

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

**FINDINGS**

**in Complaint**

**by**

**THE COUNCIL OF THE LAW  
SOCIETY of SCOTLAND, 26  
Drumsheugh Gardens, Edinburgh**

**against**

**STEPHEN GERARD FAGAN.  
Fagans Solicitors, 115 Graham  
Street, Airdrie**

1. A Complaint was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") averring that, Stephen Gerard Fagan, Fagan Solicitors 115 Graham Street, Airdrie (hereinafter referred to as "the Respondent") was a practitioner who may have been guilty of professional misconduct
2. The Secondary Complainer is Dawn Stewart ( hereinafter referred to as the Secondary Complainer).
3. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No Answers were lodged for the Respondent.
4. In terms of its Rules the Tribunal appointed the Complaint to be heard on 7 May 2015 and notice thereof was duly served on the Respondent.
5. The hearing took place on 7 May 2015. The Complainers were represented by their Fiscal, Elaine Motion, Solicitor Advocate,

Edinburgh. The Respondent was not present but was represented by Hugh Neilson, Solicitor, Airdrie.

6. The fiscal moved to slightly amend the Complaint. There was no objection and this was agreed. A Joint Minute was lodged admitting the averments of fact, averments of duty and averments of professional misconduct in the Complaint as amended.

7. The Tribunal found the following facts established:-

7.1 The Respondent is a solicitor enrolled in the Registers of Scotland on 17 November 1988. He practised as a partner between 27 October 1997 and 2 March 2004 in the firm of MFY Partnership and then as a sole practitioner under the business name of Fagans Solicitors, 17 Stirling Street, Airdrie, ML6 0AH between 1 March 2004 and 31 August 2012. As of 1 September 2012 he became an employee (as a consultant) in the firm of Scullion Law Limited, Airdrie, ML6 6DE (Scullions); on 5 August 2013 became a consultant in the firm of EF Kelly Limited, 11B Academy Street, Coatbridge, ML5 3AW and on or around 1 November 2013 set up as a sole practitioner again under the business name of Fagans Solicitors (Fagans), 115 Graham Street, Airdrie.

7.2 Whilst at Scullions he held the position of a consultant. As the sole practitioner at Fagan's, he was the Client Relations Partner at all material times.

### **MS DAWN STEWART**

7.3 The Respondent whilst at Fagans acted on behalf of Ms Dawn Stewart (Ms Stewart) in relation to a civil litigation. Ms Stewart was in receipt of civil legal aid for that litigation. He commenced acting in or around February 2010, having taken

over agency from another solicitor. The Respondent then became the nominated solicitor on said legal aid certificate. His employee, Mrs A, worked with him on Ms Stewart's case.

- 7.4 On 15 December 2011 the Respondent withdrew from acting for Ms Stewart due to a breakdown in the solicitor/client relationship and agency was transferred to another agent on 20 February 2012. The litigation was then finalised and the issue of expenses and in particular clarification as to whether the Respondent wished to lodge a legal aid account was then required. This would then allow any issue of payments back to Ms Stewart from the Scottish Legal Aid Board ( SLAB) to be finalised.
- 7.5 A file note from SLAB dated 24 October 2012 confirmed a telephone discussion had taken place between SLAB and the Respondent to establish if an account was to be submitted by him. A settlement had been reached between the parties which meant the solicitor's account could now be submitted. The Respondent was to request the relevant file of papers from the complainer's most recent solicitor and revert to SLAB.
- 7.6 On 20 November and 4 December both 2012 SLAB sent reminders to the Respondent reminding him of his need to respond. The correspondence was addressed to the Respondent personally at the 115 Graham Street address above. No response was received.
- 7.7 On 31 January 2013 a reminder email was sent to the Respondent at his Scullion Law email address and he was asked to respond within 7 days. No response was received.
- 7.8 On 7 February 2013, as the Respondent had not responded, a further email was sent to him to advise that the matter had been

referred to SLAB's Audit and Compliance Division to investigate further. The Respondent's lack of response was causing a delay to the financial aspects of the Ms Stewart's case. No response was received.

