



Solicitors
Disciplinary Tribunal

Chairman's Report 2014

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* and the *Solicitors (Amendment) Act 2008*, as cited in the *Civil Law (Miscellaneous Provisions) Act 2008* and the *Solicitors (Amendment) Act 2011*, as cited in the *Civil Law (Miscellaneous Provisions) Act 2011*. The tribunal is wholly independent of the Law Society of Ireland.

It is composed of 20 solicitor members and nine lay members, the latter being drawn from a wide variety of backgrounds and whose 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 on 1 March 2003. Under the *Solicitors Acts 1954-2011*, the tribunal's powers are mainly confined to receiving and hearing complaints of misconduct against members of the solicitors' profession.

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.

MEMBERS OF THE TRIBUNAL DURING 2014

Solicitor members:

Edward McEllin (chairman)
Owen Binchy
Helena Bowe O'Brien
Mary Cantrell
Geraldine Clarke
Justin P Condon
Caroline Devlin
Fiona Duffy
Anthony H Ensor
Niall Farrell

Patricia Harney
Philip Joyce
Elizabeth Lacy
Michael Lanigan
Stephen Maher
Brian McMullin
Hugh O'Neill
Boyce Shubotham
Michael Tyrrell
Fiona Twomey

Lay members:

Seamus Byrne
Colette Carter
Úna Claffey
Brenda Clifford
Dermot Eagney
Vera Kelly
Mary King
Joseph McPeake
Siobhan Toale

Tribunal registrar:

Mary Lynch

Administration assistant:

Nadia Farrell

Administrator/receptionist:

Aine Skelly

Tribunal executive:

Ashling McGing

Administration assistant:

Anthea Moore

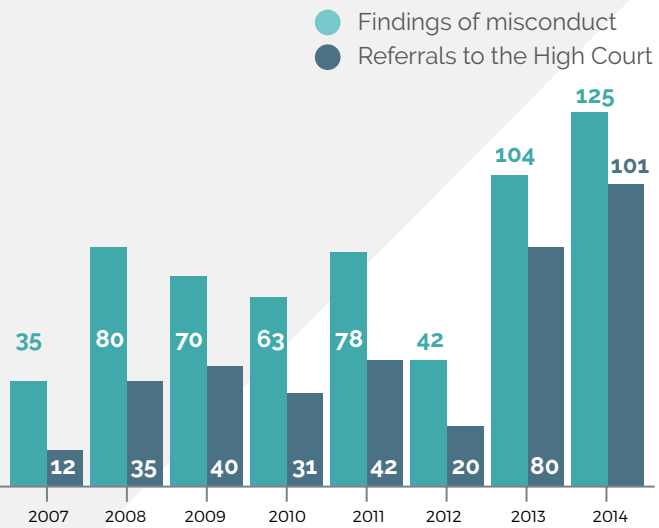
Introduction

This annual report covers the work of the tribunal for the year up to 31 December 2014. The tribunal’s principal role is to determine whether a respondent is guilty of misconduct, as defined in the *Solicitors Acts 1954-2011*. In making such a determination, the tribunal has to find in the first instance that the facts relating to each allegation have been proven beyond all reasonable doubt and, secondly, based on the same high standard of proof, whether the facts so proven amount to misconduct. In the event the tribunal finds misconduct, it then has to assess and impose penalty.

Hearings of the tribunal have varied in length from half a day to five days, and more than one matter may be listed for hearing on a particular day in order to best utilise the time of the members and minimise costs. Decisions of the tribunal are usually delivered on the day of the hearing, but it is possible in some cases that the tribunal will reserve its decision. However, there continues to be an increase in the length and complexity of cases, and this has an impact on the ability of the tribunal to ensure the timely conclusion of cases.

Details of the workload of the tribunal during the year can be seen in Table 3 (page 4). However, while there has been a decrease in the number of new applications to the tribunal, there has been an increase in the number of hearings due to the amount of cases carried forward from the previous year. There has also been an increase in the number of interlocutory applications made prior to or during hearings. These may take some time to hear and adjudicate upon and, consequently, cases take longer than expected.

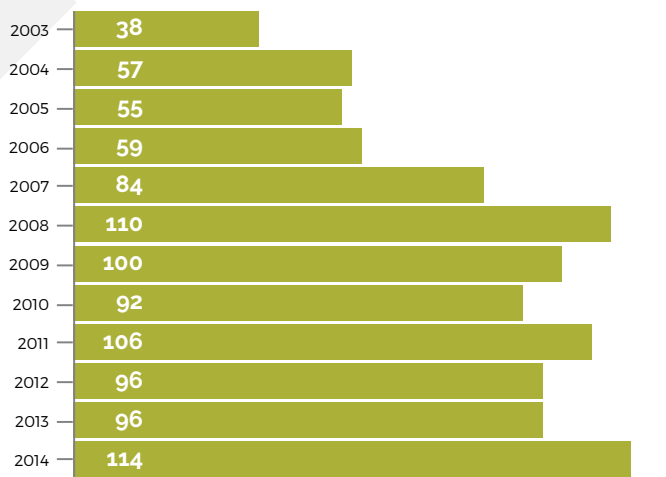
Table 1: Findings of misconduct and referrals to the High Court, by year



In addition, Table 1 shows an increase in the number of findings of misconduct and referrals to the President of the High Court by the tribunal in 2014. However, as multiple applications were made in respect of some respondents, the actual number of respondents involved in such cases was 55, of which 36 individual respondents were referred to the President of the High Court.

Considerable additional time is also spent by tribunal members pre-reading large volumes of papers when preparing for inquiries. At times, members may also meet in private when preparing and finalising reasons for their decisions and reports, and this additional work is not reflected in Table 2, which shows the number of sittings of the tribunal since 2003.

Table 2: Number of sittings of tribunal, by year



The tribunal maintains a diary in respect of forthcoming inquiries on its website at www.solicitorsdisciplinarytribunal.ie. However, preliminary/interlocutory applications are not included in the diary.

Applications

The role of the tribunal is largely confined to receiving applications for an inquiry to be held into the conduct of a solicitor or trainee solicitor on the ground of alleged misconduct and, where a *prima facie* case of misconduct for inquiry is found by a division of the tribunal, proceeding to hold an inquiry in respect of the complaints of alleged misconduct.

