

IN THE MATTER OF JANE ELIZABETH LOVEDAY, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs J Martineau (in the chair)
Mr N Pearson
Mr D Gilbertson

Date of Hearing: 9th October 2007

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Peter Harland Cadman, solicitor and partner in the firm of Russell-Cooke of 8 Bedford Row, London, WC1R 4BX on 22nd March 2006 that Jane Elizabeth Loveday, solicitor of Middle Street, Deal, Kent might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think fit.

The allegations against the Respondent were that she had been guilty of conduct unbefitting a solicitor in each of the following particulars:

- (a) that she failed to pay agent's fees promptly or at all;
- (b) that she failed to reply to correspondence from clients, solicitors and/or The Law Society promptly or at all;
- (c) that she failed to act in her clients' best interest;
- (d) that she provided misleading information to clients;
- (e) that she provided misleading information to other solicitors;

- (f) that she was responsible for unreasonable delay in the conduct of professional business;
- (g) that she rendered bills of costs that she knew or ought to have known were excessive;
- (h) that she transferred funds from client accounts in breach of the Solicitors Accounts Rules;
- (i) that she failed to account properly for monies received on behalf of clients;
- (j) that she obtained the signature of a client on particulars of claim without providing those particulars of claim to the client for verification and/or approval;
- (k) that she failed to adequately supervise members of staff;
- (l) that she provided misleading information to a court;
- (m) that on a client's file she created and/or produced a file entry that was misleading.
- (n) that on a client's file, she created and/or produced an undated entry that was misleading;
- (o) that she failed adequately to supervise offices.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 9th October 2007 when Peter Harland Cadman appeared for the Applicant and the Respondent did not appear and was not represented.

At the commencement of the hearing the Applicant gave the Tribunal details of correspondence between himself, the Respondent, the Respondent's husband and the Respondent's psychiatrist. Proceedings had been issued in March 2006 but some information had been provided to the Tribunal concerning the Respondent's health. The Respondent eventually provided to The Law Society authority for The Law Society to contact her psychiatrist. Details of reports regarding the Respondent's health were provided on 21st December 2006 and 21st February 2007. The Respondent's psychiatrist had confirmed to the Applicant that since his report of February 2007 he had had no further contact with the Respondent. The Respondent and her husband were both fully aware of the date and time of the substantive hearing. There was no medical evidence before the Tribunal to suggest that she was currently unable to attend.

Having considered the relevant documentation and the Applicant's submissions the Tribunal ordered that the matter should proceed in the absence of the Respondent.

At the conclusion of the hearing the Tribunal made the following Order:

The Tribunal Orders that the Respondent, Jane Elizabeth Loveday of Middle Street, Deal, Kent, solicitor, be Struck Off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £20,000.

The facts are set out in paragraphs 1-10 hereunder:

1. The Respondent, born in 1962, was admitted as a solicitor in 1987 and her name remained on the Roll of Solicitors.
2. At all material times the Respondent had carried on practice on her own account under the style of Lovedays with offices at Launceton in Cornwall and Deal in Kent.
3. The Respondent acted on behalf of a number of claimants in the group litigation against RL, a medical practitioner.
4. The Respondent's conduct of the litigation was criticised by Mrs Justice Hallett and copies of the relevant judgements were before the Tribunal. The Law Society also received complaints from eleven individual claimants in the proceedings.
5. The Respondent acted for 59 women who had issued proceedings arising from the actions of RL. A group litigation order was made on 31st July 2002 to provide for the case management of the claims. Eight lead cases were subsequently selected and listed for trial on 16th January 2004. The Respondent acted for some of the clients by way of public funding, some by way of conditional fee agreements and some by way of mixed funding. On 15th October 2003 there was a costs capping hearing before Mrs Justice Hallett. That judgment dated 3rd November 2003 was before the Tribunal. It made criticism of the Respondent's recorded time and estimated future times. By way of example the Respondent claimed to have spent between July and December 2002 a six month total for the Respondent's time of 2239 hours, being the equivalent of ten hours per day for 220 working days. Mrs Justice Hallett indicated that she was "far from convinced". Mrs Justice Hallett provided alternative estimates of what she considered to be excessive costs estimates. In a specific example Mrs Justice Hallett rejected the Respondent's claim to recover 649 hours and said that the appropriate time was 280 hours and stated "that means that the hours have been inflated by a considerable amount beyond what I consider fair and reasonable."
6. In the period immediately prior to the trial which was listed for 16th January 2004, by agreement of the parties the Defendants' solicitors were preparing some 75/76 trial bundles. Although the Respondent had received negative Counsel's advice and public funding was being withdrawn, the defence solicitors were not notified that the case was collapsing until 6th January 2004 at which point they immediately ceased trial preparation. A Wasted Costs Order was applied for against the Respondent in that regard. The hearing before Mrs Justice Hallett sitting with Master Hurst was on Friday 16th January 2004. Mrs Justice Hallett confirmed that she was "in principle persuaded that a Wasted Costs Order is appropriate on the evidence you put before me." In due course a Wasted Costs Order was made against the Respondent.
7. At a hearing on 18th February 2004 Mrs Justice Hallett said as follows:

