

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

**F I N D I N G S**

**in Complaints dated 1<sup>st</sup> December  
2004, 9<sup>th</sup> June 2004 and 14<sup>th</sup>  
January 2005**

**by**

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

**against**

**MICHAEL CHARLES GRAY,  
Solicitor, Formerly of 115  
Morrison Street, Edinburgh now  
residing at 30A Windsor Street,  
Edinburgh**

1. A Complaint dated 1<sup>st</sup> December 2004 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society (hereinafter referred to as "the Complainers") requesting that, Michael Charles Gray, Solicitor, formerly of 115 Morrison Street, Edinburgh and now at 30A Windsor Street, Edinburgh (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 dated 9<sup>th</sup> June 2004 to be served upon the Respondent. No answers were lodged by the Respondent.

3. A complaint dated 1<sup>st</sup> December 2004 was lodged with the Scottish Solicitors Discipline Tribunal by the Council of the Law Society (hereinafter referred to as “the Complainers”) requesting that, Michael Charles Gray, Solicitor, formerly of 115 Morrison Street, Edinburgh and now at 30A Windsor Street, Edinburgh (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.
4. The Tribunal caused a copy of the Complaint dated 1<sup>st</sup> December 2004 to be served upon the Respondent. No answers were lodged by the Respondent.
5. In terms of its Rules the Tribunal set a preliminary hearing in respect of both Complaints for 16 June 2005, the substantive hearing of the Complaints was appointed for 28<sup>th</sup> June 2005 and notice thereof was duly served on the Respondent.
6. A Complaint dated 14<sup>th</sup> January 2005 was lodged with the Scottish Solicitors Discipline Tribunal by the Council of the Law Society (hereinafter referred to as “the Complainers”) requesting that, Michael Charles Gray, Solicitor, formerly of 115 Morrison Street, Edinburgh and now at 30A Windsor Street, Edinburgh (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.

7. The Tribunal caused a copy of the Complaint dated 14<sup>th</sup> January 2005 together with Notice of the Preliminary Hearing and the Substantive Hearing for 16<sup>th</sup> June and 28<sup>th</sup> June 2005 to be served upon the Respondent. No answers were lodged by the Respondent.
8. The Complaint was called for a preliminary hearing on 16<sup>th</sup> June 2005. The Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was not present or represented. Matters were continued to the substantive hearing fixed for 28<sup>th</sup> June 2005.
9. The Complaint was called for hearing on 28<sup>th</sup> June 2005. The Complainers were represented by their Fiscal, Paul Reid, Solicitor, Glasgow. The Respondent was not present or represented. After hearing evidence from the Clerk with regard to service by Sheriff Officer by keyhole service of the Complaints and Notices of Hearing the Tribunal proceeded to deal with the matter in the Respondent's absence.
10. The Complainers led the evidence of two witnesses and affidavit evidence of a further 13 witnesses and referred the Tribunal to numerous productions lodged.

11. After having considered the evidence and heard the submissions on behalf of the Complainers the Tribunal found the following facts established.

11.1 The Respondent was born 5 June 1949. He was admitted as a solicitor on 13 August 1986. He was enrolled in the Register of Solicitors in Scotland on 1 September 1986. From on or about 13 March 1989 until on or about 31 October 1996 in various roles from employee, to Associate, and thereafter Partner, he was employed by the firm MacKenzie and Dunn, Solicitors. From on or about 1 November 1996 until 6 December 1996 and thereafter from 3 January 1997 to 31<sup>st</sup> October 2003 the Respondent practiced as a sole practitioner operating under the firm named Grays, Solicitors, formerly of 6 Clifton Terrace, Edinburgh and thereafter at 115 Morrison Street, Edinburgh. The Respondent is presently not practising as a solicitor.

11.2 Ms A

Ms A resides at Property 1. By letter dated 29 July 2003 she invoked the aid of the Complainers regarding the manner in which the Respondent had dealt with her affairs. In or about February 1995, the Respondent acted on behalf of Ms A in a divorce action. In terms of the divorce action an agreement was reached regarding the transfer of ownership of the former matrimonial home to Ms A. The Applicant was instructed by Ms A to complete the necessary conveyancing. Ms A believed the Applicant had complied with her instructions. On 26 September 2001, she received from an insurance company correspondence which indicated the endowment policy had been transferred into her name alone, but that the matrimonial home remained in joint names. Ms A attended at the office of the Respondent and encouraged him to complete the

conveyancing formalities. In October 2002, she attended and executed the necessary paperwork to facilitate the conveyancing. Despite this attendance, the conveyancing remained uncompleted by the Respondent.

- 11.3 Having obtained sufficient information from Ms A, the Complainers intimated a complaint to the Respondent. Despite repeated reminders, the Respondent failed to reply or give the Complainers any information regarding the complaint. By recorded delivery, statutory notices in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated to the Respondent on 4 November 2003. The Respondent ignored the statutory notices. As a result of the failure on the part of the Respondent to reply to the enquiries made of him to the Complainers on behalf of Ms A, the efforts of the Complainers to resolve the complaint on behalf of Ms A were frustrated.
- 11.4 Having obtained certain information from Ms A on 6 February 2004, the Complainers made a determination in terms of Section 42A of the Solicitors Scotland Act 1980, that an inadequate professional service had been provided by the Respondent to Ms A. The Complainers further determined that the Respondent should reimburse Ms A the reasonable costs incurred by her in rectifying the position and further directed that the Respondent should pay to the said Ms A the sum of £750 by way of compensation. By letter dated 19 February 2004, the determination was intimated to the Respondent. The sum incurred by Ms A in rectifying the position following the instruction of the Respondent amounted to £1,422.02. By recorded delivery letter dated 12 March 2004, the Complainers in terms of Section 42B of the Solicitors (Scotland) Act 1980, called upon the Respondent to provide confirmation to them as to the steps which he had taken to implement the determination.

No explanation of the steps taken by the Respondent to comply with the determination have been received by the Complainers. No appeal against the determination has been marked by the Respondent. No payment has been made to the said Ms A either by way of compensation or reimbursement of the costs incurred by her.

11.5 Miss B

Miss B resides at Property 2. By letter dated 23<sup>rd</sup> May 2003, she invoked the aid of the Complainers regarding the manner in which the Respondent had dealt with instructions received from her in connection with a court action. The Complainers obtained sufficient information from her to allow them to formulate and intimate the complaint to the Respondent. A number of reminders were intimated to the Respondent. These were ignored by the Respondent. By recorded delivery, statutory notices in terms of Section 15(2)(i)(i) and Section 42C of the Solicitor (Scotland) Act 1980 were intimated upon the Respondent on 17 September 2003. These Notices were ignored by the Respondent. As a result of failure on the part of the Respondent to reply to the enquiries made of him by the Complainers, the efforts of the Complainers to resolve the Complaint on behalf of Miss B were frustrated.

11.6 On 6 February 2004, the Complainers made a determination in terms of Section 42A of the Solicitors (Scotland) Act 1980 that an inadequate professional service had been provided by the Respondent to Miss B. Further the Complainers determined that the Respondent should pay to Miss B the sum of £400 by way of compensation. The determination was intimated to the Respondent by letter dated 19 February 2004. A formal Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated to the Respondent by Recorded Delivery on 6<sup>th</sup> May 2004. No explanation of the steps which have been taken

by the Respondent to comply with the directions have been received by the Complainers. No appeal against the determination has been marked by the Respondent. No payment has been made by the Respondent to Miss B.

11.7 Messrs 1, Solicitors on behalf of Ms C

On behalf of their client, Ms C, Messrs 1, Solicitors, invoked the aid of the Complainers by letter dated 23 April 2003, complaining that the Respondent had failed to implement a mandate delivered to him by Messrs 1 on behalf of their client in terms of which they sought to recover from the Respondent two files in respect of current matters. On 15 November 2002, Messrs 1 had sent to the Respondent, a signed mandate by Ms C requesting that the Respondent forward to Messrs 1 two separate files relating to her divorce and a claim for compensation before the Criminal Compensation Authority. No response was received from the Respondent. A number of reminders were sent to the Respondent, all of which were ignored. Having intimated a complaint to the Complainers, the Respondent also ignored the requests from the Complainers that he implement the terms of the mandate and deliver the files to the solicitor then instructed. The files were delivered on 10<sup>th</sup> February 2004.

