

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

DECISION

**in Appeal under Section 42ZA (10) of the Solicitors
(Scotland) Act 1980 as amended**

by

**ANDREW STEPHEN MEDLEY, 140 Appin Crescent,
Dunfermline**

Appellant

against

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

First Respondent

and

**LINDSEY M FETTES, Wilsone & Duffus Solicitors, 7
Golden Square, Aberdeen**

Second Respondent

1. An Appeal was lodged with the Scottish Solicitors' Discipline Tribunal under the provisions of Section 42ZA(10) of the Solicitors (Scotland) Act 1980 by Andrew Stephen Medley, 140 Appin Crescent, Dunfermline (hereinafter referred to as "the Appellant") against the Determination made by the Council of the Law Society, Atria One, 144 Morrison Street, Edinburgh (hereinafter referred to as "the First Respondent") dated 29 August 2024 not to uphold, or award compensation in respect of, a complaint of unsatisfactory professional conduct in respect of a complaint against Lindsey M Fettes, Wilsone & Duffus Solicitors, 7 Golden Square, Aberdeen (hereinafter referred to as "the Second Respondent").
2. In accordance with the Rules of the Tribunal, the Appeal was formally intimated on the First Respondent and Second Respondents. Answers were lodged for the First Respondent. The Second Respondent did not lodge Answers or enter the process.
3. In terms of its Rules, having considered the Appeal and Answers, the Tribunal set the matter down for a virtual procedural hearing on 20 January 2025.

4. At the virtual procedural hearing on 20 January 2025, the Appellant was present and represented himself. The First Respondents were represented by their Fiscal, Gavin Whyte, Solicitor, Edinburgh. The Second Respondent had not entered the process and was neither present nor represented. The Tribunal identified some factual issues requiring resolution and it was anticipated that these could be addressed in a Joint Minute. The Tribunal fixed a further virtual procedural hearing for 11 February 2025. Both parties were directed to lodge a List of Productions within 14 days together with any Joint Minute which could be agreed.
5. A Joint Minute was lodged by parties in advance of the continued virtual procedural hearing on 11 February 2025.
6. At the continued virtual procedural hearing on 11 February 2025 the Appellant was present and represented himself. The First Respondents were represented by their Fiscal, Gavin Whyte, Solicitor, Edinburgh. The Second Respondent had not entered the process. After full consideration the Tribunal granted a joint motion to fix a substantive hearing for 19 May 2025. Given the number of documents to be referred to as described by the parties and the fact that parole evidence would be led, the Tribunal concluded that an in-person hearing was appropriate to ensure a fair hearing to all parties. Parties were directed to lodge Lists of Witnesses and all productions no later than 14 days before the Hearing.
7. At the in-person hearing on 19 May 2025, the Appellant was present and represented himself. The First Respondent was represented by their Fiscal, Gavin Whyte, Solicitor, Edinburgh. The Second Respondent had not entered the process and was not present or represented. The Appellant called one witness and, thereafter, made submissions. The Fiscal made submissions on behalf of the First Respondent.
8. Having considered the parole evidence and submissions made by the Appellant and First Respondent, together with the documents before it, the Tribunal upheld the Appeal and quashed the Decision of the Professional Conduct Sub-Committee ("PCSC") to take no further action and upheld the complaint of unsatisfactory professional conduct.
9. The Tribunal accordingly pronounced an Interlocutor in the following terms:-

Edinburgh, 19 May 2025. The Tribunal in respect of the Appeal under Section 42ZA(10) of the Solicitors (Scotland) Act 1980 by Andrew Stephen Medley, 140 Appin Crescent, Dunfermline ("the Appellant") against the Decision of the Council of the Law Society of

Scotland, Atria One, 144 Morrison Street, Edinburgh (“the First Respondent”) dated 29 August 2024 to take no further action against Lindsey M Fettes, Wilsone & Duffus Solicitors, 7 Golden Square, Aberdeen (“the Second Respondent”); Allows the Appeal, quashes the Decision and upholds a complaint of unsatisfactory professional conduct against the Second Respondent; Awards compensation in the sum of £750; Finds the First Respondent liable in the expenses of the Appellant 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; Directs that publicity will be given to this decision.

(signed)

Kenneth Paterson

Vice Chair

10. A copy of the foregoing together with a copy of the Findings certified by the Clerk to the Tribunal as correct were duly sent to the Appellant and Second Respondent by recorded delivery service on 7 AUGUST 2025.