7.9 On 12 February 2013 the Audit and Compliance Division of SLAB sent a letter to the Respondent in which he was urged to respond to SLAB's enquiries promptly and certainly within 14 days. That letter set out the obligation on a solicitor to report on such matters as SLAB may require.

7.10 The Respondent duly responded on 19 February 2013 when he stated that the Ms Stewart's file was with the Scottish Legal Complaints Commission (SLCC) and he would be able to decide whether to submit an account once the file had been returned to him. The letter required any response be sent to the Airdrie office of Scullions. In fact the file was not with the SLCC. It was with the Respondent ( see 7.23 )

7.11 By letter dated 25 February 2013, addressed to the Airdrie office, SLAB asked the Respondent to request his file from SLCC and thereafter decide if an account was to be submitted. He was given 21 days to respond. Ms Stewart's case was unable to be finalised until the Respondent had confirmed the position.

7.12 The Respondent had not responded by the time SLAB issued a chasing letter on 21 March 2013 which was sent to the Legal Post address. Again, the Respondent was advised that SLAB could not progress with Ms Stewart's account until he had confirmed the position. He was given another 10 days to respond. No response was received.

7.13 On 4 April 2013, the manager of SLAB's Compliance and Solicitor Investigations sent a letter to the Respondent at the

Airdrie office by fax and by Legal Post asking him to confirm if he had received a copy of Ms Stewart's file from SLCC and if he was in a position to confirm if he was submitting an account. No response was received.

- 7.14 On 19 April 2013, some two weeks later, the same manager sent faxed correspondence to Mr B which drew his attention to the outstanding information which had to be provided by the Respondent. Mr B was asked to ensure the Respondent's response was sent to SLAB failing which a complaint may be submitted to the SLCC. A further chasing letter was issued to the Respondent by fax and by Legal Post on the same date.
- 7.15 A file note of SLAB of 25 April 2013 confirmed a telephone discussion between the manager and Mr B in which a deadline of 29 April 2013 was set for the Respondent's response.
- 7.16 On 1 May 2013 the SLCC issued a Statutory Notice to the Respondent for delivery of Ms Stewart's files within 21 days. On 22 May 2013 the Respondent sent the files to the SLCC and these were acknowledged by letter of 29 May 2013.
- 7.17 Another file note of SLAB of 14 May 2013 detailed a telephone discussion between the manager and the Respondent in which the Respondent had said he would look to provide the necessary information.
- 7.18 On 28 May 2013, again two weeks later, the manager noted that he had called Scullion Law and left a message requesting a call back. On the following day, 29 May 2013, the manager sent a letter by fax and by post to the Respondent informing him that if an account was not submitted within 10 days, SLAB would proceed on the basis of there being no claim at that point or in the future.

- 7.19 On 4 June 2013 Mr B contacted SLAB by telephone requesting confirmation on whether the Respondent had addressed the outstanding matters. An update was duly provided to Mr B including confirmation that the Respondent had not responded.
- 7.20 A letter from the Airdrie office was sent to SLAB on same date and received on 5 June 2013, with the Respondent's reference, which advised that an account could not yet be submitted. He advised the file had again been requested from the SLCC. The Respondent felt that he would only be able to submit an account once he was in a position to stop the file "yo-yoing between us and the SLCC". In fact the SLCC at the time had only made two requests for the files (see 7.23).
- 7.21 By letter of 14 June 2013 SLAB advised the Respondent that the SLCC had indicated the file had been returned to the Respondent on 12 June 2013 and a deadline of 21 June 2013 was set for a response. None was received.
- 7.22 A file note of SLAB of 1 July 2013 confirmed telephone discussions between the manager, Mr B and the Respondent in which the manager was advised that the letter of 14 June 2013 had only just been received and that the file was being returned to the SLCC. The manager advised that a copy of the file should be taken, law accountants instructed asap and allowed another two weeks to the Respondent to respond. On 15 July a civil legal aid account was sent to SLAB by Mr B but returned on the same date as the synopsis sent with it had been incorrectly completed. It was returned to SLAB by Mr B by letter 16 July 2013.
- 7.23 On 22 July 2013 SLAB wrote separately to Mr B and the Respondent both sent registered mail. The letter to Mr B re-