11.8 Having obtained sufficient information from Messrs 1 to allow them to formulate the basis of a complaint, a letter intimating a complaint was sent to the Respondent on 29 April 2003. This was ignored by the Respondent. A number of reminders were sent. They also were ignored by the Respondent. By Recorded Delivery on 21 August 2003, Statutory Notices, in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated upon the Respondent. These Statutory Notices were ignored by the Respondent. As a result of the failure on the part of the Respondent, to reply to the

enquiries made of him by the Complainers, the complaint intimated to them remains outstanding.

11.9 On 8 January 2004, the Complainers made a determination in terms of Section 42A of the Solicitors (Scotland) Act 1980 that an inadequate professional service had been provided by the Respondent to Ms C. The Complainers determined that the Respondent should pay to Ms C, the sum of £750 by way of compensation. The determination was intimated to the Respondent on 22 January 2004. By recorded delivery dated 27 February 2004, a Statutory Notice in terms of Section 42B of the Solicitor (Scotland) Act 1980 was intimated to the Respondent, calling upon him to provide confirmation that the determination by the Complainers had been complied with. No response was received. Eventually a part payment was received leaving a balance due of £535.00. No appeal against the determination has been marked by the Respondent. No further payment by way of compensation has been made by the Respondent to Ms C.

11.10 Messrs 2 on behalf of Mr D

On 6 November 2003, the Complainers made a determination in terms of Section 42A of the Solicitors Scotland Act 1980 that an inadequate professional service had been provided by the Respondent to the client Mr D. The Complainers further determined that the fees to which the Respondent would be entitled in respect of the work carried out by him, should be abated by £250 plus VAT and that such abatement should be refunded to the client, Mr D. Further, the Complainers determined that the respondent should pay to Mr D, the sum of £1,000 by way of compensation. By letter dated 14 November 2002, the determination was intimated to the Respondent. By Recorded Delivery letter dated 16 March 2004, a Notice in terms of Section 42B of the Solicitors Scotland Act 1980 was



intimated to the Respondent. No explanation of the steps which have been taken by the Respondent to comply with the direction have been received by the Complainers. No Appeal against the determination has been marked by the Respondent. The refund of the abated fee nor payment of the award of compensation has been made by the Respondent to the client Mr D.

11.11 Mr & Mrs E

Mr & Mrs E reside at Property 3. By letter received by the Complainers on 12 June 2003, Mr & Mrs E invoked the aid of the Complainers regarding the manner in which the Respondent had dealt with their affairs in connection with a conveyancing transaction. The Complainers obtained sufficient information to allow them to formulate the basis of a complaint. The complaint was intimated to the Respondent. The letter of intimation was ignored by the Respondent. Reminders were written to the Respondent. The Respondent ignored these reminders. By Recorded Delivery on 18 September 2003, Statutory Notices in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated upon the Respondent. These Statutory Notices were ignored by the Respondent. As a result of the failure on the part of the Respondent, to reply to the enquiries made of him, the complaint intimated to the Complainers remains outstanding.

11.12 On 8 January 2004, the Complainers made determination a in terms of Section 42A of the Solicitors (Scotland) Act 1980 that an inadequate professional service had been provided by the Respondent to his clients, Mr & Mrs E. The Complainers further determined that the Respondent should restrict his conveyancing fee in connection with the sale transaction to 40% of that charged and further directed that the Respondent should repay to Mr & Mrs E 40% of that fee together with the

VAT thereon. The Complainers further determined the Respondent should pay to Mr & Mrs E the sum £500 by way of compensation. By letter dated 22 January 2004 the determination was intimated to the Respondent. By Recorded Delivery a statutory notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 dated 12 March 2004, was intimated to the Respondent. No explanation of the steps which have been taken by the Respondent to comply with the determination has been received by the Complainers. Eventually a part payment was received leaving a balance due of £285.00. No appeal against the determination has been marked by the Respondent. No further payment or reimbursement has been made by the Respondent to Mr & Mrs E.

11.13 Ms F

Ms F resides at Property 4. By letter dated 2 April 2003, Ms F invoked the aid of the Complainers regarding the manner in which the Respondent had dealt with her instructions. The Complainers obtained sufficient information from Ms F to allow them to formulate the basis of a Complaint. A letter intimating the complaint was sent to the Respondent. This letter was ignored. A number of reminders were intimated to the Respondent. These reminders were ignored. By Recorded Delivery, Statutory Notices in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated upon the Respondent on 7 October 2003. These Statutory Notices were ignored by the Respondent. As a result of the failure on the part of the Respondent to reply to the enquiries made of him by the Complainers, the complaint on behalf of the client remains outstanding.

11.14 On 6 February 2004, the Complainers made a determination in terms of Section 42A of the Solicitors Scotland Act 1980, that

an inadequate professional service had been provided by the Respondent to Ms F. The Complainers further determined that the Respondent should pay to Ms F, the sum of £600 by way of compensation. The determination was intimated to the Respondent by letter dated 19 February 2004. By Recorded Delivery letter dated 6 May 2004, a Statutory Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated on the Respondent. No explanation of the steps which have been taken by the Respondent to comply with the determination have been received by the Complainers. No appeal against the determination has been marked by the Respondent. No payment has been made by the Respondent to the client, Ms F. The Respondent has not complied with the determination.

11.15 Messrs 3 on behalf of Mr G

On behalf of their client, Mr G, Messrs 3 by letter dated 18 February 2003, invoked the aid of the Complainers regarding the manner in which the Respondent had dealt with the affairs of Mr G. In 1995 Mr G of Property 5, consulted the Respondent in connection with his separation and divorce. At that time, essentially the divorce was amicable. Two matters required to be attended to, the preparation and completion of a separation agreement and the conveyance of the former matrimonial home from the joint names of Mr and Mrs G to the sole name of Mr G. A consequence of the conveyancing would require a variation of the Standard Security to assume Mr G as the sole obligant, and ensure that Mrs G was exonerated from future responsibility of the debt. In early 2003 Mr G consulted Messrs 3, Solicitors, to sell the former matrimonial home for him. Messrs 3 encountered considerable difficulty in locating the whereabouts of the Title Deeds. They should have been with the Bank of Scotland, who were the security holders. It transpired, the Bank of Scotland had released the Title Deeds to

the Respondent in 1996, to facilitate the conveyancing required at the time of the original separation. The Title Deeds had never been returned by the Respondent to the Bank of Scotland. Mr G provided instructions to the Respondent to proceed to transfer the Title into his name alone and to vary the Standard Security. This task was not completed. The paperwork was prepared and signed. The Respondent failed to present the necessary documentation to the Keeper for registration. Accordingly, as at February 2003, the Title remained in the joint names of Mr and Mrs G as did the mortgage security. The consequences of this failure on the part of the Respondent were considerable.

- 11.16 Messrs 3 requested that the Respondent forward to them the Title Deeds to allow them to complete the conveyancing. The Respondent did not do so.
- 11.17 Messrs 3, were acting on behalf of Mr G. They were involved in the conveyance of the former matrimonial home. Missives were at an advanced stage. The conveyancing was to complete shortly. The difficulty arose and thereafter Messrs 3 pressed the Respondent repeatedly for a reply. The Respondent failed to reply to the enquiries made of him regarding the Title Deeds.
- 11.18 Having obtained sufficient information from Messrs 3 to allow them to formulate the basis of a complaint, a letter intimating the complaint was sent to the Respondent. This letter was ignored. A number of reminders were intimated to the Respondent. These reminders were ignored. By Recorded Delivery letter dated 20 August 2003, Statutory Notices in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated to the Respondent. The

Statutory Notices were ignored by the Respondent. As a result of the failure on the part of the Respondent to reply to the enquiries made of him by the Complainers, the complaint remains outstanding.

11.19 On 6 February 2004, the Complainers made a determination in terms of Section 42A of the Solicitors (Scotland) Act 1980, that an inadequate professional service had been provided by the Respondent to Mr G. The Complainers further determined that the fees payable to the Respondent should be reduced to nil. They further directed that the Respondent should repay to Mr G any fee which had been charged together with VAT thereon. The Complainers further determined that the Respondent should pay to Mr G, the sum of £200 plus VAT and the additional costs incurred by his new solicitor. The Complainers further determined that the Respondent should pay to Mr G, the sum of £800 by way of compensation. The determination was intimated to the Respondent by letter dated 19 February 2004. By Recorded Delivery dated 6 May 2004, a Statutory Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated to the Respondent. No explanation of the steps which have been taken by the Respondent to comply with the determination have been received by the Complainers. No appeal against the determination has been marked by the Respondent. No payment has been made by the Respondent to Mr G. The Respondent has not complied with the determination.