The majority of complaints that come before the tribunal are at the instance of the Law Society of Ireland, but it is open to members of the public to make a direct application to the tribunal, with or without any previous reference to the Law Society. The procedure is an adversarial one and, consequently, it is a matter for an applicant to prosecute a case and for a respondent to respond. In this regard, the tribunal is aware that members of the public may find the process of making an application an onerous one, but assistance is available from the tribunal staff in relation to completing the forms grounding an application.

However, it should be said that making an application to the tribunal does not operate as a bar to any other legal proceedings between the applicant and the solicitor concerned.

Further, negligence should never be confused with misconduct. If a client suffers as a result of a mistake made by his/her solicitor, that client may have a common law action against the solicitor concerned for negligence.

The procedures before the tribunal are formal in nature and, as the outcome of a hearing may affect the livelihood of a solicitor, the tribunal requires a high standard of proof. Where a solicitor fails to appear or to be legally represented, this does not relieve the tribunal of its obligation to proceed to hold an inquiry and to proceed in the manner that it would, should the solicitor be in attendance and fully represented.

Chart 1: Outcome of inquiries held in 2014

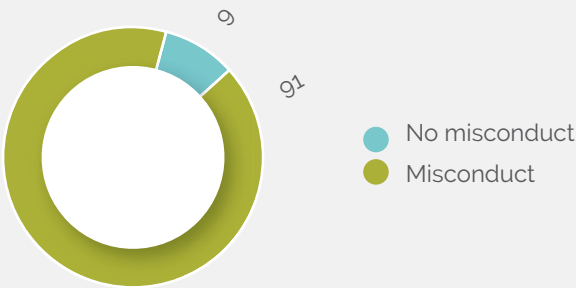


Table 3: Number of new applications received, by year

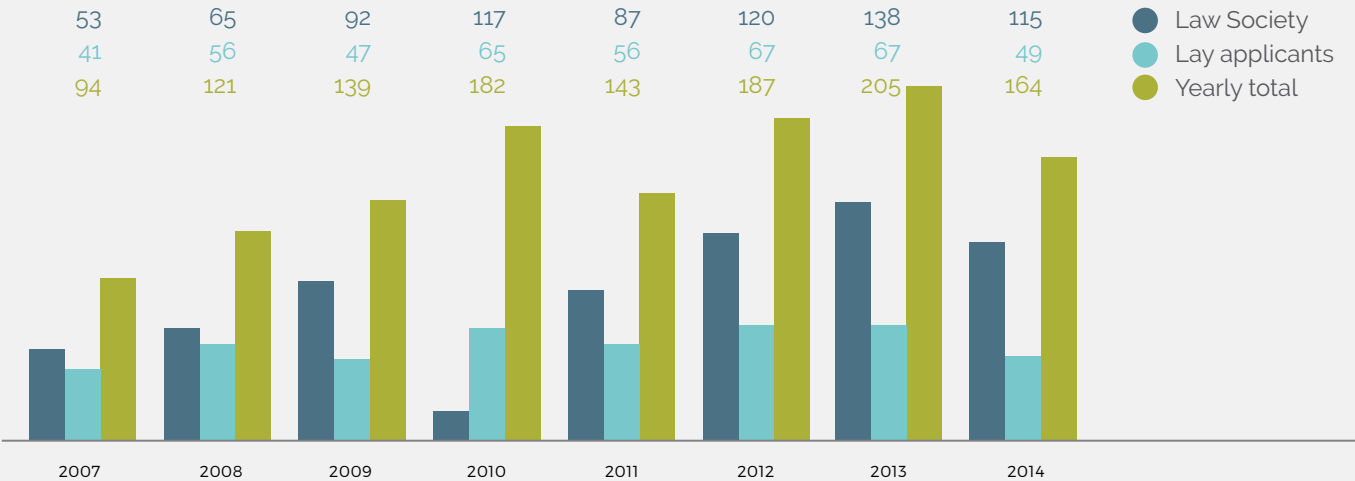
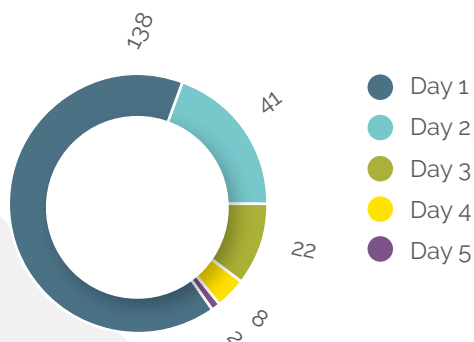


Chart 2: Length of inquiries held in 2014



The *Solicitors Acts* give the tribunal the power and duty to conduct fact-finding inquiries in relation to complaints against solicitors. Section 17 of the *Solicitors Act 1994* (as amended) and the *Solicitors Disciplinary Tribunal Rules 2003* set out the appropriate procedures to follow, which are similar but not strictly related to court procedures. The tribunal, in all cases, makes a tremendous effort to ensure that solicitors' constitutional rights to fair procedures and natural justice are honoured.

Prima facie decisions

The first function of the tribunal is to determine whether or not there is a *prima facie* case for the respondent to answer. For this purpose, the tribunal does not hold a formal hearing, but considers each application, together with its supporting documentation, in private. If satisfied that a *prima facie* case has been proved, an inquiry is held. Where the tribunal has found that a *prima facie* case has not been disclosed, an applicant has a right of appeal to the High Court. In this regard, it should be noted that, in an appeal to the Supreme Court in 2008, it was held that an appeal to the High Court from a decision of the tribunal is an appeal *de novo*, in which the parties are free to make all appropriate submissions for the purposes of persuading the High Court that a *prima facie* case of misconduct exists, and that the tribunal should be obliged to deal with such *prima facie* case. It was also held that the tribunal was a proper notice party to the proceedings, bound by any order that the High Court might make on the appeal.

Sanctions

The tribunal may impose a range of sanctions in relation to its determinations, ranging from advising and admonishing, censuring, imposing a monetary penalty, or recommending to the President of the High Court suspension or the ultimate sanction of striking the name of the respondent off the Roll of Solicitors.

In determining what penalty should be imposed, the tribunal is conscious of its role to protect the public and to maintain public confidence in the profession. Consequently, the tribunal, among other things, takes into account the action required to protect the public, the type of misconduct, the severity of the misconduct, aggravating and mitigating circumstances, proportionality, and prior disciplinary history.