"I have absolutely no doubt this matter must be referred to The Law Society and the Office for the Supervision of Solicitors. I am extremely concerned about the conduct of this litigation and the way the claimants and the Defendants have been treated. It is a matter of real concern to me and has been actually growing as you know, for some time...."

I am going to refer the papers to The Law Society because, as solicitors, I of course cannot make any findings, but from what I have been seen, solicitors should not be able to behave in this way.... Because I think the more people that tell The Law Society the better.... I would just make sure, as I say, that The Law Society carry out a very, very full enquiry....

I am very grateful because it seems to me this is - the matters that are concerning me are not just the conduct of Loveday's Solicitors but I want to know what kind of examination or enquiries The Law Society carry out before allowing Miss Loveday to go on the panel of approved experts in this field.... I am also concerned as to how she got a public funding franchise. So it is not just the conduct of a litigation solicitor which causes me enormous concern and the way, as I say, the Defendants and the claimants have been treated, but it is how she got through what should be, I would have thought, stringent processes if they are going to mean anything.... I feel the Court has been treated badly on what I have been told so far and therefore, as the person responsible here for the Court and Justice, I want to make sure the OSS report to me and keep me informed of what is going on. I am not going to have an enquiry that just takes time and meanders through the system. I feel I am entitled to be kept informed as to what is happening, if nothing else so I can assure the claimants that I am doing everything possible to find out what has gone wrong."

8. When the complaints were received The Law Society wrote to the Respondent and a copy of the ensuing correspondence between the Respondent and The Law Society was before the Tribunal. In March 2004 The Law Society intervened in the Respondent's practice on the grounds of incapacity and abandonment. The conduct of the Respondent was referred to the Tribunal and Mrs Justice Hallett was informed of that decision.
9. The Law Society received a complaint from Mr L that the Respondent had failed to pay agents' fees incurred as a result of work undertaken by Mr L at the request of the Respondent. Bills of costs had been rendered. The amount remained unpaid despite reminders.
10. The Respondent conducted practice from offices in Launceston in Cornwall and Deal in Kent. The firm had no other qualified solicitor employed. Each office was therefore not attended on each day by a suitably qualified solicitor.

The Submissions of the Applicant

11. Because and only because of the psychiatric ill-health of the Applicant the matter was not being presented as one of dishonesty. The Tribunal was asked to note however that the reports in relation to the Respondent's mental health were written after the events before the Tribunal. The Respondent had not been in receipt of psychiatric treatment at the time of the events.
12. There had been a fundamental failure by the Respondent with regard to the interests of vulnerable lay clients. The Respondent's behaviour fell so far beyond the standards

of a solicitor that it constituted conduct unbecoming. She displayed such lamentable standards that she was a danger to her clients, a danger to other solicitors, a danger to the Court and a danger to the reputation of the profession.

13. The three judgments of Mrs Justice Hallett were before the Tribunal and were relied on by the Applicant in accordance with Rule 30 Solicitors (Disciplinary Proceedings) Rules 1994. The findings of fact made by the Court were admissible as prima facie proof of those facts before the Tribunal.
14. The Applicant drew the Tribunal's attention to the following extracts from the judgment of 15th October 2003:

"The litigation is large but not particularly complex.....

