



Solicitors
Disciplinary Tribunal

CHAIRMAN'S REPORT

YEAR ENDING 31 DECEMBER 2006





CONSTITUTION AND POWERS OF THE SOLICITORS DISCIPLINARY TRIBUNAL

The Solicitors Disciplinary Tribunal is a statutory body, constituted under the Solicitors (Amendment) Act 1960 as substituted by the Solicitors (Amendment) Act 1994 and amended by the Solicitors (Amendment) Act 2002. The Tribunal is wholly independent of the Law Society of Ireland.

It is composed of 20 solicitor members and ten lay members, the latter being drawn from a wide variety of backgrounds. Their remit is to represent the interests of the general public. All Tribunal members are appointed by the President of the High Court – solicitor members from among practising solicitors of not less than ten years' standing and lay members who are not solicitors or barristers.

Procedures of the Tribunal are also governed by the Solicitors Disciplinary Tribunal Rules 2003, which came into operation from 1st March 2003. Under the Solicitors Acts 1954 to 2002, the Tribunal's powers are mainly confined to receiving and hearing complaints of professional misconduct against members of the solicitors' profession.

Applications to the Tribunal are made by the Law Society of Ireland ('Law Society') and, subject to a few instances under the Solicitors Acts where applications are limited to the Law Society, it is also open to members of the public to make a direct application to the Tribunal without resorting to the Law Society.

Section 19 of the Solicitors (Amendment) Act 2002 has extended the powers of the Tribunal, giving it jurisdiction over trainee solicitors. In such cases, the Law Society may apply to the Tribunal to hold an inquiry into alleged misconduct by trainee solicitors.

SOLICITOR MEMBERS

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Ernest Cantillon
Mary Cantrell
Michael Carrigan
Niall Casey
Helen Jeanne Cullen
Joseph Deane
Caroline Devlin
Paula Duffy
Anthony Ensor

TRIBUNAL REGISTRAR:

Mary Lynch

SOLICITOR MEMBERS

Carol M Fawsitt
Isabel Foley
Berchmanns Gannon
Maeve Hayes
Edward McEllin
Brian M McMahon
Caroline O'Connor
Michael V O'Mahony
Hugh O'Neill
Ian Scott

SECRETARY TO REGISTRAR:

Monica Rickerby

LAY MEMBERS

Colette Carter
Caroline Caslin
Ted Conlon
Padraig Ingoldsby
Sean McClafferty
Margaret O'Shea
Fergus O'Tuama
Kristin Quinn
Ken O'Neill



INTRODUCTION

This is my third Chairman’s Report and it covers the period 1 January to 31 December 2006. Again, this has proved to be another very busy year for the Tribunal, with the figure for new applications exceeding the 100 mark for the first time. This obviously has had a major impact on the staff and resources of the Tribunal, as well as exacting a huge commitment from both solicitor members and lay members of the Tribunal.

In addition to my functions as a member of the Tribunal, under the Tribunal’s rules I am responsible for:

- Co-ordinating, in conjunction with the Tribunal Registrar, the administrative function of the Tribunal,
- Liaising with the President of the High Court in relation to the efficient administration of the Tribunal, and
- Convening and presiding at general meetings of members of the Tribunal held from time to time.

It is the function of the Tribunal to decide:

- That the facts are proved, and
- Whether, based on those facts, a solicitor is guilty of professional misconduct.

Careful consideration is given to all applications and the Tribunal, as a matter of ordinary procedural fairness, strives to ensure that everyone is given a fair and public hearing within a reasonable time by an independent and impartial Tribunal. A party to proceedings is given a reasonable opportunity of presenting his/her case, which includes the opportunity to call evidence, cross-examine witnesses and seek the disclosure of relevant documents.

Table 1 below shows the number of sittings of the Tribunal.

YEAR ENDING 31 DECEMBER	NO OF SITTINGS OF TRIBUNAL
2006	59
2005	55
2004	57
2003	38

TABLE 1

APPLICATIONS

In the year under review, the number of new applications made to the Tribunal increased by 25% compared with 2005.

An insight into the variety of complaints made to the Tribunal can be gleaned from the findings of professional misconduct made against solicitors as further set out in this report.

Applications to the Tribunal must be made in the form specified by the rules, setting out the particular allegations of misconduct and outlining the details and evidence to support each allegation.

Applications received from members of the public remain high. This, in part, is due to the practice of the Law Society and the Office of the Independent Adjudicator of drawing the attention of complainants, who appear to be dissatisfied with the Society’s treatment of their complaints, to the existence and function of the Tribunal.

The Tribunal recognises that making an application may not be an easy task for some members of the public due to the standard of proof required, the emotional stress, and lack of knowledge of the Tribunal’s procedures. In order to assist the public and to alleviate any difficulty – real or otherwise – clear and comprehensive information in regard to making an application to the Tribunal is available direct from the office of the Tribunal or through its website. The Tribunal’s website includes details of the Tribunal’s rules, annual reports and diary: www.solicitorsdisciplinarytribunal.ie.