enforced the 5 month delay and additional unnecessary administration across departments that it had caused. The letter to the Respondent returned his files and asked for clarification on two points arising from examination of his files which he had sent to SLAB, namely:-

- a) Why he had advised in his correspondence of 19 February 2013 that the SLCC had his files when in fact they had been returned to him on 15 January 2013 (see 7.10) and
- b) Why he had advised the files were constantly going back and forward to the SLCC when in fact only two requests had been made by the SLCC at that time (see 7.20)

7.24 On 26 July 2013, Mr B sent a letter to SLAB in which it was confirmed that the Respondent was due to respond directly to the matters raised by SLAB. He advised that the Respondent's period of consultancy with the firm was due to come to an end on 4 August 2013.

7.25 On 1 August, 23 August and 2 September all 2013 SLAB wrote to the Respondent in which he was reminded that he was to respond to the points raised in the letter of 22 July 2013. On 19 September 2013 SLAB informed the Respondent in writing that his lack of response may result in a complaint being submitted to SLCC.

7.26 On 26 September 2013 the Respondent emailed SLAB and took exception to any suggestion that he had been untruthful in correspondence he had sent to SLAB in connection with Ms Stewart's account and the whereabouts of the file. He indicated when sending the correspondence of 19 February 2013 he had

not been aware of the files having already arrived at the office on 15 January 2013. He apologised if he had been wrong about the whereabouts of the files at that time. His email footer provides confirmation that the addresses to which correspondence had been sent by SLAB in the preceding paragraph were correct.

7.27 On 30 October 2013 the Respondent sent a further email to SLAB advising that he was unsure of the enquiries which he was expected to answer. SLAB was not in a position to respond until 22 January 2014 when the correspondence confirmed that the file had been closed. It was acknowledged that the case had been a challenging matter to resolve.

7.28 Ms Stewart's position throughout has been the Respondent's conduct caused her stress and sleepless nights. Due to awaiting payment from SLAB, she had had to delay making payments to creditors which led to added charges and penalties. As a result, Ms Stewart felt that her and her son had been left unprotected and she had lost faith in the legal system.

7.29 That whilst employed by Scullions the Respondent :

- a) had been based in Scullion's Airdrie office alongside a receptionist and a part-time employee. Mail addressed to him had been passed directly to him to be dealt with. In addition, any other mail was dealt with by the Respondent before being passed to Scullion's secretary;
- b) handled his files he had brought across as well as the storage of the closed files.

8. Having heard submissions from both parties the Tribunal found the Respondent guilty of Professional Misconduct in respect of:



- 8.1 His unreasonable delay and/or failure to respond to the reasonable requests and enquiries of the Scottish Legal Aid Board, written and verbal between October 2012 and September 2013.
9. The Tribunal also considered that the Secondary Complainer had been directly affected by the Respondent's misconduct and awarded compensation of £250.
10. Having noted a previous Finding of professional misconduct against the Respondent and having heard submissions from parties in respect of sanction, Tribunal pronounced Interlocutors in the following terms:-