Adjournments

In general, a party seeking an adjournment of an inquiry must make a formal application to that effect to any sitting division of the tribunal, with prior written notice to the other party. Good cause shall be shown to the tribunal for any such adjournment. Where an application by one party for an adjournment is made prior to or on the date fixed for the inquiry, and where the other party is not present or represented at the application, the consent of the other party to the making of the adjournment application must previously have been sought by the applying party before that application will be considered by the tribunal. Only in the gravest circumstances will the foregoing procedure be departed from, and then only at the discretion of the tribunal.

Appeals

The procedure in respect of appeals to the High Court against decisions of the tribunal is set out in the *Rules of the Superior Courts (Solicitors Acts 1954 to 2002) 2004* (SI 701 of 2004) and provides that an appeal shall be dealt with by way of notice of motion and grounding affidavit, and that the papers in respect of an appeal shall be read by the President of the High Court or his nominee in chambers in the first instance, and then be listed for hearing in open court for the purposes of hearing submissions.

During the course of the year, the High Court upheld the decision of the tribunal in respect of nine appeals to the High Court against the decision of the tribunal that there was no *prima facie* case for inquiry.

In one case, the court held that, having regard to all of the evidence and submissions made, it was satisfied that there was no reason to depart from the tribunal's decision that there was no *prima facie* case for inquiry into the conduct of the respondent. The court held that no *prima facie* evidence had been exhibited before the tribunal or in the appeal that indicated misconduct on the part of the respondent in registering his client's ownership of the property concerned. In any event, any dispute as to the ownership of the property was not a matter to be dealt with in these proceedings and did not constitute a *prima facie* case of misconduct on the part of the respondent.

In another appeal to the High Court, it was held that the issues raised by the investigating accountant were not of a serious nature and had been satisfactorily clarified by the respondent in his comprehensive affidavit and in his letter to his regulatory body. The court was satisfied from all of the exhibited correspondence reviewed that there was and is no danger to the public posed by the respondent, that he operated within permissible margins in his dealings with clients' moneys, and was not conspiring in any untoward financial practices. The court held that, for the reasons stated in its judgment and in light of the respondent's attitude and cooperation, an inquiry by the tribunal was not warranted. The finding of the tribunal was affirmed by the court, with costs in favour of the respondent.

The decisions of the High Court in respect of four further appeals are awaited.

Five decisions in respect of appeals to the Supreme Court are also awaited.

Observations on complaints before the tribunal

Conveyancing

During the year under review, the tribunal held an inquiry in respect of six applications concerning a respondent. In two of the cases, the tribunal found the respondent guilty of misconduct where he had, among other things, failed to pay stamp duty on behalf of the complainants in relation to the purchase of a site, despite being put in funds to do so; failed to register the interest of the complainants in the property; misrepresented in an email that he had a certificate from the Revenue Commissioners, but it was lost and a new certificate would be reissued, where this was not the position; failed to register a charge on a property and transfer €50,000 to a third party in accordance with the instructions of the complainant; and caused or allowed the complainant to be exposed to civil litigation for the payment of the €50,000 plus damages, interest and costs.

In both of these cases, the tribunal was of the view that the respondent was not a fit person to be a member of the solicitors' profession and recommended to the President of the High Court that his name should be struck off the Roll of Solicitors. In considering what penalty should be imposed, the tribunal had regard to the respondent's previous disciplinary history.

In addition to the above, the respondent, on the same hearing date, was also found guilty of misconduct in respect of three further cases, where he had, among other things, failed to comply with the totality of the directions made by the Complaints and Client Relations Committee to furnish documentation and information regarding the transaction of the sale of a complainant's share of a property; failed to provide a proper account and breakdown to the complainants in respect of the sale, despite being requested to do so; failed to comply with an undertaking given by him to a complainant on behalf of his clients; failed to refund moneys to his client in a timely fashion or at all; and failed to account to his client in a timely fashion or at all.

In respect of these latter cases, the tribunal recommended in its report to the President of the High Court that the respondent not be permitted to practise as a sole practitioner or in partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society of Ireland.

Finally, in the sixth case concerning the same respondent, the tribunal again found him guilty of misconduct, in that he failed to comply with an undertaking given to the complainant on behalf of his clients. In this instance, the tribunal, having taken into account that the undertaking in question had been complied with, made an order censuring the respondent and directing him to pay the sum of €1,000 to the compensation fund and the applicant's costs.

In all six cases, the respondent had also failed to reply to the correspondence from the complainants and the Law Society and to comply with the directions of the Complaints and Client Relations Committee or to attend meetings of that committee. On one occasion, he also breached an order of the High Court directing him to attend a meeting of his regulatory authority.

However, notwithstanding the tribunal's view in three of the above cases (not to recommend the ultimate sanction), in all five cases referred to the High Court, the president made five separate orders striking the name of the respondent off the Roll of Solicitors.

Another respondent again found himself before the tribunal in respect of five cases. The tribunal found him guilty of misconduct in circumstances where he was found to have failed to comply with undertakings furnished to lending institutions in respect of clients in a timely manner or at all. In addition, he also failed to respond to the Law Society's correspondence in a timely manner or at all. When deliberating on the penalty to be imposed on the respondent, the tribunal took into account his previous substantial disciplinary history and recommended in their report to the President of the High Court that he was not a fit person to be a member of the solicitors' profession and that his name be struck off the Roll of Solicitors.

In respect of all five cases referred to the president, an order was made striking the name of the respondent off the Roll of Solicitors.

During the year, the tribunal also considered eight cases against another respondent. In one of the cases, the tribunal was of the view that, in a number of circumstances, negligence would not constitute misconduct. However, in the particular circumstances of this case, the tribunal had chosen to make a formal finding of misconduct because of the respondent's behaviour in attempting to deal with the matter.

In three of these cases, the tribunal was also of the view that, while some of the individual complaints taken in isolation and applied to a solicitor with an unblemished record would not justify such a recommendation, given the respondent's disciplinary history and his recidivist conduct, they had no alternative but to recommend that his name be struck off the Roll of Solicitors.

The respondent in respect of these matters was found to have, among other things, failed to comply expeditiously, within a reasonable time, or at all with undertakings given by him to lending institutions or a colleague; failed to reply adequately or at all to the complainant's correspondence; failed expeditiously, within a reasonable time, or at all to register the complainant's unencumbered ownership of a property; gave multiple undertakings over the same property to a lending institution; failed to comply with a direction of the Complaints and Client Relations Committee meeting to refund fees, plus VAT, to the complainant; and failed to use his best endeavours to secure the discharge of senior counsel's fees expeditiously or within a reasonable time in this matter, where he himself had been paid his professional fee.