The Tribunal’s first obligation is to determine whether or not there is a prima facie case of misconduct on the part of the solicitor for inquiry. In this regard, members do not hold a formal hearing but consider each application, affidavits and supporting documents, furnished by the parties, to reach their decision. If they find that there is a prima facie case of professional misconduct, an inquiry is directed. If not, the applicant may appeal the decision of the Tribunal to the President of the High Court.

MISCONDUCT INCLUDES:

- The commission of treason or a felony or a misdemeanour;
- The commission outside the state of a crime or an offence that would be a felony or a misdemeanour if committed in the state;
- The contravention of a provision of the Solicitors Acts 1954 to 2002, or any order or regulation made thereunder;
- In the course of practice as a solicitor
 - having any direct or indirect connection, association or arrangement with any person (other than a client) whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of section 55 or 56 or section 58 (which prohibits an unqualified person from drawing or preparing certain documents), as amended by the Act of 1994, of the principal Act, or section 5 of the Solicitors (Amendment) Act 2002; or
 - Accepting instructions to provide legal services to a person from another person whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of those enactments;
 - any other conduct tending to bring the solicitors’ profession into disrepute.

It has been held by the High Court that: *“The test in general as to what is misconduct can be stated thus, is the conduct connected with the profession in which the professional is concerned and has he/she fallen short, by omission or commission, of the standards of conduct expected among that profession and that such falling short as is established is serious.”*



Further, it has also been held by the High Court: "It is well settled that negligence or want of professional skill on the part of a solicitor are not in themselves grounds for the exercise of disciplinary jurisdiction and that the proper remedy for such matters is a civil action for damages. However, while not amounting to misconduct within the statutory definition, negligence or want of professional skill if sufficiently serious or if repeated may be of such character and so aggravated as to come within the definition. It is a question of degree whether negligent conduct by a solicitor is or is not a disciplinary offence. As with negligence so with delay: to constitute misconduct the delay must be gross or excessive."

During the year under review, the Law Society and lay applicants filed 20 appeals in the High Court against decisions of the Tribunal where it had found that there was no prima facie case of misconduct on the part of the solicitor for inquiry. The High Court affirmed the decisions of the Tribunal in 12 cases and, in one of these cases, awarded the solicitor his costs as against the appellant, measured in the sum of €1,000. Another appeal was affirmed in relation to one allegation, and the decisions of the Tribunal in relation to the other matters appealed in the same case were upheld. The court further allowed appeals in three other cases, while another appeal was struck out with no order as to costs. The decisions in three cases are awaited.

The decisions of the Supreme Court are also awaited in respect of two appeals against High Court orders made in 2005 and 2006 affirming the finding of the Tribunal that there was no prima facie case of misconduct on the part of the solicitor for inquiry. In another matter, the appellant's appeal was upheld by that court and the case referred to the Tribunal for hearing.

Where an inquiry has been directed, both parties to the application are notified of the date of the hearing and furnished with copies of all affidavits and documents filed by the parties. The Tribunal holds inquiries in public, but it can exercise its discretion, on the application of either party, and agree to a case being heard in private, in whole or in part. Further, in certain cases, such as family-

law matters, legislation provides that inquiries of the Tribunal must be held otherwise than in public.

Where, on completion of an inquiry, the Tribunal finds that there has been misconduct on the part of the solicitor, it has the power, by order, to do one or more of the following:

- To advise and admonish or censure the solicitor;
- To direct payment of a sum, not exceeding €15,000, to be paid by the solicitor to the Compensation Fund;
- To direct that the solicitor shall pay a sum, not exceeding €15,000, as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
- To direct that the whole or part of the costs of the Law Society or of any person appearing before it, as taxed by a taxing master of the High Court, in default of agreement, shall be paid by the solicitor.

Further, where the Tribunal finds that there has been misconduct on the part of the solicitor and it does not propose to make any of the above orders, it may make a report to the High Court that will specify its recommendations as to the sanction that should be imposed. The Tribunal, when deliberating on its recommendation, will have regard to its findings of misconduct and to any finding of misconduct on the part of the solicitor previously made by it, and not rescinded by the High Court, and to any order made by the court under the Solicitors Acts 1954 to 2002, in respect of the solicitor.

The High Court, after consideration of the Tribunal's report, may make an order to do one or more other things specified in section 8(1) of the 1960 Act (as amended), which includes, inter alia, orders striking the name of the solicitor off the Roll of Solicitors or suspending the solicitor from practice.

OBSERVATIONS ON COMPLAINTS BEFORE THE TRIBUNAL

During the year under review, divisions of the Tribunal sat on 59 occasions to consider various allegations against solicitors (in a number of instances, the same solicitors continue to appear before the Tribunal) in relation to breaches of their duty to comply with the Solicitors Acts 1954 to 2002 (and the regulations made thereunder) and their duty to provide a quality and honest service to their clients.