11.20 Mrs H

Mrs H resides at Property 6. By letter dated 3 April 2002, Mrs H invoked the aid of the Complainers concerning a failure on the part of the Respondent to comply with her instructions. She

attended at the office of the Respondent on 13 November 2001, to instruct him in connection with a claim for compensation. In addition, she requested that the Respondent prepare for her, a Will. The Respondent accepted these instructions and requested from Mrs H, payment in advance of £84. This was paid by Mrs H to the Respondent on 4 December 2001. Despite having paid a fee in advance and given instructions to the Respondent, Mrs H has yet to receive a Will from the Respondent. The Respondent took a fee in advance and instructions and thereafter failed to comply with those instructions.

11.21 Having accepted instructions from Mrs H, the Respondent requested from her, payments to account in advance. In particular, he requested from her the sum of £63, purportedly in connection with a letter to be sent in pursuit of a reparation claim. This was paid by Mrs H to the Respondent on 15 August 2000. In addition, the Respondent requested a payment of £84 from Mrs H prior to proceeding to prepare a Will on her behalf. Subsequent enquiries with the Legal Aid Board revealed that no claim for Legal Aid had been made by the Respondent. Having taken money from Mrs H, the Respondent thereafter failed to do any work at all on either matter. Repeated requests of the Respondent have been made, not only by the Complainers, Mrs H, and an alternative firm of Solicitors, requesting that the sums paid, either be returned or accounted for. The Respondent has failed to reply to these enquiries.

11.22 On 8 January 2004, the Complainers made a determination in terms of Section 42A of the Solicitors (Scotland) Act 1980 that an inadequate professional service had been provided by the Respondent to Mrs H. The Complainers further determined that the fees to which the Respondent would be entitled to

should be nil. The Complainers further directed that the Respondent should repay the sums of £63 and £84 to Mrs H. The Complainers further determined that the Respondent should pay the sum of £600 by way of compensation to Mrs H. The determination was intimated to the Respondent by letter dated 22 January 2004. A statutory notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 dated 2 March 2004 was intimated to the Respondent. Following that Notice, the Respondent paid to the Complainers the sum of £1,000 and separately, a cheque for the sum of £147. The cheque for £147 was paid to Mrs H, being reimbursement to her of outlays paid to the Respondent. With regard to the cheque for £1,000, the Respondent instructed the Complainers to divide that amount as they saw fit. From that amount the sum of £232.75 was credited to the compensation payment due to Mrs H, leaving a balance outstanding of £276.25. No explanation of the steps taken by the Respondent to comply finally with the determination, have been received by the Complainers. No appeal against the determination has been marked by the respondent. The determination remains partially outstanding.

#### 11.23 Ms I

Ms I resides at Property 7. On 16 January 2001, she was appointed by the court to produce a supplementary report in a consistorial action in which the Respondent represented the Pursuer. The interlocutor appointing her found the parties jointly liable for the costs associated with her appointment. A note of fee was sent by her to the Respondent on 14 January 2002, requesting payment of one half of her account. The account was not paid. Ms I sent reminders to the Respondent requesting payment. Ms I telephoned the Respondent on 16 April 2002 when the Respondent acknowledged that her bill was outstanding and admitted to her that she had done nothing

about the account, nor had he applied for an advance from the Legal Aid Board to enable him to pay the account. Further reminders were sent by Ms I to the Respondent regarding the outstanding account. The Respondent at the time of the appointment of Ms I, enjoyed the benefit of a Legal Aid Certificate. The Respondent should have obtained from the Scottish Legal Aid, sufficient funds to meet the outlays incurred by Ms I to allow her account to be settled. The Respondent failed to do so, despite his assurances to Ms I.

11.24 Ms I intimated to the Respondent, her professional account on 14 January 2002. She thereafter wrote a number of reminders to the Respondent, requesting payment. She telephoned the Respondent on 16 April 2002. She wrote a further number of reminders requesting payment. To all of these enquiries the Respondent failed to reply.

11.25 The Respondent represented a client who enjoyed the benefit of a Legal Aid Certificate.

11.26 Messrs 4 on behalf of Company 5  
On behalf of their client, Company 5, Messrs 4, Solicitors, by letter dated 20 May 2003 invoked the aid of the Complainers in connection with the manner in which the Respondent dealt with a conveyancing transaction. Messrs 4 acted on behalf of Company 5. That Company loaned funds to a Mr J who was represented by the Respondent. The transaction settled in October 2002. Messrs 4 forwarded their client's Standard Security for registration together with the application form to the Respondent. The Keeper of the Land Register returned the Standard Security in March 2003 explaining that it could not be recorded because the Respondent had failed to reply to observations made of him by the Keeper within the sixty day time period allowed by statute. This meant that the Standard



Security was unregistered and unrecorded and the interests of Company 5 were put at risk. On 4 December 2002, the Keeper wrote to the Respondent requesting further information. In the absence of a response within the sixty day time period allowed, the Keeper wrote again on 3 February 2003 allowing the Respondent a further 15 days in which to respond. No reply was forthcoming from the Respondent.

11.27 On receipt of the communication from the Keeper, Messrs 4 immediately wrote to the Respondent expressing their concern that their client's title was unregistered. This was followed up by a number of reminder letters together with repeated phone calls to endeavour to resolve matters. A complaint was intimated to the Complainers by Messrs 4. Whilst the complaint was being investigated further letters from Messrs 4 on the same subject were sent to the Respondent without result until 27 November 2003, when the Respondent contacted Messrs 4 and undertook to send all documentation in his possession to them. Regrettably no documentation was ever sent. The situation worsened, because the borrower, Mr J, had fallen into arrears with his mortgage payments. The lender was without Security, as a consequence of which, the lender could not exercise the options available to a lender in a situation where the borrower fails to repay a loan.

11.28 The Complainers obtained sufficient information from Messrs 4 to allow them to formulate the basis of a complaint. A letter intimating the complaint was sent to the Respondent. This was ignored by the Respondent. A number of reminders were intimated to the Respondent. The reminders were ignored by the Respondent. By Recorded Delivery, Statutory Notices in terms of Section (15)2(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated to the Respondent on 29

October 2003. These Statutory Notices were ignored by the Respondent. As a result of the failure on the part of the Respondent to reply to the enquiries made of him by the Complainers, the complaint remains outstanding.

11.29 Mr K

Mr K resides at Property 8. He made a complaint to the Complainers regarding the manner in which the Respondent had dealt with his affairs. That complaint was eventually processed. The manner in which the complaint had been dealt with was referred to the Legal Services Ombudsman, 34 Sunlight House, Quay Street, Manchester. The Legal Services Ombudsman recommended that the Complainers should reopen and reconsider the complaint with a view to considering whether or not the sanction imposed by way of compensation was appropriate or whether an additional award of compensation may be appropriate. By Recorded Delivery letter dated 18 September 2003 the Complainers requested that the Respondent return to them, his file, for further consideration. This was ignored by the Respondent. Reminders were written to the Respondent all of which were ignored by the respondent. As a consequence the Complainers were unable to deal with the matters raised by the Legal services Ombudsman.

11.30 Mr L

Mr L resides at Property 9. He is an asylum seeker. He consulted with the Respondent in regard to his immigration status. He was disappointed with the manner in which the Respondent acted in connection with his affairs. He invoked the aid of the Complainers. The Complainers obtained sufficient information from him to allow them to formulate and intimate a complaint to the Respondent. A complaint was

intimated to the Respondent. Eventually the Council of the Law Society of Scotland made a determination that the Respondent had failed to provide an adequate professional service to the client, Mr L.

11.31 On 1<sup>st</sup> April 2004 the Complainers determined in terms of Section 42(1) of the Solicitors (Scotland) Act 1980 to uphold the complaint at the instance of Mr L that an inadequate professional service was provided to him by the Respondent. The Council determined in terms of Section 42A(ii)(d) that the Respondent should pay to Mr L the sum of £500 compensation. By letter dated 22<sup>nd</sup> April 2004 the decision of the Complainer was intimated to the Respondent. Payment of the award of compensation was not forthcoming. A Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated by recorded delivery to the Respondent on 3<sup>rd</sup> June 2004. Payment of the award of compensation was not forthcoming. The determination remains outstanding.