Edinburgh 7 May 2015. The Tribunal having considered the amended Complaint at the instance of the Council of the Law Society of Scotland against Stephen Gerard Fagan, Fagan Solicitors, 115 Graham Street, Airdrie; Find the Respondent guilty of professional misconduct in respect of his unreasonable delay and/or failure to respond to the reasonable requests and enquiries of the Scottish Legal Aid Board both written and verbal; Censure the Respondent and Direct in terms of section 53(5) of the Solicitors (Scotland) Act 1980 that for a period of 3 years with effect from 1 October 2015 any practising certificate held or issued to the Respondent shall be subject to such restriction as will limit him to acting as a qualified assistant to such employer as may be approved by the Practising Certificate Sub Committee of the Council of the Law Society of Scotland; Find the Respondent liable in the expenses of the Complainers and of the Tribunal including expenses of the Clerk, chargeable on a time and line basis as the same may be taxed by the Auditor of the Court of Session on an agent and client, client paying basis in terms of Chapter Three of the last published Law Society's Table of Fees for general business with a unit rate of £14.00; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent and may but has no need to include the names of anyone other than the Respondent.

(signed)

**Dorothy Boyd**  
**Vice Chairman**

Edinburgh 7 May 2015. The Tribunal having considered the amended Complaint at the instance of the Council of the Law Society of Scotland against Stephen Gerard Fagan, Fagan Solicitors, 115 Graham Street, Airdrie having determined that the Respondent was guilty of professional misconduct; considered that the Secondary Complainer had been directly affected by the Respondent's misconduct; Ordain the Respondent in terms of Section 53(2)(bb) of the Solicitors (Scotland) Act 1980 to pay to Dawn Stewart, the sum of £250 by way of compensation in respect of inconvenience and stress resulting from the misconduct within 28 days of the date on which this interlocutor becomes final with interest at the rate of 8% per annum from the due date until paid.

(signed)

**Dorothy Boyd**  
**Vice Chairman**

11. 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

**IN THE NAME OF THE TRIBUNAL**

**Dorothy Boyd**  
**Vice Chairman**

**NOTE**

The Respondent had not lodged Answers to the Complaint. On the morning of the Tribunal a medical certificate was produced indicating that the Respondent was not fit to attend. There was no request for an adjournment. The Fiscal asked the Tribunal to allow slight amendments to be made to the Complaint. Mr Neilson on behalf of the Respondent indicated that he had no objection. Thereafter a Joint Minute was lodged admitting the averments of fact, averments of duty and averments of professional misconduct in the amended Complaint. Ms Motion confirmed that the Secondary Complainer did not intend to come to the Tribunal as she could not afford to travel up from Devon.

**SUBMISSIONS FOR THE COMPLAINERS**

Ms Motion submitted that the Respondent's unreasonable delay had been unnecessary and it had caused difficulties for the Scottish Legal Aid Board which is a publicly funded organisation. The delays went on between October 2012 and September / October 2013 and were only resolved when Mr B became involved. Ms Motion pointed out that there were 23 separate communications sent, the last one being in September 2013. It was only after the threat to report matters to the Scottish Legal Complaints Commission was made that the Respondent dealt with matters. Ms Motion pointed out that the Respondent's response was not apologetic and did not acknowledge the impact of his actions on the Scottish Legal Aid Board or the Secondary Complainer. The Respondent was on the defensive. Ms Motion pointed out that the Respondent had indicated that matters were yo-yoing between him and the Scottish Legal Complaints Commission whereas the file had only gone to the Commission on two occasions. When the file was first requested the Respondent did have it, it was not with the SLCC although the Respondent may not have known this. Ms Motion stated that the Respondent was a salaried consultant with Scullions.

Ms Motion pointed out that the Respondent's lack of response meant that matters had to be referred to the Scottish Legal Aid Board's Audit and Compliance Division. The Legal Aid Board also required to send a notification to the Respondent that he was obliged to report to them. The Respondent's delay meant that the Secondary

Complainer's case was not capable of being finalised. The final fee was less than £1000 but the time and effort to elicit this was extraordinary. Ms Motion pointed out that the matter also had to go to the Solicitor Investigatory Team of the Scottish Legal Aid Board which was very unusual. The SLCC had to send a statutory notice for the delivery of files. Ms Motion submitted that the Respondent's delay had caused the Secondary Complainer stress and sleepless nights as is set out in her letter. Ms Motion submitted that the Respondent's conduct was serious and reprehensible enough to amount to professional misconduct.