Breaches of the Solicitors' Accounts Regulations and, in particular, the delay/failure to furnish accountants' reports to the Law Society pursuant to regulation 21 (1) of the Solicitors' Accounts Regulations No. 2 of 1984, as amended by regulation 21 (1) of the Solicitors' Account Regulations 2001, continues to be the most frequent cause of complaint. In one such case, the Tribunal was not of the opinion that it was

appropriate to make an order pursuant to subsection 9 of section 7 of the Solicitors (Amendment) Act 1960 (as amended) and instead, by order, directed the Law Society to bring the report of the Tribunal before the High Court. The Tribunal was concerned as to the solicitor's fitness to practise, in light of his continued failure to comply with the Solicitors' Accounts Regulations. Consequently, the Tribunal recommended that the practising certificate of the solicitor be suspended until such time as the financial matters giving rise to the complaint were regularised.

Fines ranging from €500 to €5,500 have been imposed on solicitors who failed to furnish to the Law Society accountants' reports within the required time limit.

Further, the Tribunal, in two cases, found, inter alia, that solicitors had allowed large deficits to arise. In one such case, the Tribunal, on hearing submissions made by the parties in regard to penalty and costs, and in view of the undertaking by the solicitor to the Law Society to furnish two-

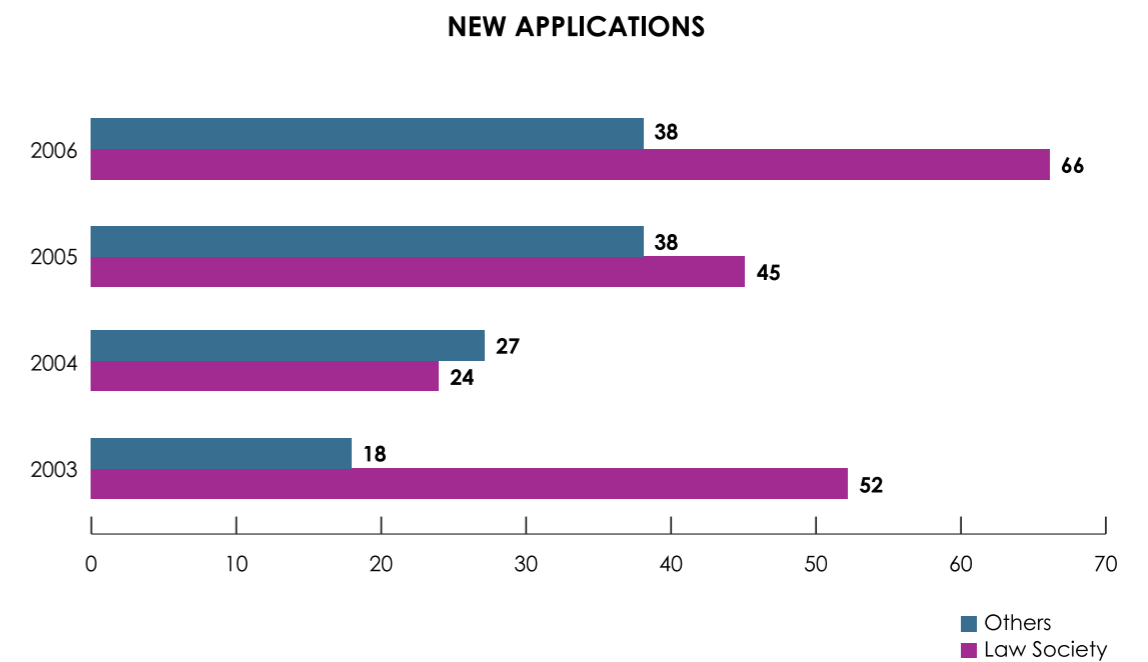


CHART 1



monthly accountants' reports in a manner to be approved by the Society from his own accountants, made an order censuring the solicitor and directing him to pay a fine of €15,000, and to pay the Law Society's costs, to be taxed in default of agreement. In the second case, the Tribunal decided to make its own order by reason of the admissions made by the solicitor and the fact that no client had suffered any financial loss. The solicitor was censured, fined €7,000 and directed to pay the Law Society's costs.

In another case, it was found, inter alia, that the two solicitors (former partners) conducted a policy of deliberate non-compliance with the Solicitors' Accounts Regulations No. 2 of 1984 and the Solicitors' Account Regulations 2001 and other legislation in respect of their handling of clients' monies, fees and outlays. In addition, they provided false and misleading information in response to questions raised by the Law Society's investigating accountant. The Tribunal, in its report to the High Court, recommended that the solicitors each be suspended from practice for a period of 12 months; for a further period of three years that they not be permitted to practise as sole practitioners or as partners in a solicitor's practice, but they may be permitted only to practise as assistant solicitors under the direct control and supervision of another solicitor, to be approved in advance by the Law Society; that the solicitors each pay a sum of €50,000 to the Compensation Fund; that the solicitors each pay 50% of the costs of the Law Society.