11.32 Ms M

Ms M resides at Property 10. She consulted with the Respondent in connection with matters arising as a consequence of the breakdown of her marriage. She was disappointed with the manner in which the Respondent acted in connection with her affairs. By letter dated July 2003 she invoked the aid of the Complainers. The Complainers obtained sufficient information from her to allow them to formulate and intimate a Complaint to the Respondent. After lengthy procedure, the Complainers determined that the Respondent had failed to provide an adequate professional service to Ms M.

11.33 On 7<sup>th</sup> October 2004 the Complainers determined in terms of Section 42A(2)(a)(i) that the fees to which the Respondent

should be entitled to for the services rendered would be nil. They further directed that the Respondent in terms of Section 42A(3) of the 1980 Act should repay to Ms M any fees that had been paid by her. They further determined in terms of Section 42A(2)(d) that the Respondent pay to Ms M the sum of £1,000 by way of compensation. By letter dated 21<sup>st</sup> October 2004 the decision was intimated to the Respondent. Payment of compensation was not forthcoming. A Formal Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated to the Respondent by recorded delivery on 19<sup>th</sup> November 2004. Payment of the award of compensation has not been made. The determination remains outstanding.

11.34 Having obtained sufficient information from Ms M the Complainers intimated a Complaint to the Respondent. Despite numerous repeated reminders the Respondent failed to provide a reply or to offer the Complainers any information regarding the Complaint. Formal Notices in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act 1980 were intimated to the Respondent. The Respondent ignored these Statutory Notices. As a result of the failure on the part of the Respondent to reply to the enquiries made of him to the Complainers on behalf of Ms M, the efforts of the Complainers to resolve the Complaint on behalf of Ms M were frustrated and impeded.

11.35 Mr N

Mr N of Property 11 consulted with the Respondent in connection with an Application to the Scottish Criminal Cases Review Commission. He was disappointed with the manner in which the Respondent acted in connection with his affairs. By letter dated 7<sup>th</sup> July 2003 he invoked the aid of the Complainers. The Complainers obtained sufficient information from Mr N to allow them to formulate and intimate a

Complaint to the Respondent. After sundry procedure the Complainers made a determination that the Respondent had failed to provide an adequate professional service to Mr N.

11.36 On 7<sup>th</sup> October 2004 the Complainers determine in terms of Section 42A(1) of the Solicitors (Scotland) Act 1980 that an inadequate professional service had been provided by the Respondent to Mr N. The Complainers determine in terms of Section 42A(2)(d) of the 1980 Act that the Respondent should pay to Mr N the sum of £250 by way of compensation. By letter dated 21<sup>st</sup> October 2004 the decision of the Complainers was intimated to the Respondent. A Formal Notice in terms of Section 42B of the aforesaid 1980 Act was intimated to the Respondent on 19<sup>th</sup> November 2004. Payment of the award of compensation has not been made. The determination remains outstanding.

11.37 Scottish Legal Aid Board

The Scottish Legal Aid Board of Drumsheugh Gardens, Edinburgh invoked the aid of the Complainers by letter dated 16<sup>th</sup> December 2003 concerning the Respondent's failure to reply to their correspondence and enquiry in relation to clients who had enjoyed the benefit of a Legal Aid Certificate in the name of the Respondent.

11.38 A client of the Respondent, Ms O, was granted a Civil Legal Aid Certificate on 4<sup>th</sup> March 1998. An account was rendered by the Respondent to the Legal Aid Board which was paid. On 28<sup>th</sup> August 2000 the Legal Aid Board wrote to the Respondent enquiring as to whether a recovery had been made on behalf of the Assisted Person. No response was received. Thereafter the Scottish Legal Aid Board wrote on no fewer than seven occasions requesting an answer from the Respondent. In

addition they telephoned his office repeatedly. The Respondent failed to provide an adequate reply.

11.39 A client of the Respondent, Ms P was granted a Civil Legal Aid Certificate on 14<sup>th</sup> April 2000. This Certificate was suspended on 12<sup>th</sup> February 2001 because the client had made a false declaration. The Legal Aid Board wrote to the Respondent on 30<sup>th</sup> April 2001 asking enquiry from him. No response was received. They thereafter issued repeated reminders and had telephone calls with his office to all of which the Respondent failed to reply.

11.40 A client of the Respondent, Mr Q made application for Civil Legal Aid. He made a false declaration on the Application Form as a consequence of which his Application for Legal Aid was refused. The Respondent had carried out work in terms of the Emergency Provisions of Regulation 18 of the Scottish Legal Aid Board Regulations. The Legal Aid Board wrote to the Respondent on 10<sup>th</sup> October 2002 making enquiry of him. No response was received. The Legal Aid Board thereafter wrote numerous reminders to the Respondent to all of which he failed to reply.

11.41 A client of the Respondent, Mr R, was granted Civil Legal Aid in October 2000. The Certificate was terminated on 18<sup>th</sup> April 2001 following a false declaration by the client. Enquiry was made of the Respondent by the Legal Aid Board. They wrote numerous reminders to the Respondent to all of which he failed to reply.

11.42 Ms S

Ms S care of Messrs 6, Solicitors, Edinburgh was formerly a client of the Respondent. She was dissatisfied with the manner in which the Respondent dealt with her affairs. She is a

Japanese National. She obtained a Work Permit to allow her to work in Edinburgh. She consulted the Respondent with a view to him securing on her behalf a Visa to carry on working within the country. Having issued the Respondent with these instructions, the Respondent failed to make application for Visa on behalf of Ms S nor did he make any progress with the application until March 2002, some two years after receiving instruction from Ms S.

- 11.43 As a result of failure on the part of the Respondent to reply to the repeated enquiries made of him as to progress by Ms S she sought and obtained alternative representation, namely the firm Messrs 6, Solicitors, Edinburgh. She executed a Mandate which was sent to the Respondent on 7<sup>th</sup> April 2003 requesting his files. He failed to implement the terms of the Mandate. The firm Messrs 6, Solicitors, wrote repeatedly to the Respondent inviting him to implement the Mandate. He failed to do so.
- 11.44 By letter dated 29<sup>th</sup> September 2003 Ms S invoked the aid of the Complainers. The Complainers obtained sufficient information from Ms S to allow them to formulate and intimate a Complaint to the Respondent. A Complaint was intimated. Eventually after sundry procedure the Complainers made a determination that the Respondent had failed to provide an adequate professional service to Ms S.
- 11.45 On 5<sup>th</sup> August 2004 the Complainers made a determination in terms of Section 42A(2)(a)(i) that the fees to which the Respondent would be entitled for the services rendered should be reduced to nil. The Complainers further determined that in terms of Section 42(3) of the 1980 Act that the Respondent should repay to Ms S any sums paid by her in respect of fees or outlays. The Complainers further determined in terms of

Section 42A(2)(c) that the Respondent should make payment of the costs incurred by Ms S to her new firm, Messrs 6 in remedying the situation. Finally the Complainers further determined in terms of Section 42A(a)(2)(d) that the Respondent pay to Ms S the sum of £1,000 by way of compensation. This determination was intimated to the Respondent by letter dated 13th August 2004. A Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated by recorded delivery to the Respondent on 21<sup>st</sup> September 2004. Payment of the award of compensation or reimbursement of fees was not forthcoming. The determination remains outstanding.

11.46 Ms T

Ms T resides at Property 12. She consulted the Respondent in connection with a claim for compensation against South Wales Police. She was disappointed with the manner in which the Respondent acted in connection with her affairs. By letter dated 7<sup>th</sup> November 2003 she invoked the aid of the Complainers. The Complainers obtained sufficient information from her to allow them to formulate and intimate a Complaint to the Respondent. Eventually after sundry procedure the Complainers made a determination that the Respondent had failed to provide an adequate professional service to Ms T.

11.47 On 1<sup>st</sup> July 2004 the Complainers determined in terms of Section 42A(2)(d) that the Respondent should pay to the said Ms T compensation amounting to £500. This determination was intimated to the Respondent by letter dated 13<sup>th</sup> July 2004. A Formal Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated by recorded delivery to the Respondent on 3<sup>rd</sup> August 2004. Payment of the award of compensation has not been made. The determination remains outstanding.