I am satisfied that this case is a classic example of litigation, driven by the lawyer acting for the claimants in which there is a real risk that costs have been and will be incurred unnecessarily and unreasonably....

She is the sole solicitor in her own firm in Launceston, Cornwall. She employs a total of 17 people. It is immediately apparent that with a solicitor based in Cornwall and clients living in Kent various problems are likely to arise. It should also be borne in mind that the majority of the witnesses live in the South East and the trial is to take place in London....

Ms Loveday has clearly realised the potential difficulties of representing clients in Kent whilst practising in Cornwall, and has, by way of concession, stated that she will not claim for travelling to see the clients.... In seeking out and agreeing to act for claimants in Kent, Ms Loveday has taken a decision that she feels is to her commercial advantage....

The individual claimants are one off purchasers who are unlikely to provide repeat business. There is no guarantee of a flow of work to a claimant solicitor. This is no doubt why Ms Loveday thought it worthwhile to advertise in Kent and to buy a property there to deal with the clients she then acquired.....

On Mr L's [of Messrs Hempsons for the Defendant] calculations, Ms Loveday's figures would produced a six monthly total for this litigation of 2239 hours of which 10 hours per day comes to over 220 working days....

I turn, therefore, to some of the more glaring examples of which I consider to be gross overestimates." [Examples given]....

I have, therefore, very real concerns about the number of hours Ms Loveday says she has spent to date and the hours Ms Loveday proposes she should spend on this case between now and trial. When her figures were challenged and she was unable to substantiate a figure her response was to say that she may have got her calculations wrong. I am satisfied that there is a considerable force in Mr L's submissions that her proposals grossly over estimate the amount of time required reasonably to prepare a case of this kind....

It is quite clear from the analysis of work already done and still to be done that quite extraordinary amounts of time have been claimed."

15. The Tribunal's attention was drawn by the Applicant to the transcript of the hearing on Friday, 16th January 2004 in which Mrs Halletts said:

"Presumably an examination of two of these eight women's medical records would have established at an early stage that there seemed to be no record of his having treated them?"

16. At that hearing submissions were made on behalf of the Defendant in the case setting out the chronology of events with 23rd December 2005 being the date on which the legal aid certificates were discharged and referring to a telephone conversation between the Defendant's solicitors and the Respondent's firm that afternoon. The Defendant's solicitors sent the first tranche of the trial bundle by DX. On 30th December the Defendant's solicitors had reminded the Respondent's firm that they wanted to hear as a matter of urgency about the live note transcript and on the same day they sent another substantial tranche of 27 files by DX. On 6th January the Respondent wrote to the Defendant's solicitors and stated:

"Please note that we have instructions on behalf of the lead cases to discontinue the proceedings. You will appreciate that this has been a very difficult and agonising decision for the claimants. We invite you to prepare a draft consent order for our consideration. May we leave it to you to notify the Court that the trial will not proceed."

17. Mrs Justice Hallett further stated at that hearing:

"At some stage I have to decide not only the wasted costs matter, which is really only dealing with the conduct since 23rd or 29th December, but the conduct of the litigation generally and I will require representations on it. I think I have made my position plain in the past as to my grave concerns about the conduct.... by your instructing solicitors....

As far as the Wasted Costs Order is concerned, I am satisfied that I should adjourn the matter to ensure that Miss Loveday has a reasonable opportunity to show cause.... I will expect in those witness statements a whole chronology of events with supporting documentation and full explanations as to the operation of Miss Loveday's office, particularly over the Christmas and New Year period when it is plain to me that those in Miss Loveday's firm who had conduct of this litigation were well aware that the Legal Services Commission may pull the plug. I am in principle persuaded that a wasted costs order is appropriate on the evidence that you put before me. I also of course am entitled to know as the Judge who has the conduct of this litigation what on earth has happened as far as the other claimants are concerned and not just those who are legally-aided but those who are on conditional fee agreements, some of whom I gather do not even have insurance, and therefore I expect information as to those claimants as soon as possible....