IN THE NAME OF THE TRIBUNAL



Kenneth Paterson
Vice Chair

NOTE

At the in-person hearing on 19 May 2025, the Tribunal had before it the Appeal together with Two Appendices attached thereto, Answers for the First Respondent, Joint Bundle of Productions, Joint List of Witnesses and Joint Minute.

The Joint Minute recorded agreement of the parties that:-

1. The productions lodged in the Joint Bundle of Productions were accurate in terms of the date correspondence was sent; and
2. The Reporter and PCSC applied the correct tests in relation to findings of unsatisfactory professional conduct and professional misconduct referred to in the recommendation and sub-committee respectively.

Background and Preamble

The background to the original complaint in respect of the Second Respondent was set out in a timeline annexed to the Appeal. The Appellant was representing himself and the Tribunal allowed him to set out a preamble to explain the circumstances leading to his original complaint in respect of the Second Respondent.

In short, the Appellant was a beneficiary of a Trust Fund set up by his late father, John Medley (JM), who died in 2011. The Appellant had three brothers. Their Father had nominated his wife Patricia Medley (PM) and elder brother Peter Medley (PJM) as trustees. PJM died in 2017 and the Appellant stated that the Second Respondent should have relinquished the Trust Fund in favour of the remaining trustee, PM, at that point. However, that was not done. PM died in January 2021 and the Appellant then became involved.

The Appellant initially became concerned that the Second Respondent had “grossly undervalued” the share value of assets held in trust. He asked the Second Respondent to explain that but did not receive a response. Thereafter the Appellant instructed another solicitor (Jillian Barnes (JB) of Stevenson Marshall) to seek confirmation of value of the assets from the Respondent and also for payment to the beneficiaries. The Appellant explained that a solicitors’ firm in England, Gardner Thorpe, had been appointed as executors for PM. They had also described difficulties in obtaining responses from the Second Respondent.

Complaint and Appeal

The Appellant had made two complaints to the Scottish Legal Complaints Commission (“SLCC”) in relation to the Second Respondent. The first complaint was lodged with the SLCC on or around 16 March 2022. The

Appellant described the outcome of the first complaint for completeness although it was not relevant to this case.

This Appeal related to the second complaint dated 28 May 2023 which followed a lack of response from the Second Respondent in relation to correspondence from JB on behalf of the Appellant, namely:-

“Ms Lindsey Fettes and/or the firm of Wilsone & Duffus failed to communicate effectively with [the Appellant] and/or [his] agents (Stevenson Marshall) in that they failed to acknowledge and/or respond to the requests for information in correspondence from [his] agents by letter dated 3 March 2023 and emails sent on 28 March and 2 May 2023.”

The Appellant explained that this second complaint was “put on hold” by the SLCC to allow further time for a response. The SLCC proceeded with the complaint on or around 17 August 2023 when no response from the Second Respondent was forthcoming. Therefore, his position was that the Second Respondent had, in fact, a period of five and a half months to respond to JB.

The Reporter’s Recommendation to the PCSC dated 30 May 2024 was that a finding of unsatisfactory professional conduct in relation to the Second Respondent be made, together with a censure, fine of £500 and award of compensation of £500. However, the PCSC decision dated 29 August 2024 (intimated to the Appellant under cover of letter dated 30 September 2024) determined to take no action in respect of the Appellant’s complaint; specifically not to uphold a complaint of professional misconduct or unsatisfactory professional conduct against the Second Respondent. The PCSC decision referred to a period of two months during which the Second Respondent failed to respond to JB. The Appellant disagreed with that time period. The Appellant appealed against the decision of the PCSC on the basis that it had made a finding for which there was no evidence or which was contradictory of the evidence.

EVIDENCE FOR THE APPELLANT

Witness: David Simpson

Evidence-in-Chief

The witness gave evidence on oath. He stated that he was a Scottish solicitor and had worked for the First Respondent for seven and a half years. His job as a Reporter involved dealing with complaints which were then referred to the PCSC for determination.

