 1.2 in relation to averment A13 during proceedings, that had not been averred by the Complainers. The Tribunal concluded that it could not make a finding in relation to Rule B1.2 where it had not been averred.

The Tribunal was satisfied that the conduct of the Respondent fell below the standard to be expected of a competent and reputable solicitor to a serious and reprehensible degree. The Respondent's conduct was at the serious end of the scale. The Tribunal found the Respondent guilty of professional misconduct.

DECISION ON SANCTION, EXPENSES AND PUBLICITY

When considering the correct sanction to be applied, the Tribunal was mindful of the serious nature of the Respondent's conduct in relation to several, unconnected matters. The nature of the Respondent's conduct was repeated and was also prolonged over periods of time. It had a negative impact on several parties including clients of the Respondent, other solicitors and the court. The progress of justice had also been affected by the Respondent's actions. The Tribunal considered the need to protect the public in this regard. In addition, the Respondent's conduct was likely to seriously damage the reputation of the legal profession. The Respondent had not engaged with the Tribunal proceedings and had acted disrespectfully towards it as noted in the interlocutor dated 25 June 2025. The Respondent had not shown any remorse for her conduct. These were significant aggravating factors.

The duty of honesty and integrity is a fundamental and underpinning obligation of the profession. It has been made quite clear by this Tribunal that proven dishonesty must be seen at the top end of the spectrum of gravity for misconduct. It has also been said on a number of occasions that a finding of dishonesty will lead to a striking off in all but the most exceptional circumstances Bolton-v-The Law Society [1994] 1 WLR 51; SRA-v-Imran [2015] EWHC 2572 (Admin).

The evidence presented to the Tribunal confirmed that the Respondent was suspended from practice on 12 April 2022 and the suspension remained in place, therefore the risk to the public was low. The Tribunal had

regard to the case of Bolton, *supra* which states that it is important to ensure protection of the public and the profession when applying sanctions. When considering all the circumstances of this case, the seriousness of the Respondent's conduct, protection of the public and the reputation of the profession, the Tribunal concluded that the only option was to strike off the Respondent from the Roll of Solicitors.

Following submissions on expenses and publicity, the Tribunal decided that the appropriate award of expenses was one in favour of the Complainers due to the costs incurred in prosecuting this matter and the guilty verdict. The Tribunal ordered that publicity should be given to the decision to include previous interlocutors and that publicity should include the name of the Respondent. However, there was no requirement to identify any other person. The Tribunal ordered that Complaint Originators would have a period of 28 days to lodge a claim for compensation.



Colin Bell

Chair