The tribunal, in all eight cases, recommended to the President of the High Court that the name of the respondent be struck off the Roll of Solicitors.

Solicitors Accounts Regulations

Solicitors are aware that the *Solicitors Accounts Regulations* exist to ensure the safe and proper keeping of client funds. Consequently, there is an onus on solicitors to comply with these regulations to ensure the absolute protection of clients' moneys. The tribunal has encountered cases where there have been repeated and ongoing breaches that could not be regarded as trivial or minor.

In one such case, the tribunal, in considering the penalty to be imposed for admitted breaches of the *Solicitors Accounts Regulations*, identified the factors it had taken into account when deciding penalty, namely:

- The protection of the good name of the profession,
- The protection of the public,
- The punitive element of the penalty, and
- Doing justice to the solicitor.

On the basis of the foregoing, the evidence adduced, and the submissions made by and on behalf of the parties, the tribunal, among other things, recommended that the respondent not be permitted to practise as a sole practitioner or in partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society of Ireland.

In that case, the tribunal found that the respondent had, among other things, caused or allowed fees to be transferred to the office account in respect of client matters, other than as authorised by the regulations and, in particular, regulations 11 and 7(1)(a)(iii); caused or allowed the misapplication of stamp duty funds in a client matter; caused or allowed a transfer from one client's ledger to clear a debit balance on the ledger account of another client, in breach of regulation 9; in the course of acting for clients in the purchase of property, caused or allowed underpayments to the Revenue Commissioners of stamp duty and possible interest and penalties; and caused or allowed wages to be discharged from the client account, in breach of regulation 7(2)(b).

Further, some respondents may encounter difficulties in relation to the running and administration of their practices. They may take on too much work without having the appropriate staff and accounting controls. It is the tribunal's view that the public is entitled to believe that any money entrusted to a solicitor will be properly accounted for, and that a solicitor who is not capable of doing this should certainly not have any access to clients' moneys.

In dealing with such a case, the tribunal observed that these failures resulted in a catastrophic situation where there was a very considerable deficit on the client account. Furthermore, there were 140 unstamped deeds that were accumulating penalties and interest.

The tribunal was cognisant of the fact that the respondent had managed to resolve all of the issues – which were considerable – in an expeditious manner. He had also cooperated with the Society, admitted his guilt to the tribunal, and regularised matters by taking on the services of a bookkeeper. Furthermore, no client was at a loss as a result of his misconduct. The tribunal also noted that there was no prior complaint to the tribunal of dishonesty and that the current difficulties arose because of a complete lack of accounting controls.

In its report to the President of the High Court, the tribunal recommended that the respondent not be permitted to practise as a sole practitioner or in partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society of Ireland.

In another case, the tribunal again decided that the respondent should not be permitted to practise as a sole practitioner or in partnership; that he be permitted to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by

the Law Society of Ireland; and that he be precluded from acting as a solicitor on his own behalf and/or on behalf of his immediate family and/or any company in which he or they were directors and/or shareholders.

The tribunal noted that the applicant was seeking the ultimate sanction in respect of the misconduct found on the part of the respondent. However, it had been submitted on behalf of the respondent that there was no loss to the Revenue, the compensation fund or the respondent's former practice, as he had discharged the shortfall in stamp duty and the payment to the relevant bank from his own resources. It was also submitted that he had no previous disciplinary history and that there was no likelihood of him repeating the conduct.

While the tribunal was directed to the decision of the Supreme Court in *Law Society v Colm Carroll and Harry Colley* ([2009] IESC 41) in this regard, it noted the statement of Mr Justice Geoghegan, in the course of that judgment, to the effect that a solicitor cannot expect to avoid the ultimate sanction, if by good fortune, on the relative day, no client or other person owed money by the practice was at an actual loss.

The tribunal was satisfied that the particular forms of misconduct found were deserving of a relatively severe penalty. While the breach of an undertaking was, in itself, a serious matter, the alteration of documents of title by a solicitor with the intention to mislead and deceive was a grave offence, which constituted conduct that would undermine the reputation of the solicitors' profession or bring it into disrepute.

In another case, the tribunal had to consider the respondent's conduct in circumstances where, in the course of running his practice, he had caused a substantial deficit to arise out of what would be accepted and acknowledged as admitted mismanagement in relation to the practice.

During the course of the inquiry, the tribunal had the benefit of reading the accountant's report and, indeed, the respondent's affidavit, in which he made admissions at an early stage that he was somewhat overwhelmed, in particular, in relation to the running and administration of his civil litigation practice.

However, the tribunal's view was that there was an onus, if a solicitor took on civil work, to ensure that time, effort, and dedication was given to those files. Further, the respondent should have reflected, at a very early stage, that perhaps he had not got the practice administration and management facilities to deal with litigation matters, particularly at a time where time limitations had been ever decreased by way of legislation.

Taking all matters into account and applying the tests that the tribunal believed that the High Court and Supreme Court had set down in relation to the balancing of what must be done, having regard to the public good, the interest of the Law Society and its members, and the solicitor concerned, the tribunal recommended to the President of the High Court that the respondent be suspended from practice for a period of 12 months; that he be restricted from practising in the area of civil litigation for such period as the court might provide; that he not be permitted to practise as a sole practitioner or in partnership; and that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society of Ireland.

Civil proceedings

The tribunal found a respondent guilty of misconduct where he had failed to hand over files belonging to clients concerning road traffic accidents, on foot of his former clients' authorities, to the complainants expeditiously, within a reasonable time, or at all; failed to respond adequately or at all to the complainants' correspondence in respect of his former clients; and failed to respond to the Society's correspondence. The tribunal, having regard to the submissions made by the parties, the nature of the findings of misconduct, the fact that there was no detrimental or financial loss suffered by the former clients, and the manner in which he had met the case, made an order censuring the respondent, directing him to pay a sum of €10,000 to the compensation fund and a sum of €5,000 towards the Law Society's costs.