The Appellant referred to Production 1 in the Joint Bundle of Productions, namely the Reporter's Recommendation to the PCSC dated 30 May 2024 to uphold a complaint of unsatisfactory professional conduct in terms of Section 46(1) of the Legal Profession and Legal Aid (Scotland) Act 2007. Specific reference was made to paragraph 4.3 of the recommendation report which summarised an email exchange between the Second Respondent and Steven Thorpe (ST) of Gardner Thorpe solicitors in England on 12 August 2022. In particular, at the second bullet point, it stated:-

"ST stated as PJM's executor it fell upon the solicitor [the Second Respondent] to distribute the trust funds and as such the firm's client account details were required so the monies could be transferred."

The witness was asked where that email originated from. He replied that he could only answer based on the information before him and commented that it was a series of emails between the Second Respondent and ST stating that it was the Second Respondent's responsibility to distribute the funds from the estate.

The Appellant referred to Production 7 in the Joint Bundle of Productions. This was an email from ST to the Appellant dated 25 January 2023 which stated:-

"Dear Andrew [the Appellant],

Thank-you for your email of 10 January.

I have no record of a telephone call on 12 August 2022 and do not recall one. I do however have a record of a call in from Ms Fettes [the Second Respondent] on 11 August and there was then an exchange of emails on the 12th and then finally an email from me to her on 11 October – see below. I have not had a response to that email. I am emailing again today to request their client account details and if I receive no response I will be sending a cheque to her firm to enable her to wind up the trust and distribute the funds.

Regards,

Steven Thorpe"

The witness confirmed that he accepted the summary of that email in his report. When asked if he had sight of the emails when preparing his report, the witness could not confirm either way. He said that he 'suspected' that, if the information was there, he would have included it in the report.

The Appellant acknowledged that the report was compiled some time ago and that it may be difficult for the witness to recall the information before him at the time. However, he referred again to the summary of emails in paragraph 4.3 of the report and asked the witness if he could recall those. The Appellant explained to the Tribunal that he was trying to elicit that the witness had sight of the emails when he was preparing his report.

The Chair of the Tribunal said that the witness had already answered this question. The witness repeated that he did not recall the emails.

The witness was asked how he reached a conclusion in relation to the conduct of the Second Respondent. He replied that the issue in this particular complaint was that there was a failure of the Second Respondent to acknowledge correspondence from a fellow solicitor, namely JB of Stevenson Marshall. JB had been instructed by the Appellant and had sent out initial correspondence to the Second Respondent on 2 March 2023 regarding the executry of PJM and the provisions of same. That correspondence noted there had been a delay and expressed a hope that this would not be repeated going forward. JB then sent a chaser email to the Second Respondent on 28 March 2023 followed by a further formal reminder on 3 May 2023 stating that, if information was not provided by a specific date, a complaint would be submitted to the Scottish Legal Complaints Commission ("SLCC"). No response was received from the Second Respondent and a complaint was duly sent to the SLCC who investigated. Based on the information before him at the time, the witness said he formed a personal opinion that the conduct of the Second Respondent resulted in an unnecessary delay which "fell into the realms of unsatisfactory professional conduct". He considered that, given the time frame of two months' delay, and a previous reference to delay, the conduct was at the lower end of the scale. Based on the whole circumstances presented to him, the witness recommended a finding of unsatisfactory professional conduct.

A member of the Tribunal asked the witness what he meant by "previous reference to delay". He explained that there had been a previous complaint in relation to the Second Respondent and described that as a "stand alone event".

The Appellant noted that, in response to his SLCC complaint, the Second Respondent said she had been waiting for a response to her email to ST of 12 August 2022 and gave that as an explanation for her failure to respond to correspondence from JB. The witness was asked if that had influenced his decision in any way.

The witness said that it did not. He referred to page 5 of his Report (Production 1) which noted a number of mitigating factors advanced by the Second Respondent. The witness said he looked at the whole circumstances and considered that the Second Respondent's conduct amounted to unsatisfactory professional conduct, albeit at the lower end of the scale.

Cross-examination

The Fiscal asked the witness if he could recall the emails before him at the time he compiled his report. He said he could not.

When asked, the witness confirmed that he was aware of the matter referred to him by the SLCC in relation to the Second Respondent's alleged failure to acknowledge and respond to correspondence. The witness also confirmed that he was not aware of any previous complaints or statutory notices in that regard.

The witness was asked about the scope of his remit; in particular whether he was able to move beyond boundaries set for a reporter. The witness said he could not.

There was no re-examination of the witness.