The Tribunal, in another matter, found, inter alia, that the solicitor had taken substantial sums of money as 'solicitor/client' fees in personal injury cases, which were not recorded as income in the office books of account, so that the fee income of the solicitor's practice was substantially understated in the books of account; cashed or caused to be cashed 'solicitor/client' fee cheques over a three-and-a-half-year period, usually in the family butcher shop, instead of paying such fees into the office account. In this case, the Tribunal viewed the complaints proven against the solicitor as being matters of the utmost gravity and constituting conduct that brought the solicitors' profession into disrepute. Were it not for the

submissions made by the parties, the Tribunal was of the opinion that the seriousness of the complaint was sufficient to warrant considering a referral of the matter to the President of the High Court. The Tribunal made an order censuring the solicitor, fining him €15,000 and directing him to pay the costs of the Law Society.

As has been emphasised in the reports of my predecessors, it is incumbent on each solicitor to ensure that they are compliant with the Solicitors' Account Regulations and that they maintain properly written-up books. The Tribunal, as has been shown, takes a very serious view of failing to comply with all aspects of the accounts regulations. It is a matter of personal responsibility for sole practitioners and partners to satisfy themselves that they have the resources and that they are fit to cope with the pressures and responsibilities of independent practice.

A number of complaints demonstrated unacceptable failure on the part of solicitors in complying with undertakings given to lending institutions. In one case, a fine of €15,000 was imposed on the solicitor, while in another case, the solicitor was fined €10,000 for failing to honour undertakings. In this latter case, it was noted that the solicitor ultimately complied with his undertaking, that the recipient of the undertaking was unlikely to suffer financial loss and that there was no evidence before the Tribunal that this was other than an isolated case.

It is also of concern to the Tribunal that there are instances where solicitors accept instructions to attend to certain matters and thereafter fail to bring the particular business to a conclusion. This is illustrated in a case where the solicitor was charged with misconduct, in that he failed to carry out the applicant's instructions. In 1996, the applicant agreed to purchase a site, which he intended to transfer a portion thereof to his daughter and her husband. It appeared that the maps furnished by the applicant to the solicitor were incorrect, in that they overstated the amount of ground to be transferred. It also appeared that, at an early stage, the applicant remedied this discrepancy directly with the vendor. There was a conflict as to when the solicitor was made aware

of the discrepancy, but in any event, all parties agreed that, by August 1999, it was known that the maps attached to the transfer, which had been signed in 1997, were incorrect and that they did not represent the position on the ground for the reasons already stated, namely that there was a discrepancy of some small fraction. The solution was clearly set out in a letter from the solicitors for the county council, namely the attaching of the correct maps to the transfer or re-executing the deed or doing a deed of rectification. This was not a matter of major complication, and it could have been resolved quite simply at that stage.

The applicant gave instructions to have the matter resolved and not only did he communicate these instructions orally, but he also followed them up with a letter, which the Tribunal had the benefit of seeing at the hearing. The solicitor had not resolved the matter by 2003, contrary to the instructions he had received.

The whole affair caused distress to the applicant and his family. It had also caused considerable financial hardship to the applicant and, indeed, his daughter. However, the Tribunal could not address the fact of hardship to the applicant's daughter under the legislation by means of which the Tribunal operates. The solicitor had clearly and honestly accepted that the delay between 2000 and 2003 was unacceptable, and it was in respect of that period that the Tribunal found it was misconduct to fail to carry out the instructions of the applicant. The Tribunal made an order censuring the solicitor, fining him €5,000, and ordering him to pay €11,308.50 as restitution to the applicant without prejudice to any legal right he may have. The applicant was also awarded his expenses.

On foot of two other applications made by the Law Society in respect of the same solicitor, the Tribunal found the solicitor guilty of misconduct in both cases, in that he, inter alia, failed to progress personal injuries claims, failed to reply to correspondence and to comply with a direction of the Law Society to hand over the complainant's file to the Society for onward transmission to the complainant. There was no appearance by or on behalf of the solicitor at the inquiries.

The Tribunal proceeded with the inquiries in his absence and in each case made an order censuring the solicitor, fining him €15,000 and directing him to pay the whole of the Law Society's costs.

The Tribunal also censured a solicitor, directed him to pay a sum of €5,000 to the Compensation Fund and to pay the Law Society's costs, where it had found that the solicitor had charged his client a professional fee, purportedly for services provided by the solicitor, the fees for which were not recoverable from the Residential Institutions Redress Board, but failed to produce any documentary or other evidence of such work; subsequently negotiated his client's costs with the Residential Institutions Redress Board without informing his client and obtaining his instructions on the amount being offered by the Residential Institutions Redress Board in respect of such costs; and breached section 68(3) of the Solicitors (Amendment) Act 1994 by failing to furnish to his client a bill of costs as prescribed by the provisions of the section.