What I am indicating is that if I do not receive evidence I am in any event considering whether or not I ought to refer the conduct of this litigation to The Law Society as to whether or not Miss Loveday should remain on the clinical negligence panel and has actually acted in accordance with the standards one would expect.... No witness statements, wasted costs order and higher figure will be made and I shall, without any evidence, be very seriously considering, subject to any further representations, referring the matter to The Law Society."

18. The Applicant referred the Tribunal to the extract from the hearing on 18th February 2004 referred to at paragraph 7 above. Because of difficulties which had arisen, the Defendants had taken the unusual decision, in order to ensure that the trial ran smoothly, to prepare the trial bundles which was a mammoth task. The first notification the Defendants' solicitors had received that the case had ended was the Respondent's letter of 6th January 2004. It was noteworthy that the Respondent had suggested that the Defendants notify the Court. Normally the Claimant should have done this.
19. The wasted costs order which had been made had been honoured by the Respondent's insurers.
20. The Applicant also relied on the letters of complaint from lay clients received by The Law Society. Details of the letters were before the Tribunal.
21. The Applicant submitted that the letter of complaint of Mrs TF dated 6th April 2004 about the Respondent's conduct together with related papers showed that:
 - (i) the Respondent misled the client into believing a funding arrangement was in place when it was not;
 - (ii) the Respondent misled third party solicitors by stating in a letter dated 3rd January 2003 that the client was eligible for public funding;
 - (iii) the Respondent produced and/or created an undated work chit purporting to show that time was expended in drafting a notice of funding when no such document could have been drafted as no funding arrangement was in place.
 - (iv) the Respondent failed to act in the client's best interest by adding her name to the group register on 30th January 2003 when no funding arrangement was in place;
 - (v) the Respondent failed to answer correspondence on 8th December 2004 from The Law Society.
22. The Applicant submitted that the letter of complaint of Mrs AC of May 2004 and related papers showed that:
 - (i) the Respondent in this matter improperly transferred client's funds between ledger accounts in breach of Section 22 of the Solicitors Accounts Rules without the client's consent;

- (ii) despite the commitment in correspondence, the Respondent rendered bills of costs. In a letter from the Respondent to the client, the Respondent had written:

"I will once again stress at this point that I will not bill you for these costs until and unless either your CICA claim or your claim against the NHS is successful".

- (iii) the Respondent failed to deal promptly or at all with correspondence;
 - (iv) the Respondent obtained the client's signature on particulars of claim on two separate occasions without having providing the particulars of claim to the client for verification prior to such signature.
 - (v) the Respondent failed to provide advice to the client following receipt of a letter from the Criminal Injury Compensation Authority;
 - (vi) the Respondent failed adequately to supervise Mr RV.
23. The Applicant submitted that the letter of complaint of Mrs AT in March 2004 about the Respondent's conduct and related papers showed that:
- (i) the Respondent misrepresented to the client that an application for public funding had been made at a time when no such application had been made;
 - (ii) the Respondent failed to notify the client of the refusal of such an application for public funding;
 - (iii) the Respondent misrepresented to solicitors for the Defendant as to the position with regard to funding when an application for public funding had in fact been made and refused;
 - (iv) the Respondent failed to act in the client's best interest by adding the client's name to the group register prior to any decision with regard to funding;
 - (v) the Respondent failed to follow instructions from the client by including an allegation of rape in the particulars of claim and thereby attempted to mislead the Court by including such an allegation in the particulars of claim;
 - (vi) the Respondent obtained the client's signature on particulars of claim by deception;
 - (vii) the Respondent failed to act in accordance with the client's instructions, despite specific instructions from the client that she no longer wished to pursue a claim for assault.
 - (viii) the Respondent failed to provide a substantive response to a letter from The Law Society dated 16th November 2004;