Tribunal Questions

A member of the Tribunal referred to an observation of the PCSC contained in its decision, namely whether JB could have telephoned the Second Respondent to elicit a response to her correspondence. The witness was asked whether he had considered this in his report. He replied that he had not. When asked if that would have been relevant, the witness replied that he would have considered further communication between the parties if it had occurred. Another member of the Tribunal confirmed with the witness that he was referring to JB in this context and not ST. The witness confirmed that to be the case.

Evidence from this witness was concluded. Parties confirmed that there were no other witnesses.

SUBMISSIONS FOR THE APPELLANT

With reference to the case of Hood, Petitioner [2017] CSIH 21, the Appellant submitted that the PCSC made a finding for which there was no evidence or which was contradictory of the evidence.

The Appellant's position was that the Reporter, David Simpson, must have had sight of the emails between the Second Respondent and ST as detailed at paragraph 4.3 of Production 1 when preparing his report as it would be difficult to summarise them without that information. The Appellant added that, if the Reporter had that evidence, presumably the PCSC also had sight of it. This information showed that there was a delay of more than the two-month period referred to in the PCSC decision (Production 2 in the Joint Bundle of Productions).

The Appellant noted that the PCSC made reference to "undue delay" in its decision, "*namely delay which was excessive, unreasonable and without just cause in all the circumstances*". Observing that there was no definition of what is acceptable in terms of a delay in response to correspondence, the Appellant argued that what may be deemed acceptable by one person, may be unacceptable to another. However, he stated that there

were certain standards of behaviour which people in general should expect; for example, one may send an email and allow a week for a response, thereafter chasing a response after two weeks. He suggested that a lack of response within one month is likely to be a problem.

The Appellant said that, in fact, a period of five and a half months had passed before there was any response from the Second Respondent. Communication from her came in response to the Appellant's complaint which was lodged with the SLCC and not progressed by them until 28 May 2023. There was never a response to the correspondence from JB on behalf of the Appellant. The Appellant submitted that this was a serious failure of the Second Respondent to engage which occurred over a lengthy period of time. The decision to put the complaint on hold was made by the SLCC but afforded the Second Respondent a further period of time within which to reply to JB.

The Appellant noted the circumstances cited by the Second Respondent when she responded to the complaint. He accepted that, when running a legal practice, issues may arise which could cause delay. However, he submitted that there were appropriate and professional ways of dealing with such issues. The Appellant gave the example of the updates he had received from the Reporter when investigating the complaint and noted that was in stark contrast to the lack of communication from the Second Respondent. He added that the Second Respondent provided no explanation for the delay in response; she did not explain any staffing issues or difficulties corresponding with ST. The Appellant did not receive an "out of office" message from the Second Respondent when she was absent from work. The Appellant argued that the conduct of the Second Respondent was not a reasonable manner in which to deal with legitimate enquiries. He suggested that an acknowledgement from the Second Respondent would have been appropriate, together with information on her anticipated timescale. He added that the circumstances *per se* were not of concern to him, rather it was the manner in which the Second Respondent failed to deal with matters which was the subject of his complaint.

In the Appellant's view, a solicitor should deal with correspondence in a reasonable, acceptable and professional way and the Second Respondent did not do so.

The Appellant said that the decision of the PCSC effectively meant that it deemed the conduct of the Second Respondent to be satisfactory and added that this would mean that she had acted reasonably, professionally and in an acceptable manner. He pointed out that, when responding to the SLCC complaint, the Second Respondent had not provided any evidence of the reasons which she eventually gave for her lack of response.

The Appellant asked the Tribunal to uphold the Appeal.

SUBMISSIONS FOR THE FIRST RESPONDENT

The Fiscal stated that the facts of this case were not in dispute. For completeness, he highlighted that the Reporter had also recommended a censure in his report dated 30 May 2024.

Pointing out that the subject of this Appeal was a narrowly focused matter, the Fiscal asked the Tribunal to disregard any other matters in relation to the Second Respondent. The Appellant's complaint was very specific and alleged a failure of the Second Respondent to acknowledge or respond to correspondence from his agents. There was no mention of delay in the complaint although the Fiscal noted that the PCSC did refer to delay.

The Fiscal submitted that Hood, Petitioner makes it clear that a court or Tribunal should be slow to interfere with decisions made at first instance. He added that the PCSC took account of all the information before it in reaching their decision and made no further submissions.

Tribunal Questions

After submissions, there were some follow up questions from Tribunal members.