The Law Society, or any other person who has made an application to the Tribunal, may appeal to the High Court against a finding that there has been no misconduct on the part of the solicitor. The court may confirm the finding concerned or may rescind or vary any finding of the Tribunal that there has been no misconduct on the part of the solicitor.

In one case, a lay applicant appealed against a finding of the Tribunal that the solicitor was not guilty of professional misconduct – the decision of the High Court is awaited.

SUBJECT MATTER OF COMPLAINTS

Chart 3 shows a detailed analysis of the subject matter of complaints, where the tribunal found that professional misconduct had taken place.

GROUND ON WHICH PROFESSIONAL MISCONDUCT WAS FOUND

ADMINISTRATION OF ESTATES

- Failing to furnish any account to beneficiaries setting out monies in the estate, monies paid out, tax paid, tax deducted or to be deducted.
- Allowing confusion to arise in relation to the exact disbursement of funds held by the respondent solicitor. In a letter, the respondent solicitor referred to €153,247.89 held in client account yet, after disbursing €108,000, the respondent solicitor still retained €100,633.49 at the date when the file was handed over to the Law Society.
- Failing to take action in relation to the sale of a house that was apparently subject of a lease to a third party. No action had been taken in relation to the property by the respondent solicitor and the property formed part of the estate assets.

- Grossly delaying, without reasonable explanation, the administration of the estate, the deceased person having died nine years ago;
- Showing a complete disregard for the interests of the beneficiaries, whom the respondent solicitor knew to be elderly, and by his conduct deprived two of the beneficiaries, who died during his stewardship, of the enjoyment of their share in the estate.

CIVIL CLAIMS

- Charging a client a professional fee purportedly for services provided by the respondent solicitor, the fees for which were not recoverable from the Residential Institutions Redress Board, but failing to produce any documentary or any evidence of such work.
- Negotiating client's costs with the Residential Institutions Redress Board without informing the client and obtaining instructions on the amount being offered by the Residential Institutions Redress Board in respect of such costs.
- Failing to progress the personal injuries claim of the complainant.
- Failing to respond or communicate with the complainant about the case.

COMMUNICATION WITH CLIENTS/COLLEAGUES

- Failing to correspond with the bank.
- Failing to correspond with the complainant on behalf of the bank.

CONVEYANCING

- Breaching a letter of undertaking by paying out the proceeds of sale to clients rather than lodging same with the bank, in accordance with the terms of the undertaking.
- Breaching an undertaking by failing to register the charge of the bank over client's properties, in accordance with the undertaking.
- Failing to comply with the undertaking in a timely manner to furnish the complainant with the original indenture of lease duly registered in the Registry of Deeds as soon as possible after completion.
- Failing to disclose the full consideration of £250,000IEP on the face of a transaction (having deliberately underestimated the actual consideration by £50,000IEP, with the direct intention and effect of defrauding the Revenue Commissioners.

PROFESSIONAL INDEMNITY INSURANCE

- Breaching the provisions of the Professional Indemnity Insurance Regulations and, in particular, the provisions of Statutory

Instrument Number 312 of 1995, as amended by Statutory Instrument Number 362 of 1999, having failed to obtain run-off cover in accordance with the requirements of the regulations.

REGULATORY BODY – LAW SOCIETY OF IRELAND

- Failing to respond to the correspondence from the Law Society in a timely manner or at all.
- Failing to comply with a notice pursuant to section 10 of the Solicitors (Amendment) Act 1994 to deliver the complainant's file to the Law Society for inspection.
- Failing to comply with a direction of the Law Society to hand over the complainant's file to the Law Society for onward transmission to the complainant's new solicitors.
- Misleading the Law Society in a letter by indicating that the solicitor had requested a colleague to take over the file when this was not the case.
- Preventing the Law Society from providing a solution to the complainant's situation.
- Showing disregard for his statutory obligations to comply with the Solicitors' Account Regulations and showing disregard for the Law Society's statutory obligation to monitor compliance with the Solicitors' Account Regulations for the protection of clients and the public.