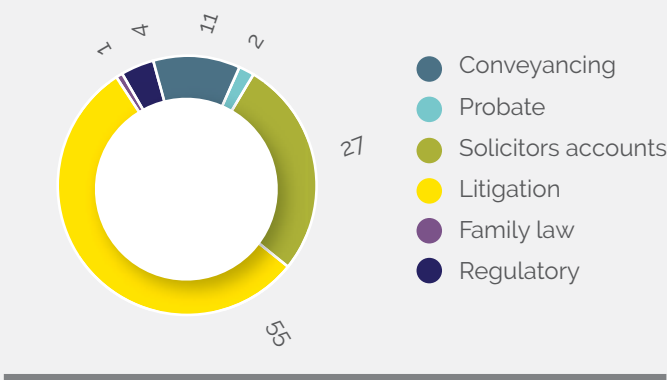
In another case, the tribunal, by reason of the uncontroverted evidence adduced, found a respondent guilty of misconduct in that he, among other things, failed to protect his client's interest in relation to her proposed case against a builder relating to repairs to her home, by allowing her claim to become statute-barred; failed to act on his client's instructions in relation to the purchase of the freehold, despite being paid to do so; failed to comply with the directions given by the Complaints and Client Relations Committee; failed to respond to the Society's correspondence in a timely manner or at all; and failed to comply with an order made by the President of the High Court that he deliver to the Society all files and documents in his possession in relation to this complaint and that he respond appropriately to the Society's correspondence within seven days of the making of the order.

The tribunal made an order directing the Law Society to bring their report before the High Court, which included their view that the respondent was not a fit person to be a member of the solicitors' profession and that his name should be struck off the Roll of Solicitors.

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.

Chart 3: Category of which a finding of misconduct arose 2014



Some grounds on which professional misconduct was found

Civil claims

- Failing to act on the complainant's instructions to obtain an injunction and/or compensation due to the implementation of the European Union ban on drift-net fishing for tuna,
- Retaining papers and files and refusing to return these to the complainant and/or his former clients to enable them to instruct new solicitors to carry out the work that the respondent failed to do,
- Failing to answer correspondence and telephone calls from the complainant and/or his former client in relation to the case adequately, from the receipt of instructions until the complaint was lodged with the Law Society,
- Failing to process a claim as instructed by a client,
- Failing to protect his client's interest in relation to a proposed case against a builder, relating to repairs to his client's home, by allowing the claim to become statute-barred,
- Demanding a sum of money in costs from the applicant, when he knew that sum to be grossly excessive,
- Acting on behalf of the applicant in proceedings when the respondent had secured a judgment against the applicant, when he knew or ought to have known that a conflict of interest arose,
- Failing to hand over a file belonging to his client concerning a road traffic accident on foot of his former client's authority to the complainant expeditiously, within a reasonable time, or at all.

Conveyancing

- Failing expeditiously, within a reasonable time, or at all to pay stamp duty on behalf of the complainants in relation to the purchase of a property, despite being put in funds to do so,
- Failing expeditiously, within a reasonable time, or at all to register the interest of the complainants on the property,
- Misrepresenting in an email that he had a certificate from the Revenue Commissioners, but it was lost and a new certificate would be reissued, where this was not the position, as confirmed in an email,
- Failing to comply with an undertaking furnished to a lending institution in respect of the borrowers in a timely manner or at all,
- Giving an undertaking on behalf of his client to a lending institution, signing same, and misrepresenting himself as a partner when he was, in fact, not a partner in the firm,
- Giving an undertaking on behalf of his client to a lending institution when he did not hold a practising certificate at the time of giving the undertaking,

- Failing to forward all files and documents to the complainant expeditiously, within a reasonable time, or at all, leaving her unable to complete registration of her property,
- Failing to act on his client's instructions in relation to the purchase of a freehold, despite being paid to do so.

Probate

- Failing to furnish vouched details of how moneys withdrawn from the deceased's bank account were applied and failing to furnish a copy of the estate client bank account showing all disbursements,
- Failing to respond to calls made to her by the joint executor and the sole beneficiary,
- Raising 36 separate invoices in respect of an estate without the knowledge or agreement of the administrator,
- Deducting moneys from an estate without the knowledge or agreement of the executor,
- Failing to issue a section 68 letter in an estate.

Solicitors Accounts Regulations

- Allowing a deficit to occur in the client funds of the practice by his failure to deal with client moneys in accordance with the provisions of the *Solicitors Accounts Regulations*,
- Misappropriating client moneys by paying these moneys to a third party,
- Failing to disclose misappropriations until the Society initiated an inspection on the practice,
- Allowing credit balances on office (client-matter related) ledger accounts, in breach of regulation 10(5) of the *Solicitors Accounts Regulations*,
- Using client funds to discharge his own personal and office taxation liabilities,
- Allowing debit balances to occur in the client ledger,
- Cancelling a payment to a barrister in the client ledger and transferring part of the amount involved to the office account as fees,
- Allowing a round sum of lodgements to be made to the office account at times when the office account was under pressure,
- Failing to keep adequate books of account,
- Causing or permitting significant non-offsettable debit balances to arise on client ledger accounts, in breach of regulation 7(2)(a) of the *Solicitors Accounts Regulations 2001*,

- Discharging a client's tax liability from the client bank account when not in funds to do so, causing a deficit in relation to the client funds of the practice and in breach of regulation 7(1), 7(2) and 8(4) of the *Solicitors Accounts Regulations*,
- Breaching regulation 8(3)(b) of the *Solicitors Accounts Regulations* by including incorrect details in the payee field of cheques used to purchase drafts,
- Wrongly transferring moneys from the client account to the office account to pay partners' tax liability, in breach of regulation 8(4) of the *Solicitors Accounts Regulations*,
- Transferring funds between unrelated client ledger accounts, in breach of regulation 9 of the *Solicitors Accounts Regulations*, including a transfer of moneys recorded to one ledger and then subsequently transferred to another ledger account,
- Breaching regulation 10(5) of the *Solicitors Accounts Regulations* by allowing the existence of 13 credit balances on the office ledger,
- Breaching regulation 10(4) of the *Solicitors Accounts Regulations* by failing to record as a debit on the office side of the relevant client ledger account the amount of professional fees,
- Breaching regulations 7(1)(a)(iii), 8(4) and 11(3) of the *Solicitors Accounts Regulations* by transferring fees to the office bank account when not in funds to do so,

- Breaching regulation 12.2 of the *Solicitors Accounts Regulations* by failing to maintain books of account at all times that showed the true financial position in relation to the respondent's transactions with client moneys,
- Breaching SI 372 of 2004 in relation to accounting to the clients for interest earned,
- Failing to ensure that there was furnished to the Society an accountant's report, in breach of regulation 21(1) of the *Solicitors Accounts Regulations 2001, Statutory Instrument no 421 of 2001*.

