

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

**FINDINGS**

**in Complaint**

**by**

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

**against**

**NORMAN JAMES COWIE,  
Solicitor, Cowie & Company, 198  
High Street, Cowdenbeath, Fife**

1. A Complaint dated 26<sup>th</sup> January 2006 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Norman James Cowie, Solicitor of Cowie & Company, 198 High Street, Cowdenbeath, Fife (hereinafter referred to as "the Respondent") be required to answer the allegations contained in the statement of facts which accompanied the Complaint and that the Tribunal should issue such order in the matter as it thinks right.
2. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No answers were lodged by the Respondent.
3. In terms of its Rules the Tribunal appointed the Complaint to be heard on 18<sup>th</sup> April 2006 and notice thereof was duly served on the Respondent.
4. The hearing took place on 18<sup>th</sup> April 2006. The Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was not present or represented.

5. After hearing evidence from the Fiscal that the Respondent was aware of the date of hearing, the Tribunal resolved to proceed in the Respondent's absence. The Complainers led the evidence of two witnesses.

6. The Tribunal found the following facts established

6.1 The Respondent was born on 7<sup>th</sup> March 1957. He was admitted as a solicitor on 30<sup>th</sup> September 1981. He was enrolled as a solicitor in the Register of Solicitors for Scotland on 20<sup>th</sup> October 1981. He was employed with the firm Pagan Osborne Grace and Calders, Solicitors of 5 Falkland Place, Glenrothes from 1<sup>st</sup> November 1984 until 31<sup>st</sup> October 1989. He was then employed with Messrs Dundas & Wilson, Solicitors, Saltire Court, Edinburgh from 1<sup>st</sup> November 1989 to 30<sup>th</sup> September 1994. Then he was employed with Pirie & Cowie, Solicitors of 208 High Street, Cowdenbeath from 1<sup>st</sup> October 1994 to 15<sup>th</sup> November 1996. Then he was employed with the firm Baird & Company of 208 High Street, Cowdenbeath from 18<sup>th</sup> November 1996 to 13<sup>th</sup> February 2003. From 14<sup>th</sup> February 2003 he has practiced on his own account trading as Cowie & Company, 198 High Street, Cowdenbeath Fife.

6.2 Mrs A

The Respondent was formerly instructed by the client, Mrs A of Property 1. Mrs A consulted the Respondent in connection with a conveyancing dispute following her purchase of a dwellinghouse. Mrs A was unhappy with the level of service provided by the Respondent. By letter received on 10<sup>th</sup> February 2005 she invoked the aid of the Complainers regarding a failure on the part of the Respondent to attend to her instructions. The Complainers obtained from her sufficient information to

allow them to formulate the extent of the Complaint. By letter dated 22<sup>nd</sup> February 2005 they intimated the existence of the Complaint to the Respondent and encouraged him to conciliate and resolve matters without further procedure. Those efforts were ignored by the Respondent. A formal Complaint was formulated and intimated to the Respondent by letter dated 21<sup>st</sup> April 2005. No response was received. As a consequence of there being no response the Complainers by letter dated 25<sup>th</sup> May 2005 intimated a Statutory Notice in terms of Section 15(2)(i)(i) of the Solicitors (Scotland) Act 1980 to the Respondent. The terms of said Statutory Notice were ignored by the Respondent. As a result a further Statutory Notice was intimated on 13<sup>th</sup> June 2005. Said Statutory Notice was also ignored. Numerous reminders were intimated to the Respondent, all of which were ignored. Eventually after a delay a report was produced and considered by the Complainers and a finding made that an inadequate professional service was provided by the Respondent to his client. It is believed the award of compensation remains outstanding.

7. Having heard submissions by the Fiscal, the Tribunal found the Respondent guilty of Professional Misconduct in respect of his failure to respond timeously, openly and accurately to the reasonable enquiries made of him by the Law Society concerning the affairs of his former client.

8. Having noted a previous finding of misconduct against the Respondent, the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 18<sup>th</sup> April 2006. The Tribunal having considered the Complaint dated 26<sup>th</sup> January 2006 at the instance of the Council of the Law Society of Scotland against Norman James Cowie, Solicitor of Cowie & Company, 198 High Street, Cowdenbeath, Fife; Find the Respondent guilty of Professional Misconduct in respect of his failure to respond timeously, openly and accurately to the reasonable enquiries made of him by the Law Society; Censure the Respondent; Find the Respondent liable in the expenses of the Complainers and in the expenses of the Tribunal as the same may be taxed by the auditor of the Court of Session on an agent and client indemnity basis in terms of Chapter Three of the last published Law Society's Table of Fees for general business with a unit rate of £11.85; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent.