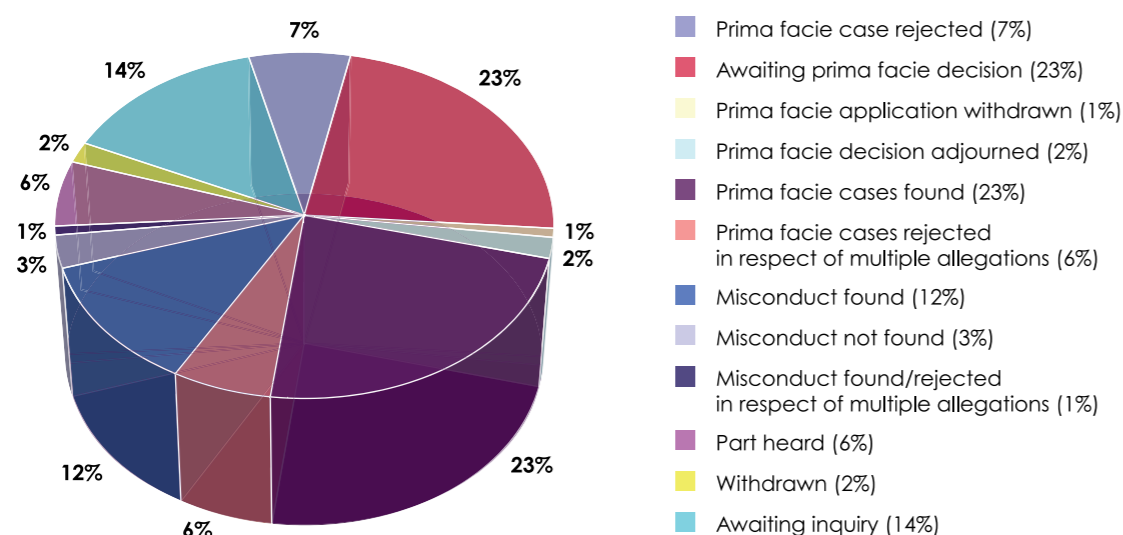


CHART 2 – SUMMARY OF STATUS OF COMPLAINTS BEFORE TRIBUNAL

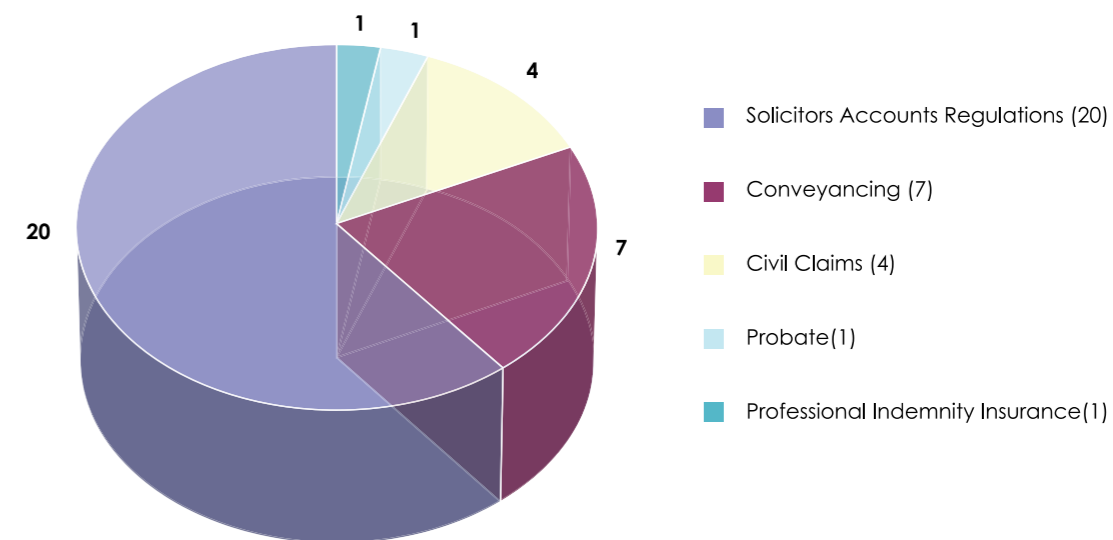


CHART 3 - DETAILED ANALYSIS OF THE SUBJECT MATTER OF COMPLAINTS WHERE MISCONDUCT WAS FOUND



- Showing a disregard for the statutory responsibilities of the Law Society in dealing with complaints.

SECTION 68

- Breaching section 68(3) of the Solicitors (Amendment) Act 1994 by deducting fees from his client's award without the written authority of the client
- Breaching section 68(6) of the Solicitors (Amendment) Act 1994 by failing to furnish to clients a bill as prescribed by the section as soon as practicable after the conclusion of contentious business carried out by the solicitor on behalf of the client.

SOLICITORS' ACCOUNT REGULATIONS

- Allowing deficits in client monies to arise.
- Causing two client account cheques to be written, both payable to the client and entered in the books of account as payments to the client, whereas one of the cheques was endorsed by the client, which the respondent solicitor then negotiated for own use and benefit.
- Cashing or causing to be cashed 'solicitor/client' fee cheques over a three-year period, usually in the family butcher shop instead of paying such fees into the office account.
- Taking substantial sums of money as 'solicitor/client' fees in personal injury cases, which were not recorded as income in the office books of account so that the fee income of the respondent solicitor's practice was substantially understated in the books of account.
- Deliberately falsifying books of account to evade payment of tax.
- Permitting the existence of debit balances in 20 client ledger accounts, that is to say, where money in excess of monies held to the credit of those clients in the amount of €186,053 had been withdrawn.
- Deliberately trying to mislead the Law Society in producing fictitious books of account when a Solicitors' Account Regulations inspection was initiated.
- Providing false and misleading information in response to questions raised by the Law

Society's investigating accountant in letter about barristers' fees.