### **SUBMISSIONS FOR THE RESPONDENT**

Mr Neilson stated that the Respondent accepted that he was guilty of professional misconduct. It was not however accepted that B had a significant input into resolving matters. Mr Neilson submitted that the misconduct was not as bad as it seemed. The enquiry started with a phone call in October 2012. There was thereafter a letter of 20 November addressed to Scullion's Airdrie office. Mr Neilson submitted that the Respondent was unaware of the letter of 20 November and explained that a non solicitor member of Scullions opened the mail and handed it to the solicitor responsible, however the letter of 20 November and also the letter of 4 December were not put in the file. The email of 31 January 2013 was received by the Respondent. There were then reminder letters sent on 7 February and 12 February but the Respondent replied on 19 February to the 31 January email and Mr Neilson submitted that this could be taken as a response to all three of these letters. Mr Neilson explained that the Respondent read one of the letters as suggesting that he was being untruthful. Mr Neilson stated that it turned out that the file was not with the SLCC but at the time the Respondent thought it was. Mr Neilson submitted that there had never been any suggestion by Mr B that he was being pressed to urge the Respondent to respond more quickly. Mr Neilson submitted that the Respondent had made the wrong judgement call. When the SLCC issued a statutory notice in May 2013 he thought the file had already been with them but he sent the file on 22 May. The Respondent was between a rock and a hard place because he was required to deliver files to the SLCC and he did so. He might however have been wiser to submit the file with the account to the Scottish Legal Aid Board.

Mr Neilson explained that the Respondent never met the Secondary Complainer. Her case was dealt with by his assistant a Mrs A. The Respondent had withdrawn from acting because there was a breakdown in the solicitor/client relationship. Mr Neilson submitted that the Respondent had made a poor judgement call in responding to the SLCC in May rather than submitting his account to the Scottish Legal Aid Board. He however had to respond to the SLCC as this was a statutory requirement. Due to the problems with the systems at Scullions, the Respondent did not realise that he was being pressed as much as he had been by SLAB.

In response to a question from the Chairman, Mr Neilson confirmed that the file had come from the Respondent's previous sole practice. Mr Neilson further confirmed that it was the Respondent's file and the file was finished apart from the account being done. Mr Neilson stated that any files that were not completely finished became part of Scullion's system. Mr Neilson however accepted that there was nothing for the Respondent to do with the file other than fee it and that the Respondent would be entitled to the fee. Mr Neilson stated that the Respondent accepted that he was aware in October 2012 that the Scottish Legal Aid Board wanted him to fee the file.

Mr Neilson advised that there had been a service complaint made by the Secondary Complainer to the SLCC about the Respondent's assistant, Mrs A. The SLCC had only upheld the complaint in connection with Mrs A not telling the Secondary Complainer that another representative was to appear at the hearing. Compensation of £800 had been awarded by the SLCC and the Respondent had made payment of this. Mr Neilson stated that the Respondent regretted any inconvenience and upset caused to the Secondary Complainer or the Scottish Legal Aid Board.

#### **FURTHER SUBMISSIONS BY THE COMPLAINERS**

Ms Motion pointed out that paragraph 3.29 of the Complaint to which the Respondent had pled guilty to stated that mail addressed to the Respondent had been passed directly to him to be dealt with. Ms Motion also pointed out paragraph 3.22 of the Complaint where the manager of SLAB suggested that the file be copied.