A member of the Tribunal asked a question about the PCSC decision. He said that his reading of it disclosed that the PCSC did not found on the solicitor's personal circumstances either way, however, those were cited by the First Respondent in response to this appeal. The member said he was interested in the extent to which a solicitor's personal circumstances were relevant to a finding of unsatisfactory professional conduct or whether that would more likely be considered in mitigation.

The Fiscal said that personal circumstances would be looked at in terms of mitigation. The PCSC had a debate and considered the information before it. The decision was the majority view. The member clarified that he was in no doubt that the information was before the PCSC but, on reading the decision, it appears that the solicitor's personal circumstances were not part of the rationale for the decision. He observed that those appear to have been mitigatory factors. The Appellant's position was that the personal circumstances of the Second Respondent (namely staffing issues and periods of sickness) did affect the PCSC decision.

Another member of the Tribunal referred to the third page of the PCSC decision (Production 2) which appeared to contain the rationale for their decision. The PCSC disagreed with the Reporter's view and considered that the Second Respondent had been waiting for a response from ST. The member asked the Appellant if it was his position that this view was contradictory to the evidence before it. The Appellant confirmed that was his position.

A Tribunal member asked for parties' views on whether or not JB could have phoned the Second Respondent to elicit a response. In particular, they were asked if they considered that to be relevant to the PCSC decision.

The Appellant said that JB had provided the Second Respondent with a contact telephone number. He was unsure if JB tried to make contact by telephone but submitted that, regardless, a written response to JB's correspondence would be required. On further enquiry, the Appellant said his position was that the PCSC took account of something which they should not have considered (i.e. whether or not there was an attempt to make contact by telephone). He confirmed that his position was that JB's enquiry was in writing, therefore a written response from the Second Respondent was required. Even if there had been a telephone conversation, the Appellant submitted that this should have been followed up in writing. He added that the Second Respondent did not require ST's authority to wind up the trust funds.

The Fiscal conceded that it was "unfortunate" that the report referred to JB making telephone contact with the Second Respondent. However, he stated that the precise circumstances behind that comment were unknown and it was a matter of degree.

There were no more questions from the Tribunal and submissions were concluded.

DECISION

The question for the Tribunal was whether or not, in arriving at its decision dated 29 August 2024, the PCSC took account of irrelevant information and made a finding for which there was no evidence or which was contradictory of the evidence before it.

The definition of unsatisfactory professional conduct is set out in Section 46(1) of the Legal Profession and Legal Aid (Scotland) Act 2007, namely:-

"Conduct by a solicitor which is not of the standard which could reasonably be expected of a competent and reputable solicitor but which does not amount to professional misconduct and which does not comprise merely inadequate professional services."

The Tribunal focused on the wording of the Appellant's complaint dated 28 May 2023, namely:-

"Ms Lindsey Fettes and/or the firm of Wilsone & Duffus failed to communicate effectively with [the Appellant] and/or [his] agents (Stevenson Marshall) in that they failed to acknowledge and/or respond to the requests

for information in correspondence from [his] agents by letter dated 3 March 2023 and emails sent on 28 March and 2 May 2023.”

In short, the allegation against the Second Respondent was that she had failed to communicate effectively with others in contravention of Rule B1.9.1 of the Law Society of Scotland Practice Rules 2011 which states:-

“You [the solicitor] must communicate effectively with your clients and others. This includes providing clients with any relevant information which you have and which is necessary to allow informed decisions to be made by clients. It also includes accounting to clients for funds passing through your hands. Information must be clear and comprehensive and, where necessary or appropriate, confirmed in writing.”

In addition, the Tribunal had regard to Law, Practice and Conduct for Solicitors, 2nd edition, Paterson & Ritchie, at paragraph 12.13 which is clear that, whilst there is no legal obligation to account to beneficiaries, solicitors still owe “professional duties” to beneficiaries and their legal representatives.

The Appellant had provided information to cast doubt on the decision made by the PCSC to take no action in respect of the Second Respondent. In particular, he had illustrated that there was a further failure of the Second Respondent to reply to JB’s correspondence from the date on which he lodged a complaint with the SLCC on 28 May 2023 and the date on which the SLCC progressed that matter on or around 18 August 2023. Therefore, the PCSC’s reference to a period of two months with no response was not accurate; the Appellant had shown that it was, in fact, a period of five and a half months.