- Providing incorrect information in relation to a number of matters to the investigating accountant in the course of an investigation under the Solicitors' Account Regulations 2001.
- Seriously misleading their own reporting accountants in the production of accounting records, which the solicitors knew to be inaccurate and which did not cover all dealings with clients' funds.
- Showing a blatant disregard for the Solicitors' Account Regulations in having knowingly lodged clients' monies to non-client bank accounts and in having maintained no record in books of account in respect of these transactions.

BREACHING THE FOLLOWING REGULATIONS OF THE SOLICITORS' ACCOUNT REGULATIONS, 2001:

- Regulation 4(2): by failing without delay to pay monies held or controlled by them in respect of outlays not yet disbursed into client account and failing to treat such monies in all respects as client money.
- Regulation 5: by holding monies to which they were beneficially entitled in a client account for longer than three months in respect of outlays already disbursed, or which should have been the subject matter of a bill of costs furnished to the client concerned.
- Regulation 7(1)(a): by withdrawing monies from client account in a manner prohibited by the said regulation.
- Regulation 7(3) and 7(1)(a)(iii): in none of the personal injury files examined were the clients furnished with a bill of costs (as defined). Furthermore, the solicitor/client fees drawn were not drawn within a period 'not exceeding three months after' furnishing a bill of costs.
- Regulation 8(1) and (2): by withdrawing monies from client account other than by means of a cheque drawn on a client account in favour of the firm, which proceeds they further failed to pay into office account or to transfer from client account to office account.
- Regulation 8(3): by withdrawing monies from client account by means of a cheque drawn on

that client account, but failing to record on client account cheque and the cheque stub or requisition document or other document of record the name of the payee or other person who was to be credited with such payment.

- Regulation 10: by failing to maintain proper books of account to show all dealings with client's monies received, held or paid and any other money dealt with by them through a client account.
- Regulation 10(2): the respondent solicitor cashed 'solicitor/client' cheques totalling €76,910.63 and a further cheque for €2,500. The respondent solicitor did not pay all monies received in respect of solicitor/client fees into the office account.
- Regulation 10(5): allowing a credit balance of €177,959 on the office side of the client ledger account in breach of regulation 10(5).
- Regulation 11(1): by failing to furnish clients in respect of whom they had provided legal services in client matters that had been completed, bills of costs that specified the amount of professional fees payable by the clients in respect of such legal services in such client matters.
- Regulation 11(3): by withdrawing monies from client account in respect of professional fees or interim professional fees or outlays not properly payable at the time of such withdrawal.
- Regulation 12(1): by failing to maintain proper books of account and such relevant supporting documents as would enable clients' monies handled and dealt with by them to be duly recorded and the entries relevant thereto in the books of account to be appropriately vouched.
- Regulation 12(6): by failing to record in their books of account each of their transactions on the office account with monies (other than clients' monies or monies referred to in clause 2(a) of this regulation and other than controlled trust monies or non-controlled trust monies) as prescribed by the subsection.
- Regulation 20: by failing to maintain the minimum books of account in respect of all client transactions.
- Regulation 20(1)(f): by failing to maintain the original of each paid cheque drawn on each

client account, controlled trust account and non-controlled trust account, regularly procured from the bank and maintained and kept by them in numerical sequence, together with the corresponding cheque stubs or requisition dockets.

- Regulation 20(1)(g): by failing to maintain a copy of each draft and each other negotiable or non-negotiable instrument obtained by them in connection with any client matter.
- Regulation 21(1): by failing to file an accountant's report with the Law Society in breach of regulation 21(1) of the Solicitors' Account Regulations 2001 (Statutory Instrument No 41 of 2001) in a timely manner or at all.

OTHER ORDERS MADE BY THE TRIBUNAL

The Tribunal made nine orders removing the names of solicitors, at their own request, from the Roll of Solicitors.

PUBLICITY

Reports on the outcome of Solicitors Disciplinary Tribunal inquiries are published by the Law Society, as provided for in section 23 (as amended by section 17 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act 1994. The Tribunal welcomes the decision of the Law Society to publish the reports of the Tribunal in their Gazette.



CONCLUSION

Notwithstanding the fact that applications to the Tribunal are on the rise, it is reassuring to note that the solicitors coming before the Tribunal represent a small percentage of the number of practising solicitors. However, it is disappointing to see the same solicitors reappearing before the Tribunal, time and again. It is hoped that solicitors will take the time to read this report, which may help to highlight the various difficulties that some of their colleagues encounter.

One of our lay members, Paul Kingston, retired during the year after six years of service. I would like to thank Paul for all of his hard work during those years.

The appointment of a new lay member is awaited. I would also like to record my thanks to the lay and solicitor members of the Tribunal for their co-operation and unstinting work and look forward to working with them during the coming year.

Finally, I would like to thank Mary Lynch, the Tribunal Registrar, and Monica Rickerby, the secretary to the registrar, for their tireless work on behalf of the Tribunal. Without them, the Tribunal would grind to a halt.