## **DECISION**

Given the terms of the Joint Minute and the fact that the file relating to this case came from the Respondent's previous practice and was a finished file, apart from being fee'd, the Tribunal did not accept that Scullion's systems in any way contributed to the Respondent's inability to deal with the matter. All the Respondent had to do was send the Scottish Legal Aid Board the fee for the file. He received a phone call in October 2012 which would have reminded him about this. Whether or not he received the letters of November and December 2012 there was then an email in January 2013. The Respondent must have been aware that he had to do something and he did not. The Tribunal consider that this shows that the Respondent was sloppy and disorganised. His conduct had consequences and put a lot of people to a lot of trouble. The Scottish Legal Aid Board is a publicly funded body and was frustrated in its efficient operation by the Respondent's delay. The Scottish Legal Aid Board was also inconvenienced and put to a lot of time and trouble over the issue. The Respondent's delay also had an effect on the Secondary complainer and caused her further stress and inconvenience. In the circumstances the Tribunal considered that the Respondent's conduct was sufficiently serious and reprehensible to amount to professional misconduct.

## **SUBMISSIONS FROM THE COMPLAINERS IN RESPECT OF PENALTY**

The Tribunal enquired of Ms Motion whether or not any of the Complainer's productions (which had not been lodged with the Tribunal) were relevant in respect of the Secondary Complainer's claim for compensation. Ms Motion read from Production 42, being an email from the Secondary Complainer, indicating that she had been caused no end of stress by the delays and that it had caused her debt problems and had resulted in her having to sell her home. The Secondary Complainer felt abused by the legal system and had lost faith in the justice system. Mr Neilson indicated that the Respondent accepted that the Secondary Complainer had suffered stress caused by the respondent's delay and was deserving of some compensation but submitted that the Tribunal could not conclude as a fact that she had had to sell her house as a direct consequence of the Respondent's professional misconduct. In connection with the fee of £4500 referred to by the Secondary Complainer in her

letter to the Tribunal, Mr Neilson and Ms Motion both assume that this was in respect of an expert report obtained for the court. The Tribunal was advised that the Secondary Complainer would not have had to pay this direct but it might have been the case that this sum was deducted from any award that she was awarded by the court.

Ms Motion stated that the Respondent had not shown any signs of remorse nor issued a proper apology. She referred the Tribunal to the previous Findings of professional misconduct made against the Respondent by the Tribunal in May 2014. She submitted that these Findings were analogous. The Respondent had previously been Censured and fined £5000. The fine has still not been paid. In respect of the expenses of the previous Findings, the Law Society required to go to the extent of obtaining a decree for the expenses and serving a charge before the Respondent came up with proposals to settle the expenses. The Respondent had now set up a direct debit to pay £200 per month and £600 had been paid. Ms Motion submitted that in this case there had been no early plea of guilty and the Respondent had ignored a public body and this body had incurred costs as a result of this. The Respondent had not provided evidence of any corrective steps taken. Ms Motion pointed out that the Respondent was a sole practitioner and had no supervision. No testimonials had been lodged. Ms Motion stated that the Respondent's conduct had had a direct impact on a member of the public. She submitted that it was a clear course of deliberate conduct.

#### **SUBMISSIONS IN MITIGATION FOR THE RESPONDENT**

Mr Neilson stated that he provided the Respondent with assistance as a self-employed consultant and was a resource for the Respondent to use. Mr Neilson emphasised that there were no ongoing complaints against the Respondent and pointed out that there was an overlap in time between the case being considered by the Tribunal today and the previous Findings of misconduct. It was not a case of the Respondent having been found guilty of professional misconduct in May 2014 and then going on to continue the same kind of conduct. Mr Neilson explained the Respondent's personal circumstances. He confirmed that the Respondent had made the payment of £800 to the Secondary Complainer as awarded by the SLCC. The Respondent had previously been in practice for 25 years with no problem. Mr Neilson pointed out that the