The Tribunal noted paragraph 5.7 of the Reporter’s recommendation (Production 1) dated 30 May 2024 which concluded that *“the evidence showed that the solicitor failed to address matter timeously both in respect of the matters giving rise to the complaint and the requirement of having to bring matters before the profession’s regulators.”*

In making his recommendation, it was clear to the Tribunal that the Reporter had taken account of the explanations provided by the Second Respondent in mitigation, including insight into the difficulties caused by her failure to respond. The Tribunal had made enquiries of the Fiscal in relation the applicable weight of such factors and was advised that they would be mitigatory.

However, in explaining the reasons for their decision to take no further action in respect of the Second Respondent, the PCSC considered that there had been no response for a period of two months only. It also considered it relevant that she was waiting for a response from Gardner Thorpe. The Appellant had produced

evidence of correspondence indicating that was not the case and, therefore the PCSC took account of an irrelevant factor.

It was also clear to the Tribunal that the PCSC implied that JB could have taken extra steps to elicit a response by attempting to contact the Second Respondent by telephone. Although it was unclear what weight the PCSC had applied to that, the Tribunal was clear that the obligation to respond was on the Second Respondent in terms of Rule B1.9.1 and paragraph 12.13 of Paterson and Ritchie, and not on JB to further chase by telephone. There was no dispute on the facts and the dates of JB's correspondence were fully disclosed. In addition, the Fiscal had conceded that reference to a telephone call from JB by the PCSC was "unfortunate". However, regardless of that, the Tribunal concluded that the PCSC had taken account of factors which led to a finding which was contradictory of the evidence in terms of Hood, Petitioner.

Having considered all information presented to it, the Tribunal concluded that the Appellant had successfully established a ground of appeal. It upheld the Appeal and, in terms of section 53ZB(2)(a) of the Solicitors (Scotland) Act 1980, quashed the decision of the PCSC dated 29 August 2024 and upheld the complaint.

SUBMISSIONS ON SANCTION, EXPENSES AND PUBLICITY

The Appellant was clear that his main objective in lodging the Appeal was to cure the inheritance for his late Father. He had given little thought to likely monetary recompense but referred to the Reporter's recommendation of £500 compensation and a fine of £500 for guidance.

Although the Appellant said he had not incurred any specific monetary expense in relation to the Appeal, he would require to take further legal advice on next steps and that would involve further expense for him. In addition, the Appellant said that dealing with the Appeal and preparing for the hearing had been very stressful for him. He expanded by saying that the matter had been at the forefront of his mind and other matters in his life had taken a "back seat" as result. The Appeal had a notable impact on the Appellant and he was keen to resolve matters once and for all. In all the circumstances, the Appellant asked the Tribunal to consider an award of £1000 compensation.

The Fiscal submitted that the appeal had been dealt with expeditiously. He had engaged in discussions with the Appellant with a view to resolution. In relation to the Second Respondent, the Fiscal confirmed that there had been one previous finding of unsatisfactory professional conduct against her. The sanction imposed for that was compensation and a fine.

There were no specific submissions on expenses and publication from parties.

DECISION ON SANCTION, EXPENSES AND PUBLICITY

The Tribunal explained that, despite upholding the Appeal, it had no power to impose a fine or censure the Second Respondent. It did, however, have the power to award compensation to a maximum award of £5000 as set out in section 53ZB(2)(b) of the 1980 Act. Having taken account of all the information before it, the Tribunal considered that the conduct of the Second Respondent was at the lower end of the scale of seriousness.

In relation to sanction and in terms of section 53ZB(2)(b) of the 1980 Act, the Tribunal referred to the guidance and compensatory scale applicable to decisions on unsatisfactory professional conduct produced by the Law Society of Scotland and considered the factors outlined there; namely loss, inconvenience and distress caused to the Appellant as a direct result of the conduct of the Second Respondent. In the particular circumstances of this case, the Tribunal decided that the Appellant had been directly affected by the conduct of the Second Respondent and that he had suffered clear inconvenience and distress as a result of it. The Tribunal decided to award compensation in the sum of £750.

Although there were no specific submissions from the parties on expenses, the Tribunal took account of the specific circumstances of the case and exercised its discretion accordingly. The Tribunal made an award of expenses against the Respondent on the basis that the Appellant had been successful. In addition, the Tribunal ordered publicity of the decision in terms of paragraph 14 and 14A of schedule 4 of the 1980 Act.


Kenneth Paterson

Vice Chair