Francis D Daly
Chairman

APPENDIX 1

ANALYSIS OF APPLICATIONS AND DECISIONS

APPLICATIONS OUTSTANDING FROM PREVIOUS YEARS	77	NEW APPLICATIONS YEAR ENDING 31 DECEMBER 2006	104
Law Society	44	Law Society	66
Others	33	Others	38
Prima facie cases rejected	12	Prima facie cases rejected	6
Awaiting prima facie decision	7	Awaiting prima facie decision	51
Prima facie application withdrawn	3	Prima facie application withdrawn	—
Prima facie decision adjourned	4	Prima facie decision adjourned	2
Prima facie cases found	22	Prima facie cases found	38
Prima facie cases found/rejected	8	Prima facie cases found/rejected	7
Hearings		Hearings	
Misconduct found	16	Misconduct found	15
Misconduct not found	6	Misconduct not found	2
Misconduct found/rejected*	2	Misconduct found/rejected	—
Part heard	8	Part heard	7
Withdrawn	4	Withdrawn	—
Awaiting inquiry	16	Awaiting inquiry	21

* IN THESE CASES, THE TRIBUNAL FOUND BOTH MISCONDUCT AND NO MISCONDUCT IN RESPECT OF MULTIPLE ALLEGATIONS.



APPENDIX 2

ORDERS MADE BY THE TRIBUNAL PURSUANT TO SECTION 7(9) OF THE SOLICITORS (AMENDMENT) ACT 1960 AS SUBSTITUTED BY SECTION 17 OF THE SOLICITORS (AMENDMENT) ACT 1994 AND AMENDED BY SECTION 9 OF THE SOLICITORS (AMENDMENT) ACT 2002:

ORDERS OF TRIBUNAL IN RESPECT OF THE APPLICATIONS SET OUT IN THE ABOVE TABLE	NUMBER OF ORDERS
Censure fine restitution and costs	1
Censure fine and costs	22
Admonish and advise, fine and costs	4
Fine and costs	1
Censure and costs	1
Admonish and advise	1
Referrals to the President of the High Court	3*

* ONE CASE RELATED TO TWO CO-RESPONDENT SOLICITORS.

APPENDIX 3

REPORTS OF THE TRIBUNAL UNDER SECTION 7(3)(B)(III) OF THE SOLICITORS (AMENDMENT) ACT 1960 (AS AMENDED)

Referrals by the Tribunal to the President of the High Court in respect of the applications set out in Appendix 1

Recommendations of the Tribunal

<ul style="list-style-type: none"> That the first and second-named respondent solicitors each be suspended from practice for a period of 12 months; For a further period of three years that the first and second-named respondent solicitors not be permitted to practise as sole practitioners or as partners in a solicitor's practice, but that they may be permitted only to practise as assistant solicitors under the direct control and supervision of another solicitor, to be approved in advance by the Law Society of Ireland; That the first and second-named respondent solicitors each pay a sum of €50,000 to the Compensation Fund; That the first and second-named respondent solicitors each pay 50% of the costs of the Law Society of Ireland, to be taxed in default of agreement. 	1
That the practising certificate of the respondent solicitor be suspended until such time as the financial matters giving rise to the complaints were regularised. Costs awarded.	1

REPORTS OF THE TRIBUNAL UNDER SECTION 19 OF THE SOLICITORS (AMENDMENT) ACT 2002

Recommendation of the Tribunal

Subject to the respondent trainee solicitor satisfying the requirements of the Law Society of Ireland, the opinion of the Tribunal is that the respondent trainee solicitor would then be a fit person to be admitted as a solicitor	1
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APPENDIX 4

ORDERS OF THE HIGH COURT MADE PURSUANT TO SECTION 8 OF THE SOLICITORS (AMENDMENT) ACT 1960 (AS AMENDED)

<ul style="list-style-type: none"> • That the name of the solicitor be struck off the Roll of Solicitors; • That the ICS Bank and Ulster Bank shall furnish any information in its possession that the Society may require relating to any aspect of the financial affairs of the practice of the solicitor, with liberty to the Society to apply to the court for further orders relating to specified banks if necessary; • That the respondent solicitor swear an affidavit disclosing all information as to his assets, either in his possession or control or within his procurement, that have been, but are no longer, in his possession, control or within his procurement, and if no longer in his possession or control or within his procurement, his belief as to the present whereabouts of those assets, such affidavit to be sworn within four weeks of the date of this order; • Costs awarded. 	1
<ul style="list-style-type: none"> • That the respondent solicitor be fined and that the fine be measured in the sum of €3,000; • Costs awarded. 	1
Adjourned	2

ORDER OF THE HIGH COURT MADE PURSUANT TO SECTION 19(5) OF THE SOLICITORS (AMENDMENT) ACT 2002

<ul style="list-style-type: none"> • That the respondent be permitted to complete her training as a trainee solicitor and be admitted to the Roll of Solicitors, subject to the terms and conditions as set out in the schedule attached to the order – liberty to re-enter the matter. 	1
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Solicitors
Disciplinary Tribunal

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