Regulatory body – Law Society of Ireland

- Failing to adequately answer correspondence from the Law Society,
- Failing to comply with the requirements of the notice issued pursuant to section 10 of the *Solicitors (Amendment) Act 1994*, requiring delivery to the Society, within ten days of service, all documents relating to the complaint of the complainant,
- Failing expeditiously, within a reasonable time, or at all to comply with the directions of the Complaints and Client Relations Committee,
- Failing to attend a meeting of the Complaints and Client Relations Committee.

Other orders made by the tribunal

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

Publication of orders of the tribunal

Reports of the outcomes 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*.

Conclusion

It continues to be important that solicitors reply promptly to correspondence from the Law Society and from their clients and colleagues. Failure to comply with the directions of the Society's regulatory committee has been found to amount to misconduct.

In this regard, the tribunal noted that respondents had been given every opportunity to resolve the particular issues giving rise to the complaints made against them. In a number of instances, it was apparent that such matters could have been resolved very easily, especially if the respondent had enlisted the help of a colleague or employee. However, some respondents failed to avail of the opportunity to seek such assistance, which may ultimately have helped to relieve them of their obligations and conclude matters to the satisfaction of all concerned.

In every case that comes before it, the tribunal has to weigh up the gravity of the professional misconduct found and decide what proper orders should be made for the protection of the public and the good of the profession. This, at times, is a very onerous task and, as previously stated, the tribunal is guided by the relevant case law of the High Court and Supreme Court.

Enormous gratitude is due to all members of the tribunal for their contribution to the vital work of the tribunal. The year 2014 was a particularly demanding year, and their dedication and hard work is much appreciated.

Ward McEllin's term as chairman of the tribunal came to an end in May 2015. This work involved a significant voluntary commitment of time. During his time as chairman, he contributed to streamlining the tribunal's procedures and the smooth running of the tribunal during a period when its work substantially increased. As the chairman who was appointed upon his retirement, I would like to thank him personally for his help to me in my new role and on behalf of the public and the solicitors' profession for his hard work and commitment as chairman.

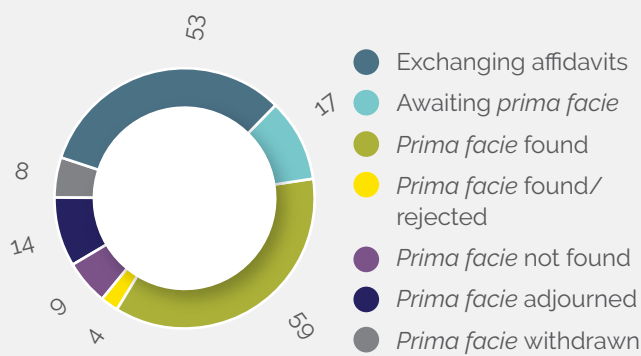
Finally, I would like to record a note of thanks to the registrar of the tribunal, Mary Lynch, whose work and extensive knowledge are vital in ensuring the smooth running of the business of the tribunal. She and her very competent and courteous staff do a very good job and deserve the thanks of the public and the profession.

Niall Farrell,
Chairman

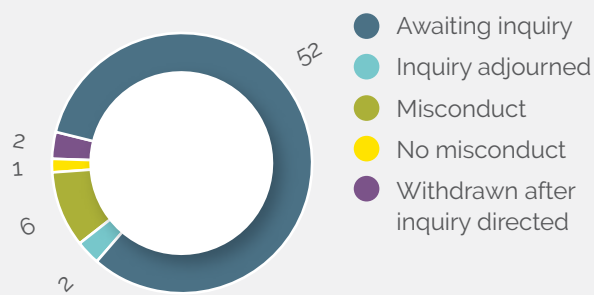
Appendix 1:

Status of applications received, as at 31 December 2014

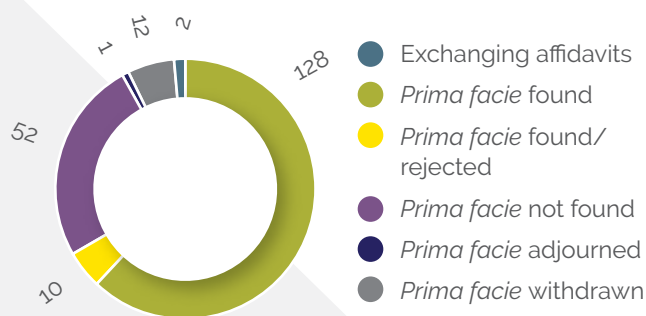
Status of all applications received in 2014 prior to inquiry stage



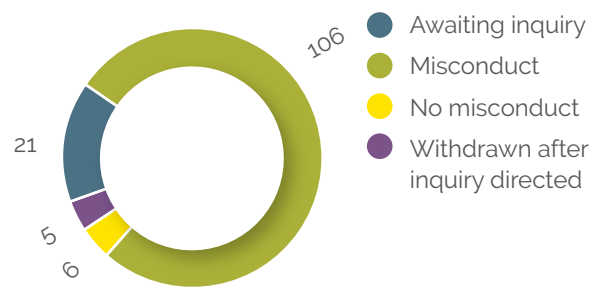
Status of all applications received in 2014 at inquiry stage