Respondent had been a reporter for the Law Society and had also been appointed by the Law Society to help wind up another firm. This showed that the Law Society held him in sufficient regard. Mr Neilson stated that although no testimonials had been lodged in respect of this case, a number had been lodged when the matter was considered by the Tribunal in May 2014 and Mr Neilson referred the Tribunal to page 23 of the previous Findings. Mr Neilson submitted that the Respondent was not a danger to the profession. In response to a question from the Chairman with regard to the Respondent's non-attendance, Mr Neilson stated that the Respondent was ill and had been off work since last Tuesday, suffering from depression, stress and exhaustion. Mr Neilson advised that he dealt with the Respondent's work while he was off. Mr Neilson also explained that other solicitors in the area were willing to help out the Respondent when required.

Mr Neilson stated that the Respondent's income was not great, which was why he was paying back the expenses at a modest amount each month. In response to a question from the Chairman as to why the Law Society had to go to the extent of serving a charge before the Respondent started to make payment of expenses, Mr Neilson explained that the Respondent had other debts and was having to get his finances sorted out. Mr Neilson stated that the Respondent now prepared his accounts on time and had managed to get his business off the ground again. After he had paid all his debts he had approximately £2000 per month left.

Ms Motion asked for an award of expenses in the usual manner. Mr Neilson did not oppose this. There were no submissions with regard to publicity.

## **PENALTY**

The Tribunal was very concerned by the fact that the Respondent had previous Findings which were analogous. The conduct which took place in the previous Findings occurred between 2010 and July 2013. The conduct in this case occurred between October 2012 and September 2013. The Tribunal on the last occasion had concerns that the Respondent had not taken corrective steps to prevent re-occurrence and had provided little practical evidence of any remorse or insight into the misconduct. The Tribunal considered that this is still the case. The Respondent only

entered into a plea of guilty on the morning of the Tribunal and despite his conduct being detrimental to the Scottish Legal Aid Board and a client, the Respondent did not show real remorse. The plea in mitigation made on his behalf by his representative suggested to the Tribunal that the Respondent still did not really recognise that he had done anything particularly wrong. The Tribunal also noted that the Law Society had to obtain decree and a charge before the Respondent entered into arrangements to pay the expenses from the last Tribunal hearing and note that the Respondent has still not paid the fine imposed by the Tribunal on the last occasion. This suggests an ongoing lack of insight into the importance of cooperating with public and regulatory bodies.

It appears that the Respondent is continuing as a sole practitioner with a heavy workload, debt problems, difficulties with depression and without having shown insight or having taken corrective steps to prevent a reoccurrence of past failures. In these circumstances the Tribunal have real concerns that the public would be at risk if the Respondent continued to operate as a sole practitioner. The Tribunal consider that the Respondent is in need of support from other professionals within a firm and further consider that it would be in the Respondent's own interests to work under supervision rather than to try and continue on his own when he is clearly not coping. In the circumstances the Tribunal imposed a Censure plus a Restriction on the Respondent's practising certificate for a period of 3 years. A start date of 1 October 2015 was set to allow the Respondent time to make arrangements with regard to his sole practice.

The Tribunal also considered the Secondary Complainer's request for compensation. The Secondary Complainer did not attend the Tribunal, nor did she lodge any documentary evidence in support of her claim. There was accordingly no satisfactory evidence before the Tribunal to substantiate awarding compensation against the Respondent in respect of the costs of the court report or other debts which the Secondary Complainer claims to have incurred. There is no direct link between the Respondent's failure to respond to the Legal Aid Board and these sums asked for by the Secondary Complainer. The Tribunal however do appreciate that the delay by the Respondent in sending his account to the Legal Aid Board will have exacerbated the Secondary Complainer's stress and concern about her court case. The Tribunal considered that a sum of £250 could be awarded despite the lack of any substantive

evidence in connection with her stress and sleepless nights etc. The Tribunal made the usual order with regard to publicity and expenses.

**Dorothy Boyd**  
**Vice Chairman**