- (ix) the Respondent failed to act in the client's best interest and failed to carry out client's instructions promptly and diligently;
 - (x) the Respondent failed to act in the client's best interest;
 - (xi) the Respondent failed to disclose and/or explain information received from the Defendant's solicitors and/or advice from Mr Walker, QC, which was relevant to the client's prospects of success;
 - (xii) the Respondent failed to inform the client that her name had been added in the group register at a time when legal aid had not been granted, thereby giving rise to a potential personal liability of the client.
24. The Applicant submitted that a letter of complaint and related papers of Mrs JF showed that:
- (i) the Respondent failed to act in the client's best interest;
 - (ii) the Respondent provided misleading information to the client by falsely asserting that there had been two successful claims to the Criminal Injury Compensation Authority out of time;
 - (iii) the Respondent failed to reply to correspondence;
 - (iv) the Respondent failed to provide adequate costs information.
25. The Applicant submitted that the letter of Mrs LW dated 23rd January 2005 about the Respondent's conduct and related papers showed that:
- (i) the Respondent failed to act in the client's best interest;
 - (ii) the Respondent provided misleading information to the client by falsely asserting that there had been two successful claims to the Criminal Injury Compensation Authority out of time;
 - (iii) the Respondent failed to respond to correspondence from the client and from The Law Society.
26. The Applicant submitted that the letter of complaint of Mrs LW about the Respondent's conduct together with related papers showed that:
- (i) the Respondent failed to act in the client's best interest;
 - (ii) the Respondent failed to respond to correspondence from the client and from The Law Society;
27. The Applicant submitted that the letter of complaint of Mrs KM about the Respondent's conduct together with related papers showed that:
- (i) the Respondent failed to act in the client's best interest;

- (ii) the Respondent provided misleading information to the client by falsely asserting that there had been two successful claims to the Criminal Injury Compensation Authority out of time;
 - (iii) the Respondent failed to respond to correspondence from the client and from The Law Society dated 22nd September 2004 and 29th October 2004;
 - (iv) the Respondent overcharged her client by charging the sum of £1,160 for work done with regard to disability living allowance contrary to the retainer;
 - (v) the Respondent failed to follow the client's instructions and failed to provide her with a copy of her statement despite requests so to do.
28. The Applicant submitted that the letter of complaint dated 15th July 2004 of Mrs SB about the Respondent's conduct and the related papers showed that:
- (i) the Respondent failed to act in the client's best interest;
 - (ii) the Respondent provided misleading information to the client;
 - (iii) the Respondent improperly transferred funds belonging to the client contrary to Rule 22 of the Solicitors Accounts Rules. The sum of £15,000 was received by the Respondent. The Respondent then paid Mrs B the sum of £6,669 and transferred the balance to other works;
 - (iv) the Respondent failed to act in the best interests of the client. At the commencement of the retainer, the client specifically stated that if there was a risk of a costs issue against a client, no work should be commenced;
 - (v) the Respondent rendered a bill to the client in the sum of £5,000 plus VAT for work done in connection with the Criminal Injury Compensation Authority when there was no private retainer. Further, in her letter dated 18th January 2002, the Respondent stated that the lay client would never be out of pocket;
 - (vi) the Respondent failed to reply to correspondence.
29. The Applicant submitted that the letter of complaint of Mrs BW dated 6th April 2004 about the Respondent's conduct together with related papers showed that:
- (i) the Respondent misled the client by stating that two claims had been accepted out of time by the Criminal Injuries Compensation Authority when this was in fact untrue;
 - (ii) that the Respondent fabricated a telephone attendance note dated 2nd April 2002, thereby suggesting the correct advice had been given, when it had not;
 - (iii) the Respondent claimed excessive costs;

- (iv) the Respondent improperly sent a letter (24th April 2004) stating that the client's file would be released to her upon receipt of a written undertaking for the firm's costs when no costs were in fact due from the client;
 - (v) the Respondent failed to answer correspondence promptly;
 - (vi) the Respondent failed to act in the client's best interests by charging costs in the sum of £395.50 when this should have only been payable should the client's claim have succeeded;
30. The Applicant submitted that the letter of complaint of Ms SR about the Respondent's conduct and related papers showed that:
- (i) the Respondent misled the client by stating that two claims had been accepted out of time by the Criminal Injuries Compensation Authority when this was in fact untrue;
 - (ii) the Respondent failed to reply to correspondence from The Law Society dated 7th September 2004 and 20th October 2004;
 - (iv) the Respondent failed to follow instructions from the client with regard to a further claim against the Health Authority;
 - (v) the Respondent charged excessive fees;
 - (vi) the Respondent failed to provide costs information in breach of Practice Rule 15.
31. The Applicant submitted that the letter of complaint of Ms LJ about the Respondent's conduct and the related papers showed that:
- (i) the Respondent misled the client by stating that two claims had been accepted out of time by the Criminal Injuries Compensation Authority when this was in fact untrue;
 - (ii) the Respondent in breach of Practice Rule 1 of the Solicitors Practice Rules made unsolicited contact with the client;
 - (iii) the Respondent failed to answer correspondence from The Law Society dated 27th September 2004 and 29th October 2004;
 - (iv) the Respondent improperly tried to persuade a client that she had been the subject of an assault;
 - (v) the Respondent took advantage of the lay client by improperly charging fees of £416.66;
 - (vi) the Respondent failed to account to her client in connection with monies paid on account of costs;