**(signed)**

**Vice Chairman**

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

**IN THE NAME OF THE TRIBUNAL**

**Vice Chairman**

**NOTE**

The Respondent was not present or represented at the hearing. The Tribunal heard evidence from the Fiscal who indicated that he had had contact with the Respondent and had intimated an inventory of productions in a letter dated 13<sup>th</sup> March 2006 by Recorded Delivery and had also written to the Respondent on 24<sup>th</sup> March and 13<sup>th</sup> April. The Respondent had replied to the letter of 13<sup>th</sup> April indicating that he would sign a Joint Minute. The Fiscal indicated that this was sent to the Respondent on Thursday afternoon but the Respondent had not returned it and he had been unable to make any further contact with him. The Fiscal indicated that he was satisfied that the Respondent was well aware of the date because in his letter of 24<sup>th</sup> March he indicated the matter was due to call on 18<sup>th</sup> April. It was also clear from the Tribunal file that the Notice of Hearing had been sent to the Respondent by Recorded Delivery and had not been returned. The Tribunal was accordingly satisfied that the Respondent had had proper notice of the hearing and was aware of the Complaint and the Tribunal resolved to proceed in the Respondent's absence.

**EVIDENCE FOR THE COMPLAINERS**

The Complainers led the evidence of Michael Greenfield, a Case Manager with the Law Society. Mr Greenfield stated that a help form was received from Mrs A asking for the Law Society's aid. Mr Greenfield indicated that he was originally the Case Manager and sent a letter to Mr Cowie enclosing the help form and encouraging matters to be sorted out by negotiation. There was no response by the Respondent to this letter. Mr Greenfield also referred to production 2 being another letter to the Respondent setting out the formal list of issues as agreed with the lay complainer and asking for the Respondent's response within 21 days. There was no response. Mr Greenfield indicated that at this point the file was transferred to another case manager.

The Tribunal then heard from Adele Carey, another Case Manager with the Law Society. Ms Carey advised that Mrs A had complained with regard to Cowie & Company and that there was an attempt to resolve it by conciliation but there was no response from the Respondent. The Complaint was intimated and there was still no

response. Ms Carey indicated that Mr Greenfield transferred the file to her and she sent a formal notice to the Respondent on 25<sup>th</sup> May 2005 asking for a response within 14 days and there was no response from the Respondent. Ms Carey stated that a second part of the statutory notice was then sent to the Respondent and there was no response. Ms Carey also referred the Tribunal to production 6 the letter intimating that the matter was to be referred in connection with professional misconduct and the Respondent did not respond to this. The Respondent was also asked for his files and failed to produce them. Ms Carey stated that the complainer was upset and there was a delay in the Law Society being able to deal with matters due to the Respondent's failure to respond.

In response to a question from the Tribunal Ms Carey accepted that the statutory notices had been sent by Legal Post and accordingly could not have been sent Recorded Delivery as was stated on the letters. She however indicated that if an item of mail was returned it would go back in the file and contact would be made by alternative means. She stated that as far as she was aware the correspondence was delivered to Mr Cowie who was still in Legal Post.

### **SUBMISSIONS FOR THE COMPLAINERS**

Mr Reid invited the Tribunal to make a finding of professional misconduct. He indicated that numerous letters had been sent which were ignored. This hampered the Law Society in the performance of their statutory duty. The Respondent's failure to reply had caused his client concern and upset.

### **DECISION**

The Tribunal has found on numerous occasions that failure to respond to the Law Society hampers them in the performance of their statutory duty and brings the profession into disrepute. The Tribunal consider it unfortunate that the Law Society's statutory notices had been sent by Legal Post with Recorded Delivery written on the letter as it is clearly not possible to send items by Recorded Delivery through Legal Post. However although the statutory notices had not been sent Recorded Delivery, given the number of letters sent and the fact that they were sent by Legal Post and not

returned, the Tribunal was satisfied that the notices and letters had been received by the Respondent. It was clear that the Respondent had failed to respond. This had caused distress and inconvenience to his client. In the circumstances the Tribunal was satisfied beyond reasonable doubt that the Respondent's conduct did amount to professional misconduct. The Tribunal however considered that as this was only one instance of failure to reply in respect of one client it fell very much at the lower end of the scale of professional misconduct. The Tribunal noted that the Respondent was already working under a restricted practising certificate imposed by the Tribunal in December 2005. The Tribunal considered that a Censure would be a sufficient additional penalty. The Tribunal made the usual order with regard to publicity and expenses.

**Vice Chairman**