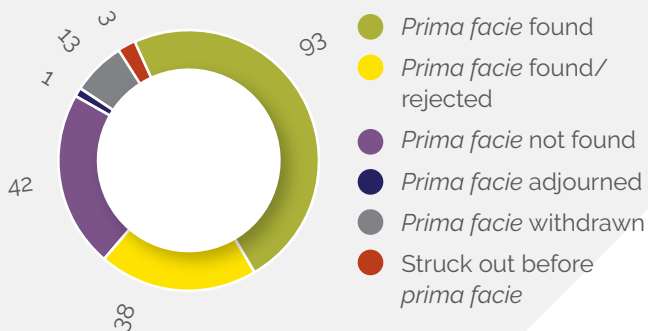
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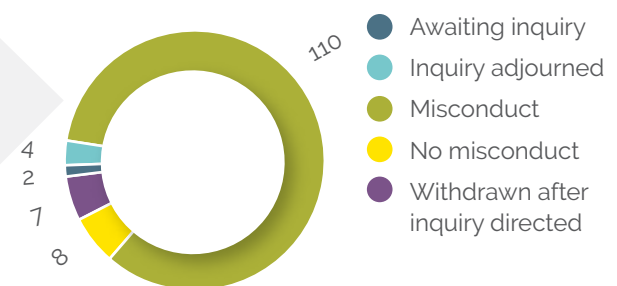
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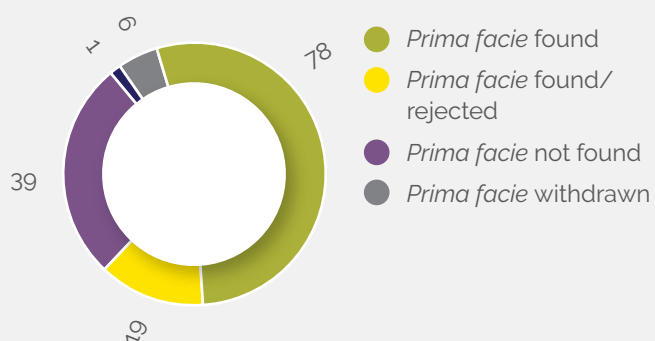
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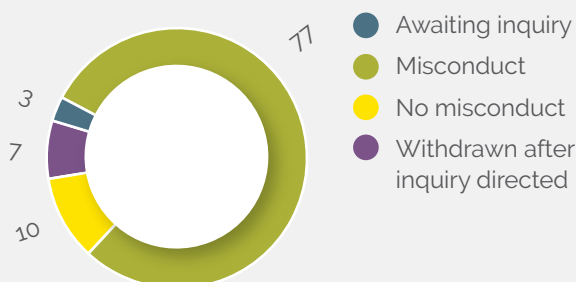
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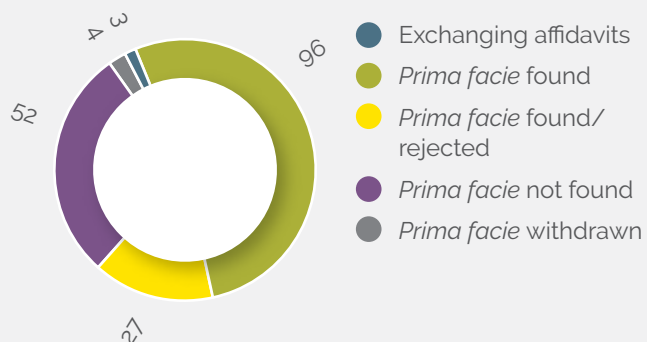
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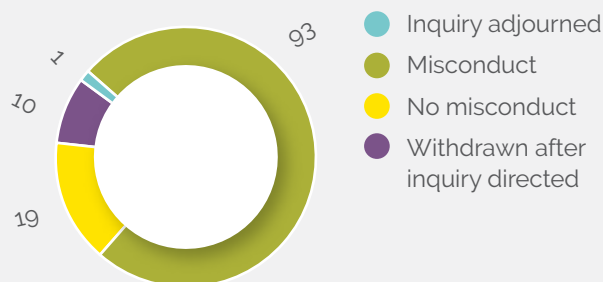
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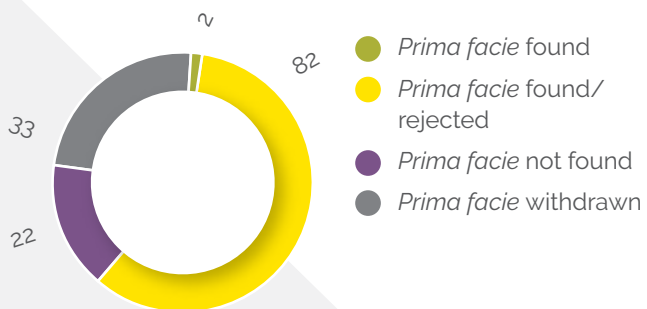
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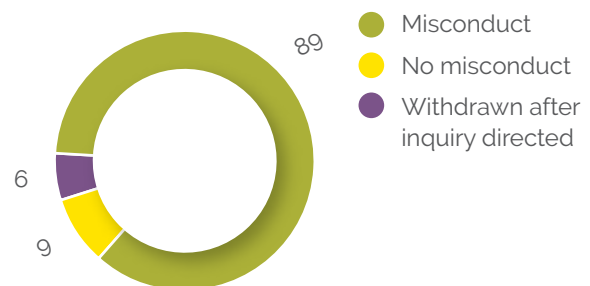
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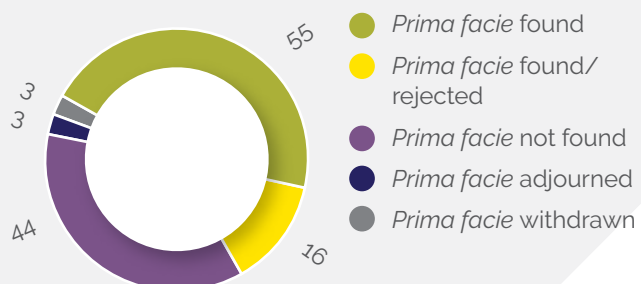
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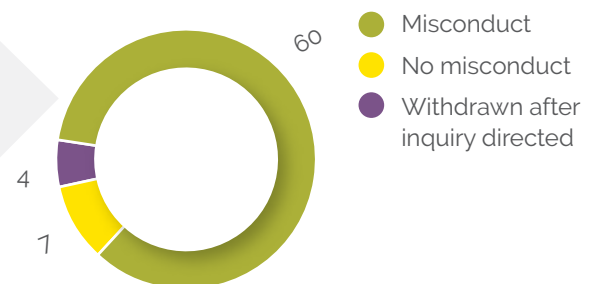
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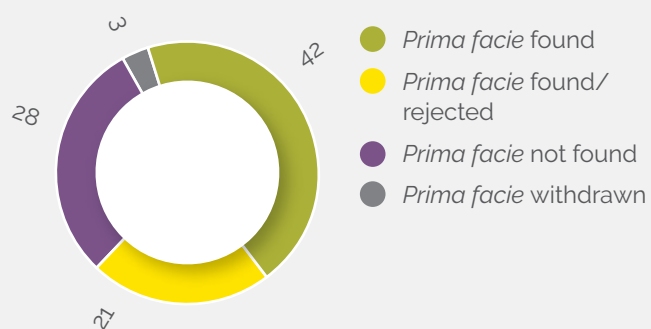
Status of all applications received in 2008 prior to inquiry stage