11.48 Mr U

Mr U resides at Property 13. He consulted the Respondent in connection with a conveyancing boundary dispute. He met with the Respondent on 4<sup>th</sup> November 2003 to explain his instructions. The Respondent demanded from Mr U a payment to account in respect of his fees and expenses. Mr U paid to him a cheque for the sum of £200 which was encashed by the Respondent on 7<sup>th</sup> November 2003. Thereafter Mr U could not make contact with the Respondent. The matter was extremely urgent. Mr U repeatedly endeavoured to contact the Respondent but was unable to do so. The Respondent had indicated that he would recover a file from the firm of Messrs 7, Solicitors and pass it to a firm then instructed by Mr U. Despite this assurance the Respondent failed to do so. The Respondent at the material time when he demanded payment to account in respect of his fees and expenses was carrying on business without having secured from the Complainers a Practising Certificate to allow him to hold himself out as a Solicitor.

11.49 The said Mr U by letter dated 13<sup>th</sup> November 2003 invoked the aid of the Complainers. The Complainers obtained sufficient information from him to allow them to formulate and intimate a Complaint to the Respondent. A Complaint was intimated to the Respondent. After sundry procedure the Complainers determined that the Respondent had failed to provide an adequate professional service to his client, Mr U. On 1<sup>st</sup> July 2004 the Complainers determined in terms of Section 42A(2)(d) that the Respondent should pay to Mr U the sum of £200 by way of compensation. By letter dated 13<sup>th</sup> July 2004 the determination was intimated to the Respondent. A Formal Notice in terms of Section 42B was intimated to the

Respondent by recorded delivery on 17<sup>th</sup> August 2004. The payment of compensation remains outstanding.

11.50 Mrs V

Mrs V resides at Property 14. She consulted the Respondent in connection with the extension of a commercial lease. She was dissatisfied with the manner in which the Respondent dealt with her affairs. She invoked the aid of the Complainers by letter dated 16<sup>th</sup> December 2003. The Complainers obtained sufficient information from her to allow them to formulate and intimate a Complaint to the Respondent. A Complaint was intimated to the Respondent. After sundry procedure the Complainers determined that the Respondent had failed to provide an adequate professional service to the client, Mrs V.

11.51 On 1<sup>st</sup> July 2004 the Complainers determined in terms of Section 42A(2)(a)(ii) that the fees to which the Respondent would be entitled to the service that he provided should be abated by £50 plus VAT and further directed that the Respondent in terms of Section 42A(3) of the aforesaid 1980 Act should repay to Mrs V the sum of £50 together with VAT thereon. By letter dated 13<sup>th</sup> July 2004 the determination was intimated to the Respondent. A Formal Notice in terms of Section 42B of the 1980 Act was intimated to the Respondent by recorded delivery on 17<sup>th</sup> August 2004. Reimbursement of fees and the payment of compensation remains outstanding.

11.52 Mr W

Mr W resides at Property 15. He instructed the Respondent to market commercial premises owned by him. He delivered to the Respondent, Title Deeds and paid to account the sum of £350 in respect of initial marketing expenses. Mr W repeatedly endeavoured to make efforts to contact the Respondent to obtain a sensible response regarding his enquiries. The

Respondent studiously avoided replying to the client. The client sought and obtained independent representation. The Respondent failed to inform the client that he had ceased to practice.

11.53 By letter dated 16<sup>th</sup> January 2004 invoked the aid of the Complainers. The Complainers obtained sufficient information from him to allow him to formulate and intimate a Complaint to the Respondent. A Complaint was intimated to the Respondent. After sundry procedure the Complainers made a determination that the Respondent failed to provide an adequate professional service to Mr W.

11.54 On 2<sup>nd</sup> September 2004 the Complainers made a determination in terms of Section 42A(2)(d) of the Solicitors (Scotland) Act 1980 that the Respondent should pay to Mr W the sum of £800 by way of compensation. This determination was intimated to the Respondent by letter dated 10<sup>th</sup> September 2004. A Formal Notice in terms of Section 42B of the aforesaid 1980 Act was intimated to the Respondent by letter dated 1<sup>st</sup> November 2004. Payment of the award of compensation remains outstanding.

11.55 Mr X

In or about October 2002, Mr X consulted with the Respondent regarding his purchase of a new house at Property 16 from Bellway Homes Limited. On 8<sup>th</sup> October 2002 Mr X paid to the Respondent a cheque for £1,000 in respect of the deposit required by the builders. In addition he left a further post dated cheque which constituted the balance due by him and the fees and outlays of the Respondent. Mr X believed that the Respondent proceeded with the conveyancing.

11.56 On 13<sup>th</sup> January 2004 an alternative firm of solicitors acting on behalf of Mr X wrote to the Respondent advising them that

they were acting in the re-mortgage of the property and that a search against the property had shown that the title had not been registered and sought a copy of the receipted Form 4. Settlement of the original conveyancing transaction took place on 31<sup>st</sup> October 2002. The Respondent had failed to present for registration the Disposition and Standard Security in connection with the transaction. The title to the Respondent and the Lenders was placed at risk.

- 11.57 By letter dated 23<sup>rd</sup> January 2004 Mr X invoked the aid of the Complainers. He was disappointed with the manner in which the Respondent had acted in connection with his affairs. The Complainers obtained sufficient information from him to formulate and intimate a Complaint to the Respondent. A Complaint was intimated. After sundry procedure the Complainers made a determination that the Respondent had failed to provide an adequate professional service to Mr X.
- 11.58 On 2<sup>nd</sup> September 2004 the Complainers determined in terms of Section 42A(2)(a)(ii) that the fees to which the Respondent should be entitled for the services rendered should be reduced by 50% plus VAT. They further directed that the Respondent should in terms of Section 42A(3) of the 1980 Act repay to Mr X the sum necessary to comply with the determination. The Complainers further determined in terms of Section 42A(2)(c) that the Respondent should make payment of the costs incurred by Mr X to alternative solicitors to remedy the situation. Finally the Complainers determined in terms of Section 42A(2)(d) that the Respondent should pay to Mr X the sum of £1,000 by way of compensation. The determination was intimated to the Respondent by letter dated 10<sup>th</sup> September 2004. A Formal Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated to the Respondent by recorded delivery on 6<sup>th</sup> October 2004. The Respondent has

failed to comply with the determination in any respect and it remains outstanding.

11.59 Mr Y

Mr Y resides at Property 17. He consulted the Respondent in connection with a conveyancing transaction. He was disappointed with the manner in which the Respondent dealt with his instructions. By letter dated December 2003 he invoked the aid of the Complainers. The Complainers obtained sufficient information from him to formulate and intimate a Complaint to the Respondent. After lengthy procedure the Complainers made a determination that the Respondent had failed to provide an adequate professional service to Mr Y.

11.60 On 7<sup>th</sup> October 2004 the Complainers determined in terms of Section 42A(2)(a)(i) that the fees and outlays to which the Respondent would have been entitled for the services rendered would be nil. Further in terms of Section 42A(3) of the 1980 Act the Respondent was directed to repay to Mr Y any sums which he had received by way of fees or outlays. Further the Complainers determined in terms of Section 42A(2)(d) that the Respondent should pay to Mr Y the sum of £1,000 by way of compensation. This decision was intimated to the Respondent. No response was received. A Formal Notice in terms of Section 42B of the Solicitors (Scotland) Act 1980 was intimated to the Respondent by recorded delivery on 29<sup>th</sup> November 2004. The Respondents failed to comply with the determination in any respect and it remains outstanding.

11.61 Having obtained sufficient information from Mr Y, the Complainers intimated a Complaint to the Respondent. Despite numerous repeated reminders the Respondent failed to reply or to offer any information regarding the Complaint. As a result

of the failure on the part of the Respondent to reply to the enquiries made of him by the Complainers, on behalf of Mr Y, the efforts of the Complainers to resolve the Complaint on behalf of Mr Y were frustrated and impeded.

11.62 Mr Z

Mr Z designed care of the Property 18. He consulted with the Respondent in connection with a personal matter. He was disappointed with the manner in which the Respondent dealt with his instructions. By letter dated 29<sup>th</sup> January 2004 he invoked the aid of the Complainers. The Complainers obtained sufficient information from him to formulate and intimate a Complaint to the Respondent. The Respondent failed to reply. Repeated efforts were made by the Complainers to obtain a response from the Respondent. The Respondent failed to reply. As a result of failure on the part of the Respondent to reply to the enquiries made of him by the Complainers on behalf of Mr Z, the efforts by the Complainers to resolve the Complaint at the instance of Mr Z were frustrated and impeded.