- (vii) the Respondent failed to keep the client informed of all relevant matters.
32. In relation to allegation (o) the Applicant said that this followed inevitably from the Respondent as the only solicitor in the practice having offices in Cornwall and Kent. In relation to allegation (a) the Applicant confirmed that the agent's fees remained unpaid. It was submitted that the Respondent's conduct was at the highest level of misconduct. She had failed her vulnerable clients, she had failed in her response to the Court, she had failed in her conduct towards the solicitors for the Defendant and towards her duty to maintain the reputation of the profession.
33. The Applicant confirmed that a Notice to Admit documents had been served on the Respondent on 11th October 2006. No Civil Evidence Act Notice had however been served. Following the expression of concern by the Tribunal at the lack of a Civil Evidence Act Notice given the absence of the Respondent, the Applicant made the following further submissions.
34. The Tribunal had before it the three judgments of Mrs Justice Hallett admissible under Rule 30 and the documents generated by the Respondent which were covered by the Notice to Admit. In relation to the matters which arose solely from the clients' documentation, this was a matter of weight for the Tribunal. The majority of allegations were however proved by the Court Judgment and the Respondent's own documents.
35. Allegation (a) was clearly proved.
36. Allegation (b) was proved by the lengthy schedule of correspondence from The Law Society to the Respondent. This schedule had not been challenged.
37. Allegation (c) was clear from the judgments of Mrs Justice Hallett.
38. Allegation (d) was substantiated from the documentation sent by the Respondent referring in particular to the purported two successful claims before the CICA (by way of example see paragraph 25(ii) above). The Respondent had produced no evidence of such claim and no evidence had been put forward when the files had been checked at intervention. The Respondent had had ample time during the inspection or subsequently to produce evidence of such cases had they existed.
39. Allegation (e) related to the documentation in which the Respondent told other solicitors that clients were eligible for public funding and indeed the clients believed that public funding was in existence when it was not. This was corroborated by Mr S of The Legal Services Commission in the transcript.
40. Allegation (f) was exemplified by the delay between 23rd December 2003 and 6th January 2004 where, by virtue of her obligations towards the Court, the Defendants and her own clients, the Respondent should have notified everybody earlier. Despite the suggestion in her letter of 6th January 2004 that the Defendants should notify the Court, it was clearly her responsibility.
41. In respect of allegation (g) the Applicant relied on the documents generated by the Respondent in which she said she would limit costs but then followed these by

inappropriate billing and then by (allegation (h)) movement of money from client to office account.

42. Allegation (i) was also based upon the Respondent's own documentation.
43. Allegation (j) was substantiated from the Respondent's own correspondence which clearly stated that she was only sending to the client for signature the back page of the particulars of claim and not the full document.
44. The Applicant accepted that there was an issue in relation to allegation (k) which related to complaints in the client's documentations about assertions made by RV.
45. Allegation (l) related to in part misleading information given to Mrs Justice Hallett at the October hearing in relation to costs and in part to misleading information relating to funding.
46. In relation to allegation (m) the Applicant had heard the Tribunal's observations in relation to a Civil Evidence Act Notice but submitted that it was open to the Tribunal to give such weight as it thought fit to the client's rebuttal in respect of this allegation.
47. The same consideration applied to allegation (n).
48. Allegation (o) was a matter which spoke for itself on the documents.
49. The Respondent had seen the documents and had not challenged them.
50. In a handwritten note apparently dated 21st July 2006 sent to the Applicant the Respondent had stated:

"I am not well enough to deal with these proceedings. I do not know the charges. I just plead guilty to anything you wish to do me for. I do not have any money and cannot pay a fine. I am also in a IVA. I am claiming benefits. If fined please note that it will be necessary for me to file for bankruptcy. You may wish to take into account that I had a flawless legal career for 18 years. My accounts were forensically examined by The Law Society and no error discovered."
51. The Applicant did not rely on this as an admission of the allegations.
52. After the Tribunal's findings on liability the Applicant sought an Order for costs in accordance with the schedule of costs served on the Respondent to which she had made no response. It was noted that the Respondent had been in an IVA but enforcement was a matter for The Law Society.

The Findings of the Tribunal

53. The Applicant had indicated that he did not rely on the Respondent's comment at paragraph 50 above as an admission and the Tribunal considered it right to treat all the allegations as denied. The Tribunal was concerned at the lack of a Civil Evidence Act Notice and in the absence of the Respondent had to ensure that her rights were protected. The Tribunal had taken careful note of all the documentation before it and of the submissions of the Applicant. The Tribunal considered that in the absence of a Civil Evidence Act Notice it had to disregard much of the evidence of the lay clients. The Tribunal wished to emphasise that it was not calling into question the integrity of the lay clients in any way. Lack of a Civil Evidence Act Notice was however a procedural matter which the Tribunal could not ignore.
54. Allegation (a) was substantiated on the documentation including the correspondence and invoice. The sum due had never been paid.
55. Allegation (b) was substantiated on the basis of the schedule exhibited by the Applicant.
56. Allegation (c) was substantiated through the judgment of Mrs Justice Hallett including the reference to the gross over estimates of costs and also by the Respondent's delay in dealing with the case between Christmas and New Year 2003. Allegation (g) was also substantiated by the judgment of Mrs Justice Hallett.
57. Allegation (d) was substantiated in relation to the claims in the Respondent's letters to the clients that she had purportedly conducted two successful relevant CICA claims. The Tribunal accepted the Applicant's submissions in regard to allegation (d). Allegation (d) was further substantiated by clients being told that the Respondent would not charge and then charges being made. This was linked to allegations (g) and (h) which were also substantiated.
58. Allegation (f) related to the period between December 2003 and January 2004 and was substantiated in relation to that period. Allegation (i) was substantiated on the documentation.
59. Allegation (j) was substantiated on the Respondent's own correspondence.
60. Allegation (k) related to evidence which was contained only in documentation generated by clients. For the reasons set out at paragraph 53 above the Tribunal was unable to rely on these documents in reaching its decision. The same considerations applied to allegations (m) and (n). The Tribunal therefore found allegations (k), (m) and (n) not substantiated.
61. Allegation (l) was substantiated in relation to the costs' claims made by the Respondent referred to in the judgment of Mrs Justice Hallett.
62. In relation to allegation (o) the facts spoke for themselves and the allegation was substantiated.

63. A large number of allegations had been substantiated against the Respondent. While the Tribunal noted the information regarding the Respondent's ill health, the information before the Tribunal related to the period after the events which were the subject of the allegations. Taken in its totality the Respondent's conduct was very serious and had adversely affected clients at a time of particular vulnerability. The Court, Mrs Justice Hallett, had expressed a high level of concern about the Respondent's conduct. The Tribunal considered that the Respondent's conduct had been grossly reckless. The reputation of the profession had been severely damaged. It was right that the Respondent should not remain a member of the profession.
64. In considering the Applicant's application for costs the Tribunal took into account that the lack of a Civil Evidence Act Notice meant that the Tribunal had not been able to attach the weight to which could have otherwise been attached to the evidence of the lay clients which formed a significant part of the Applicant's case. The Tribunal would therefore Order the Respondent to pay the Applicant's costs in the sum of £20,000, the Applicant's schedule having indicated a total of £26,432.89.
65. The Tribunal Ordered that the Respondent, Jane Elizabeth Loveday of Middle Street, Deal, Kent, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £20,000.

Dated this 25th day of January 2008

On behalf of the Tribunal

J Martineau
Chairman