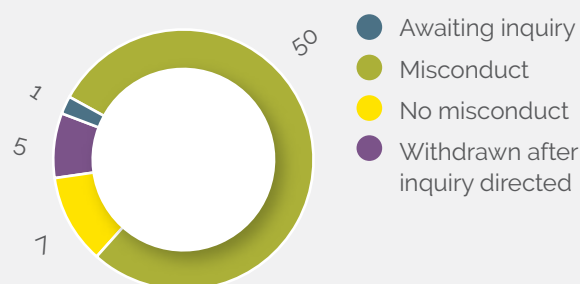
Status of all applications received in 2008 at inquiry stage



Status of all applications received in 2007 prior to inquiry stage



Status of all applications received in 2007 at inquiry stage



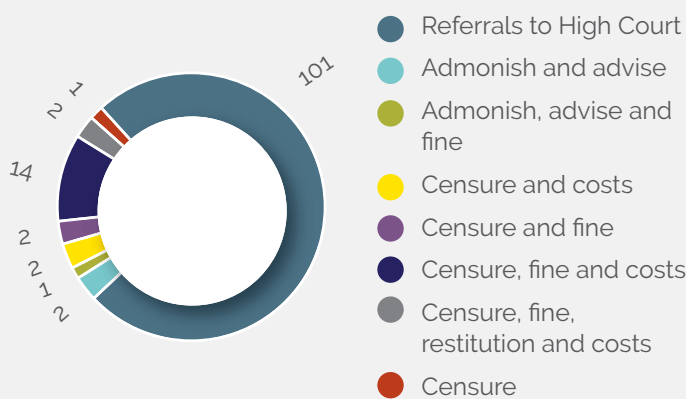
Appendix 2

Analysis of applications and decisions Solicitors Disciplinary Tribunal statistics, as at 31 December 2014

STATUS OF APPLICATIONS	2014	2013	2012	2011	2010	2009	2008	2007
Law Society of Ireland:	115	136	120	87	117	92	65	53
Others:	49	69	67	56	65	47	56	41
Total received	164	205	187	143	182	139	121	94
Prior to <i>prima facie</i> consideration								
Exchanging affidavits	53	2	0	0	2	0	0	0
Awaiting <i>prima facie</i> decision	17	0	0	0	0	0	0	0
<i>Prima facie</i> cases found – yes	59	128	95	78	96	82	55	42
<i>Prima facie</i> cases rejected – no	9	52	43	39	52	33	44	28
<i>Prima facie</i> cases found/rejected – yes/no	4	10	36	19	27	22	16	21
<i>Prima facie</i> decision adjourned	14	1	0	0	0	0	3	0
Struck out before <i>prima facie</i>	0	0	3	0	0	0	0	0
Adjourned before <i>prima facie</i>	0	0	0	1	1	0	0	0
<i>Prima facie</i> application withdrawn	8	12	10	6	4	2	3	3
Total	164	205	187	143	182	139	121	94
Inquiry stage								
Cases scheduled for inquiry	52	21	2	3	0	0	0	1
Misconduct found	6	106	110	77	93	89	60	50
Misconduct not found	1	6	8	10	19	9	7	7
Part heard	2	0	4	0	1	0	0	0
Withdrawn after <i>prima facie</i>	2	5	7	7	10	6	4	5

Appendix 3

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*



Appendix 4

Reports of the tribunal under section 7(3)(b)(ii) of the *Solicitors (Amendment) Act 1960* (as amended)

Referrals by the tribunal to the High Court in respect of the applications set out in appendix 3

RECOMMENDATIONS OF THE TRIBUNAL IN 2014	Number of respondents	Number of applications
That the name of the respondent be struck off the Roll of Solicitors	5	20
That the name of the respondent be struck off the Roll of Solicitors – fined and costs	2	3
That the name of the respondent be struck off the Roll of Solicitors; that the respondent make restitution to the complainant as may be determined by the President of the High Court, and that payment of these moneys take priority over any cost and expenses to be paid in respect of the proceedings – costs	2	2
That the name of the respondent be struck off the Roll of Solicitors – costs	14	41
That the respondent should not be permitted to practise as a sole practitioner or in a partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society	6	13
That the respondent should not be permitted to practise as a sole practitioner or in a partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society – fine and costs	2	5
That the respondent should not be permitted to practise as a sole practitioner or in a partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society – costs	12	14
That the respondent be suspended from practice on such terms as the High Court thinks fit – costs	3	3

Please note that a number of the above referrals were made in respect of the same respondent.

Appendix 5

Orders of the High Court made pursuant to section 8 of the *Solicitors (Amendment) Act 1960* (as amended)

ORDERS OF THE HIGH COURT MADE IN 2014 ON FOOT OF RECOMMENDATIONS OF THE TRIBUNAL	Number of respondents	Number of applications
That the name of the respondent be struck from the Roll of Solicitors – costs	9	26
That the name of the respondent be struck off the Roll of Solicitors – make restitution and costs	6	11
That the name of the respondent be struck from the Roll of Solicitors – ancillary orders – costs	3	3
That the respondent be suspended from practice until such time as he discharges his undertaking; fined €3,500 and other ancillary orders; no order for costs	1	1
That the respondent not be permitted to practise as a sole practitioner or in a partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society	1	10
That the respondent not be permitted to practise as a sole practitioner or in partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society – costs	5	15
That the respondent not be permitted to practise as a sole practitioner or in partnership; that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society; that the respondent be precluded from acting as a solicitor on his own behalf and/or on behalf of his immediate family and or any company in which he or they are directors and/or shareholders	1	1
That the respondent be suspended from practice for 12 months. After the expiration of the suspension period, he be restricted from practising in the area of civil litigation for such period as the court may provide; that the respondent be restricted from practising in the area of civil litigation for such period as the court might provide; that he not be permitted to practise as a sole practitioner or in partnership; and that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Law Society of Ireland	1	1
	1	1
That the respondent be prohibited from practising as a solicitor until such time as he had fully complied with the <i>Solicitors Accounts Regulations</i>	1	1
That the respondent be censured, fined and costs		

Please note that a number of the above orders were made in respect of the same respondent.

There are 73 cases awaiting determination by the High Court.

Solicitors Disciplinary Tribunal

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