12. Having considered the foregoing circumstances and submissions from the Complainers the Tribunal found the Respondent guilty of Professional Misconduct singularly and *in cumulo* in respect of:

12.1 His failure to reply timeously, openly and accurately to the enquiries made of him by the Complainers concerning the affairs of clients of the Respondent and to the enquiries made of him by a number of clients and the Legal Aid Board (as set out in paragraphs 11.3, 11.5, 11.8, 11.11, 11.13, 11.18, 11.28, 11.29, 11.34, 11.37, 11.38, 11.39, 11.40, 11.41, 11.52, 11.61, and 11.62)

- 12.2 His failure to implement mandates intimated to him in terms of which an alternative firm of solicitors requested clients papers (as set out in paragraphs 11.7 and 11.43)
  - 12.3 His failure to complete satisfactorily conveyancing transactions in which he was involved and as a consequence of which the parties to the transaction were exposed to risk (as set out in paragraphs 11.2, 11.15, 11.26, 11.27, 11.55 and 11.56)
  - 12.4 His failure to deliver Title Deeds or to respond to enquiries made of him by a fellow solicitor (as set out in paragraphs 11.16, 11.17 and 11.27)
  - 12.5 His failure to carry out work for which he had obtained a fee in advance and thereafter failure to account in respect of the monies obtained from his client in respect of the work not completed by him (as set out in paragraphs 11.20 and 11.21)
  - 12.6 His failure to obtain sufficient funds timeously from the Legal Aid Board to meet a professional account, failure to respond to enquiries made of him by a professional witness and thereafter his exercise of undue delay in settlement of the professional account (as set out in paragraphs 11.23 and 11.24)
13. The Tribunal further Determined to make Orders under Section 53C(2) of the Solicitors (Scotland) Act 1980 in respect of the Respondent's failure to comply with the Determinations of the Law Society in connection with the clients Ms F, Ms M, Ms A, Ms T, Mrs H, Mr & Mrs E, Mrs V, Mr U, Mr G, Mr X, Mr Y, Mr N, Miss B, Ms C, Ms S, Mr L, Mr W and Mr D.

14. Having noted two previous findings of professional misconduct against the Respondent the Tribunal pronounced an Interlocutor in the following terms:-

Edinburgh 28<sup>th</sup> June 2005. The Tribunal having considered the Complaints dated 9<sup>th</sup> June 2004, 1<sup>st</sup> December 2004 and 14<sup>th</sup> January 2005 at the instance of the Council of the Law Society of Scotland against Michael Charles Gray, Solicitor, formerly of 115 Morrison Street, Edinburgh and now of 30A Windsor Street, Edinburgh; Find the Respondent guilty of Professional Misconduct singularly and *in cumulo* in respect of his failure to reply to the reasonable enquiries made of him by the Law Society concerning the affairs of numerous clients, his failures to implement mandates intimated to him, his failure to complete satisfactorily conveyancing transactions in which he was involved, his failure to deliver title deeds and to respond to enquiries made of him by a fellow solicitor, his failure to carry out work for which he had obtained a fee in advance and his failure to obtain sufficient funds timeously from the Legal Aid Board to meet a professional account and failure to respond to enquiries made of him by a professional witness in relation to delay in settlement of the account; Order that the name of the Respondent Michael Charles Gray be struck off the Roll of Solicitors in Scotland; Make Orders under Section 53C(2) of the Solicitors (Scotland) Act 1980 in respect of the Respondent's failure to comply with the Determinations and Directions of the Law Society made under Section 42A within the period specified in the notice intimated to the Respondent in terms of Section 42B of the Solicitors (Scotland) Act 1980; 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 a solicitor and client indemnity basis in terms of Chapter Three of the Law Society's Table of Fees for general business; and Direct that publicity will be given to this decision and that this publicity should include the name of the Respondent.



(signed)

**Kenneth Robb**  
**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 had not lodged answers to any of the Complaints and did not appear at either the preliminary hearing or the substantive hearing. The Tribunal heard evidence from the Clerk to the Tribunal that the Complaints dated 9<sup>th</sup> June and 1<sup>st</sup> December 2004 had both been served by keyhole service by Sheriff Officer on 21<sup>st</sup> December 2004 and that the Notices of Hearing in respect of these Complaints had been served on 10<sup>th</sup> May 2005. In connection with the Complaint dated 14<sup>th</sup> January 2005 both the Complaint and the Notice of Hearing were served by keyhole service by Sheriff Officer on 10<sup>th</sup> May 2005. The Complaints dated 9<sup>th</sup> June and 1<sup>st</sup> December 2004 had accordingly been served correctly in terms of the Rules. In connection with the Complaint dated 14<sup>th</sup> January 2005 Mr Reid invited the Tribunal to exercise its discretion in terms of Rule 43 of the Tribunal Procedural Rules to dispense with the requirements of the Rules as it was just to do so. Mr Reid pointed out the difficulties with regard to locating the Respondent due to his absence from the country for long periods of time in Cyprus. The Tribunal decided that serving the Complaint and Notices of Hearing at the same time was only a technical breach of the Rules and noted that the Respondent still had some 7 weeks from service of the Complaint until the substantive hearing in which to lodge answers. There has been no response from the Respondent in respect of any of the Complaints. In the Complaint dated 14<sup>th</sup> January 2005 contained complaints from 10 members of the public. The Tribunal also noted that the Fiscal had written to Mr Gray reminding him of the issues outstanding and the dates of the hearings. The Tribunal found that in the interests of justice and to avoid multiple hearings it would be appropriate to exercise its discretion in terms of Rule 43 and allow the hearing in respect of the Complaint dated 14<sup>th</sup> January 2005 to proceed on this date.

**EVIDENCE FOR THE COMPLAINERS**

The Fiscal for the Law Society led the evidence of Ms AA, Case Manager with the Law Society of Scotland. Ms AA confirmed that her duty included investigating inadequate professional service and professional misconduct complaints from members of the public. Ms AA explained the procedure which was followed by the

Law Society when a complaint from a member of the public was received. The issues in the complaint would be identified and confirmed with the complainer and the issues would then be intimated to the solicitor who would have 21 days to respond. The Complainer would then have a chance to respond to the solicitor's response and if any new issues were raised the solicitor could then respond again. The papers then went to a Reporter to produce a facts and circumstances report and a recommendation to the Committee. A copy of this would be sent to the solicitor and the Complainer and the report and any responses would be put to the Committee made up of six members, half lay and half solicitors. This Committee would make a decision on whether or not an inadequate professional service had been provided and decide whether or not to refer any matter of professional misconduct to the Professional Misconduct Committee.

In connection with the Complaint dated 1<sup>st</sup> December 2004 Ms AA confirmed that a complaint had been received from Mr L in connection with the way the Respondent had dealt with an immigration matter. Ms AA referred the Tribunal to the productions lodged which showed that a Determination had been made that the Respondent had provided an inadequate professional service and that he was Directed to pay £500 compensation and this Determination had been intimated to him including a formal notice under Section 42B and there had been no response from the Respondent, he had not appealed the Determination nor had he implemented the Determination.

In connection with the Complaint dated 9<sup>th</sup> June 2004 Ms AA referred the Tribunal to the productions lodged which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Ms A and had Directed that the Respondent should reimburse Ms A the reasonable costs incurred by her in rectifying the position and that he should pay her a sum of £750 by way of compensation and this Determination was intimated to the Respondent. Ms AA confirmed that the Respondent had not responded even to the Section 42B notice. He had not appealed the Determination nor had he implemented the Determination. The Respondent had also failed to reply to the Law Society's enquiries in relation to this matter.

Ms AA also referred the Tribunal to the productions showing the Respondent's failure to reply and the Determination that the Respondent had provided an inadequate professional service to Miss B and a Direction that he pay the sum of £400 by way of compensation. The productions also showed that the Determination was intimated to the Respondent and a formal notice under Section 42B was sent to him. Ms AA confirmed that the Respondent had not responded, had not appealed the Determination and had not implemented the Determination.

Ms AA then referred the Tribunal to the productions which showed that the Respondent had not responded to letters sent to him by the Law Society in connection with a complaint made by Messrs 1. Ms AA referred to the statutory notices sent to the Respondent in terms of Section 15(2)(i)(i) and Section 42C of the Solicitors (Scotland) Act. Ms AA confirmed that the Respondent did not reply to the statutory notices. Ms AA further referred the Tribunal to the productions which showed that a Determination was made that the Respondent had provided an inadequate professional service to Ms C and was ordered to pay £750 by way of compensation. Ms AA confirmed that this was intimated to the Respondent on 22<sup>nd</sup> January 2004 and a statutory notice in terms of Section 42B was also intimated and no response was received from the Respondent. Ms AA explained that the Respondent had sent £1000 to the Law Society for them to allocate between various matters as they thought appropriate. Some of this money was allocated in respect of Ms C. A balance of £535 remained outstanding. Ms AA confirmed that no appeal had been marked by the Respondent and no further payment had been made.

Ms AA then referred the Tribunal to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Mr D and had been ordered to abate his fees by £250 + VAT and pay £1000 by way of compensation. Ms AA referred to the letters intimating the Determination and the notice under Section 42B sent to the Respondent. Ms AA confirmed that the Respondent had not responded, had not appealed the Determination and had not implemented the Determination.

Ms AA next referred the Tribunal to the productions being letters and notices sent to the Respondent in connection with a complaint made by Mr & Mrs E. Ms AA

confirmed that the Respondent failed to reply to these letters and notices. The productions also showed that there had been a Determination that the Respondent had provided an inadequate professional service to Mr & Mrs E and a Direction made that he should restrict his conveyancing fee to 40% of that charged and should repay this to Mr & Mrs E with VAT thereon and pay £500 compensation. Ms AA referred the Tribunal to the letters intimating the Determination and the notice under Section 42B. Ms AA confirmed that some of the £1000 paid by the Respondent was allocated to Mr & Mrs E but a balance of £285 was still due. Ms AA confirmed that the Respondent had not appealed the Determination and had not paid the outstanding £285.

Ms AA then referred the Tribunal to the letters sent to the Respondent in connection with the complaint by Ms F. Ms AA confirmed that the Respondent had not replied to letters or statutory notices and the Complainers were accordingly unable to investigate the complaint on behalf of the client. Ms AA also referred to productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Ms F and had been Directed to pay £600 by way of compensation. Ms AA referred to the letters intimating the Determination and the statutory notice sent under Section 42B. Ms AA confirmed that the Respondent had not responded, had not appealed the Determination and not complied with the Determination.

Next Ms AA referred the Tribunal to the letters and notices sent by the Law Society to the Respondent in connection with a complaint made by Messrs 3. Ms AA confirmed that the Respondent failed to reply to the Complainers enquiries. Ms AA also referred to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Mr G and had been Directed that the fees payable should be reduced to nil and that any fee which had been charged should be repaid and that the Respondent should pay £200 + VAT in additional costs incurred by his new solicitor and also £800 by way of compensation. Ms AA referred the Tribunal to the letters intimating the Determination and the statutory notice sent under Section 42B and confirmed that the Respondent had not appealed the Determination and had not complied with the Determination. Ms AA also referred the Tribunal to letters from Messrs 3 asking for title deeds.

Ms AA then referred the Tribunal to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Mrs H and the Direction that the fees which the Respondent should be entitled should be nil and that the Respondent should repay £63 and £84 to Mrs H and pay £600 by way of compensation. Ms AA referred the Tribunal to the letters intimating the Determination and the statutory notice under Section 42B. Ms AA advised that some of the money received from the Respondent went towards the sums due to Mrs H but that a balance of £276.25 remained outstanding. The Respondent had not appealed the Determination or paid the outstanding balance of £276.25.

Ms AA referred the Tribunal to the letters which showed that a complaint had been made by Messrs 4 to the Law Society who had written to the Respondent with regard to the matter and he had failed to reply despite statutory notices being sent. Ms AA also referred the Tribunal to the letters sent in connection with the complaint by Mr K which had been sent back to the Law Society for reconsideration by the Legal Services Ombudsman. The Respondent had failed to reply to letters written to him by the Law Society with regard to this matter. Ms AA confirmed that where a Respondent failed to reply the Law Society would have no access to the information required and it made it difficult for them to answer the complaint from the Complainer which resulted in Complainers becoming angry and frustrated and the Law Society was perceived as being ineffectual.

In connection with the Complaint dated 14 January 2005 Ms AA referred the Tribunal to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Ms M and it was Determined that fees to which the Respondent should be entitled would be nil and that any fees paid should be refunded and that the Respondent should pay £1000 by way of compensation. Ms AA referred to the letter intimating the Determination and the notice sent under Section 42B. Ms AA confirmed that the Respondent had not complied with the Determination or appealed the Determination. She further referred the Tribunal to the letters and notices sent to the Respondent in connection with the Complaint which had been ignored by the Respondent.

Ms AA next referred the Tribunal to the productions which showed that the Determination had been made that the Respondent had provided an inadequate professional service to his client Mr N and a Direction that the Respondent pay £250 by way of compensation. Ms AA referred to the letter intimating the Determination and notice sent under Section 42B. Ms AA confirmed that the Respondent had not appealed the Determination or complied with the same. Ms AA referred the Tribunal to the Reporter's report in connection with the complaint by the Legal Aid Board and confirmed that the Respondent failed to reply to the Law Society's enquiries with regard to this matter.

Ms AA then referred the Tribunal to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Ms S and a Direction that the fees to which the Respondent would be entitled would be nil and that any sums paid should be repaid and that the Respondent should make payment of the costs incurred by Ms S to her new firm and also pay £1000 by way of compensation. Ms AA referred to the letters intimating the Determination and the notice under Section 42B and confirmed that the Respondent had not complied with the Determination or appealed the Determination.

In connection with client Ms T, Ms AA referred to productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to his client and there was a Direction that he pay compensation of £500. Ms AA referred to the letters intimating the Determination and the notice sent under Section 42B and confirmed that no appeal had been made by the Respondent and that the Determination had not been complied with.

Ms AA then referred the Tribunal to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to his client Mr U and that he was Directed to pay £200 by way of compensation. Ms AA referred to the letter intimating the Determination and the notice sent under Section 42B and confirmed that the Respondent had not appealed the Determination or complied with the same.



Ms AA referred the Tribunal to the productions lodged which showed that the Determination had been made that the Respondent had provided an inadequate professional service to his client, Mrs V and it was Determined that the fees which the Respondent should be entitled to should be abated by £50 + VAT and this sum should be repaid to Mrs V. Ms AA referred to the letter intimating the Determination to the Respondent and the Section 42B notice sent. She confirmed that the Respondent had not appealed the Determination or complied with the same.

Next Ms AA referred to the documentation showing that a Determination had been made that the Respondent had provided an inadequate professional service to his client Mr W and a Direction that he should pay £800 by way of compensation. Ms AA referred to the letter intimating this to the Respondent and the notice sent under Section 42B. She confirmed that the Determination had not been appealed or complied with.

Ms AA then went on to refer the Tribunal to the productions which showed that a Determination had been made that the Respondent had provided an inadequate professional service to Mr X and that the fees to which he should be entitled to should be reduced by 50% and that the Respondent should repay any sum as necessary to comply with the Determination and should make payment of the costs incurred by Mr X to alternative solicitors and also pay Mr X the sum of £1000 by way of compensation. Ms AA referred to the letters intimating the Determination to the Respondent and the formal notice sent under Section 42B. She confirmed that the Respondent had not appealed or complied with the Determination.

In connection with the client Mr Y, Ms AA referred to productions showing that a Determination had been made that the Respondent had provided an inadequate professional service to his client. It was Determined that the fees and outlays to which the Respondent would have been entitled to would be nil and the Respondent was Directed to pay Mr Y any sums he had received by way of fees and also pay £1000 by way of compensation. Ms AA referred to the letter intimating the Determination to the Respondent and to the notice sent under Section 42B. She confirmed that the Respondent had not appealed or complied with the Determination.

Ms AA also referred to the letters sent by the Complainers to the Respondent in connection with the complaint and confirmed that he had failed to respond.

Ms AA stated that at this time the Respondent was not responding to any letters from the Law Society and they were having some difficulty in tracing him. He had closed down his office without notice to anyone and although he had passed on a couple of boxes of files to another solicitor he had not notified his clients as to what was happening.

In connection with Mr Z she confirmed that the Respondent failed to reply to correspondence from the Law Society.

The Tribunal then heard evidence from Mr Z who confirmed that he instructed the Respondent to act on his behalf in connection with a court action and was unhappy with the service he received. On 29<sup>th</sup> January he complained to the Law Society who tried to get a response from the Respondent but the Respondent ignored both the Law Society and himself which Mr Z found very upsetting. He stated that he was not happy with the Law Society as a result of this and took the matter to the Ombudsman.

### **SUBMISSIONS FOR THE COMPLAINERS**

Mr Reid confirmed that he would refer to the various affidavits lodged during his submissions. In connection with the Complaint dated 1<sup>st</sup> December 2004 Mr Reid confirmed he was seeking an Order under Section 53C(2) as it was clear from the evidence of Ms AA and the productions lodged that the Respondent had failed to comply with the Determination and Directions given by the Law Society within the period specified.

In connection with the Complaint dated 9<sup>th</sup> June 2004 Mr Reid stated that apart from the payment of £1000 made by the Respondent he had completely failed to comply with all the Determinations made by the Law Society. Mr Reid stated that this was clear from the evidence of Ms AA and the productions lodged. Mr Reid asked the Tribunal to grant Orders under Section 53C(2) relating to all these matters. Mr Reid stated that the Law Society would only enforce the Orders insofar as necessary as due

to the chaos left behind by the Respondent it was difficult for the Law Society to determine whether or not fees had been charged or taken in the various cases. Mr Reid also asked the Tribunal to find that professional misconduct was established against Mr Gray in connection with his failure to reply to the Law Society. This was proved by the evidence of Ms AA and the productions lodged. Failure to reply hampered the Law Society in the performance of their statutory duty and resulted in frustration for members of the public.

In connection with Ms A, Mr Reid referred the Tribunal to the affidavit of Ms A which made it clear that the Respondent had not properly completed the necessary conveyancing despite having led the client to believe that he had done so. In connection with Ms C, Mr Reid referred the Tribunal to the affidavit from Mr BB of Messrs 1 which made it clear that the Respondent had failed to implement a mandate between 15<sup>th</sup> November 2002 and 10<sup>th</sup> February 2004.

In connection with Mr G, Mr Reid referred the Tribunal to the affidavit from Mr G which made it clear that the Respondent had not properly completed conveyancing work on behalf of Mr G and that Mr G's new solicitors had great difficulty locating the whereabouts of the title deeds.

Mr Reid then referred the Tribunal to the affidavit from Mrs H which made it clear that Mrs H had instructed the Respondent in respect of a claim for compensation and preparation of her will and had paid him advance sums of £84 and £63. The Respondent then did not do work on her behalf.

Next Mr Reid referred the Tribunal to the affidavit evidence from Ms I to the effect that she had been instructed to produce a report and the Respondent represented the pursuer. Both parties to the litigation were found jointly liable for the costs associated with her appointment. She sent a professional account to the Respondent in January 2002 but he did not make payment thereof and did not respond to her enquiries despite the fact that the Respondent's client enjoyed the benefit of a Legal Aid Certificate.

Mr Reid then referred the Tribunal to the affidavit from Mr CC, Messrs 4, Solicitors, from which it was clear that the Respondent had not properly dealt with conveyancing procedures in respect of his client Mr J as a result of which standard security in favour of Company 5 was left unregistered and they were put at risk. The Respondent also failed to respond to enquiries from Messrs 4 with regard to the matter.

In connection with the Complaint dated 14<sup>th</sup> January 2005, Mr Reid asked for Orders under Section 53C(2). Mr Reid stated that it was proved by the evidence of Ms AA and the productions lodged that Determinations had been made and that the Respondent had failed to comply with the same within the period specified. It was also clear from the evidence from Ms AA and the productions that the Respondent had failed to reply to enquiries made of him by the Law Society. Mr Reid referred the Tribunal to the affidavit evidence from Mr DD, Director of Audit and Compliance at the Scottish Legal Aid Board which made it clear that the Respondent had failed to respond to their enquiries in connection with four different clients who had been granted Legal Aid.

Mr Reid also referred the Tribunal to the affidavit from Ms S to the effect that the Respondent failed to make any progress with her application for a visa until two years after receiving instructions from her. Ms S indicates in her affidavit that she was angry at the lack of progress and contacted another firm of solicitors to act on her behalf. She signed a mandate on 7<sup>th</sup> April 2003 but the Respondent did not implement the mandate.

Mr Reid then referred the Tribunal to the affidavit from Mr U to the effect that Mr U had consulted the Respondent in connection with a conveyancing dispute and had paid him a cheque for £200 to account on 7<sup>th</sup> November 2003. He heard nothing from the Respondent who did not return his calls. Mr U decided he was better consulting another solicitor. Mr U stated that he thought the Respondent was a solicitor and was not aware that he did not possess a practising certificate.

Mr Reid referred the Tribunal to the affidavit from Mr W. Mr W in his affidavit states that he consulted the Respondent in May 2003, paid him the sum of £350 in respect of initial marketing expenses. The Respondent then did not respond to his

enquiries and Mr W sought alternative representation. Mr W was not informed that the Respondent had ceased practice.

Mr Reid referred the Tribunal to the affidavit from Mr X who stated in his affidavit that he had paid the Respondent a cheque for £1000 in respect of a deposit required by builders and also left him a post-dated cheque in connection with the balance of the price and his fees and outlays. The Respondent failed to deal properly with the conveyancing matters on behalf of Mr X. Finally Mr Reid referred the Tribunal to the affidavit from Mr EE which confirmed that Ms S had signed a mandate on 7<sup>th</sup> April 2003 which was intimated to the Respondent who did not deliver the files to them.

Mr Reid asked the Tribunal to find the Respondent guilty of professional misconduct and find him liable in the expenses of all Complaints.

## **DECISION**

The Tribunal found Ms AA to be a credible and reliable witness and accepted her account of events. The Tribunal also found the evidence of Mr Z and the productions and affidavit evidence lodged to be reliable. On the basis of this evidence the Tribunal found the facts as set out in the three Complaints to be proved beyond reasonable doubt with one or two exceptions. In connection with the Complaint dated 9<sup>th</sup> June 2004 the Tribunal noted that the Fiscal was not insisting on Article 5.1 or 12.1, 12.2 and 12.3 and these facts were accordingly not found to be proved. The Tribunal was also not satisfied beyond reasonable doubt on the basis of the hearsay evidence in the letters from Messrs 3 that in connection with the Complaint by Mr G, the Respondent refused to deliver the Title Deeds on the premise that he was exercising a solicitors lien in respect of an unpaid account when an account had not been raised or rendered. The Tribunal accordingly deleted this part of Article 8.2 of the Complaint dated 9<sup>th</sup> June 2004. The Tribunal also noted that the affidavit evidence from Ms I did not cover the facts set out in Articles 10.3 and 10.4 of the 9<sup>th</sup> June 2004 Complaint apart from the statement that the Respondent represented a client who enjoyed the benefit of a Legal Aid Certificate. These facts were accordingly deleted. In connection with the Complaint dated 14<sup>th</sup> January 2005

the affidavit from Mr W made no mention of a mandate and accordingly the Tribunal deleted reference to the mandate from Article 9.1 of this Complaint.

The Tribunal agreed to conjoin all three Complaints and was satisfied beyond reasonable doubt that the Respondent's conduct amounted singly and *in cumulo* to professional misconduct. The Tribunal was also satisfied beyond reasonable doubt as was clear from the evidence of Ms AA and the productions lodged that the Respondent had failed to comply with the Determinations and Directions of the Law Society as listed in the three Complaints apart from the one-off payment of £1000 and found that it was appropriate to make Orders under Section 53C(2) in all cases. The Fiscal then drew the Tribunal's attention to previous findings of professional misconduct against the Respondent when he had been fined two lots of £3000 and had his practising certificate Restricted for a period of 10 years for analogous matters. The Tribunal was extremely concerned by the Respondent's total disregard for the Law Society and for the interests of his clients. The Respondent failed to respond to enquiries made of him by the Law Society on numerous occasions which hampers the Law Society in the performance of their statutory duty and brings the profession into disrepute. The Respondent's failure to respond to the Law Society makes it impossible for the Law Society to answer the Complainers complaint which results in Complainers becoming angry and frustrated and the whole system being perceived as being ineffectual. The Respondent's cavalier attitude in this regard is regrettably disgraceful and dishonourable. The Respondent also failed to respond to his clients and did not attend to conveyancing formalities properly leaving his clients and lenders exposed to serious risk and damage. The Respondent also failed to comply with mandates and delayed in settling professional fees. The Respondent also failed to comply with numerous Determinations and Directions made by the Law Society and caused his clients untold distress. The Tribunal were of the view that there is no place in the profession for a person who acts in this way and had no hesitation in Ordering that the Respondent's name be struck from the Roll of Solicitors in Scotland. The Tribunal made the usual order with regard to publicity and expenses.

**Vice Chairman**