

# **THE SOLICITORS DISCIPLINARY TRIBUNAL**

**(constituted under the Solicitors Act 1974)**

## **ANNUAL REPORT 2008/09**

**for the year ended 30 April 2009**

The Solicitors' Disciplinary Tribunal ("the SDT") was created by the Solicitors Act 1974 as a statutory Tribunal. The SDT is constituted with Solicitor members none of whom is a member of the Council of The Law Society and Lay members drawn from a wide variety of backgrounds. All Tribunal members are appointed by The Master of the Rolls following an open and transparent selection procedure. The Tribunal's procedures are governed by the Solicitors (Disciplinary Proceedings) Rules 2007 (S.I. No. 3588) which came into force on 14 January 2008.

Since enactment of the Legal Services Act 2007 the Tribunal's administration and financial arrangements have been wholly independent of the Law Society and its administration is run by Solicitors Disciplinary Tribunal Administration Limited a company limited by guarantee controlled by the SDT.

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**THE SOLICITORS DISCIPLINARY TRIBUNAL**  
**constituted under the Solicitors Act 1974**

**TRIBUNAL**

Mr. A. H. Isaacs (President)

Mr. J. N. Barnecutt  
(Solicitor Vice President)

Mr. M. C. Baughan  
(Lay Vice President)

**Solicitor Members**

Mr. A. G. Gibson  
Mr. R. B. Bamford  
Mr. A. Gaynor-Smith  
Mr. J. R. C. Clitheroe  
Mr. D. J. Leverton  
Mrs E. Stanley  
Mr. J. C. Chesterton  
Mr. A. G. Ground  
Mr. R. J. C. Potter  
Mr. A. N. Spooner  
Mr. A. H. B. Holmes  
Mr. W. M. Hartley  
Mr. L. N. Gilford  
Ms T Cullen  
Mr. J. P. Davies  
Mr. S. N. Jones  
Mrs K. Todner  
Mr. I. R. Woolfe  
Mr. P. Kempster  
Mrs H. Baucher  
Mr. K. Duncan  
Miss A. Banks  
Mr. R. Nicholas  
Miss J. Devonish  
Mr. D. Green  
Miss N. Lucking  
Mr. D. Glass  
Mr. E. Richards  
Mrs J. Martineau  
Mr. N. Pearson  
Mr. D. Potts

**Lay Members**

Lady Bonham Carter  
Mr. D. E. Marlow  
Mr. G. Fisher  
Mr. D. Gilbertson  
Ms A. Arya  
Mr. M. G. Taylor  
Mrs C. Pickering  
Lady Maxwell-Hyslop  
Mrs V. Murray-Chandra  
Mr. J. Jackson  
Mrs S. Gordon  
Mr. S. Howe  
Mr. S. Marquez  
Mr. P. Wyatt  
Mrs N. Chavda

**CLERK**

Mrs S. C. Elson, MBE  
Solicitor

**Deputy Clerks**

Mrs S. Whitfield  
Solicitor  
Mrs R James Solicitor  
Ms L Shuja Solicitor  
Mr M Khan Barrister

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## **President's Introduction**

Some 35 years after it was first constituted, the Tribunal has achieved its full financial and administrative independence. As a result of the passing of the Legal Services Act 2007 ("LSA") and implementation of some of its provisions in mid 2008, the Tribunal was able from 1 July 2008 to start to assume responsibility for its own administration within a budget which has been approved for the calendar year 2009 by the Legal Services Board. I am convinced that this is a change which will prove to be important in the development of the SDT as a body best able to respond to the needs of the Profession and the public it serves. It may also be seen as a useful template for other similar bodies who may not benefit from centralisation of administration and inevitable competing demands for resources.

The new arrangements give the Tribunal full control of its financial resources once the annual budget has been approved by the LSB. The legislation provides for the budget to be submitted for approval after the LSB has consulted with The Law Society which remains, through the Solicitors Regulation Authority ("SRA") responsible for regulation including the bringing of proceedings before the Tribunal.

The Tribunal is running its administration through a company limited by guarantee (Solicitors Disciplinary Tribunal Administration Limited ) (SDTA) which will over the coming year progressively take over from the Law Society the SDT's administration. We made a start once the relevant provisions were brought into effect on 1 July 2008 and the SDTA will make up its first audited accounts for the period up to 31<sup>st</sup> December 2009.

Since 1974 when the SDT assumed the responsibilities of the Law Society's Disciplinary Committee, members of the Profession, supported by their firms, gave their services to the Tribunal subject only to payment of expenses. However the Lay members were paid remuneration and expenses out of public funds. With increasing demands on the solicitor members' time it was recognised that this position was no longer sustainable and the LSA now enables the solicitor members to be paid albeit at a cost which is borne by members of the profession out of the practising certificate fee. This has added to the cost of administration of the SDT which continues to fall on the Profession though now directly rather than as a part of the Law Society's overall expenditure.

It is also the case that the burden falling on the solicitor members has greatly increased in recent years with long cases (those that take one full day or more ) accounting for two thirds of all the Tribunal's workload. This has put an unreasonable strain on solicitor members some of whom were expected by their firms to use up their holiday entitlement if they volunteered to sit in the Tribunal. It is right therefore for me to express thanks for the public spirit of Tribunal members. Even though in future remuneration will be paid, I am confident the element of public service will not be entirely lost.

Another important development in the coming years will be the exercise by the SRA of its new jurisdiction under what is now Section 44D of the Solicitors Act. This is intended to enable the SRA to deal with lower level offences with a maximum fine of

£2,000 and in appropriate cases publication of the offence and the name of the offender though in both cases subject to an appeal to the SDT. This could result in some reduction of the SDT's workload though in the most recent year the number of cases where a fine of £2,000 or less was imposed constituted under 12 per cent of the cases heard by the Tribunal. The number of appeals to the Tribunal cannot be estimated. The new legislation confers on the Tribunal a power to levy unlimited fines.

With these limited amendments to the Tribunal's jurisdiction and powers, the SDT's functions are unaltered by the new legislation. It remains the body which seeks to uphold, in the public interest, the Profession's reputation for adherence to the highest standards of behaviour; scrupulous honesty, integrity and trustworthiness. As stated by Lord Bingham in the Bolton case, a client must be able to trust his solicitor "to the ends of the earth". By seeking to ensure that these principles are observed, the SDT must administer just sanctions for those who fall short of these standards. It is also important that solicitors appreciate that they have an independent duty to observe rules which protect the Profession's reputation. This can on occasion require that they refuse to act in accordance with their client's wishes.

The Tribunal's workload increased during the year under review resulting in an increased number of applications, increased sitting days and the consequent need for additional resources. The Tribunal is pleased to have been able to occupy additional space at Gate House for its administrative offices which enabled it to re-organise the 3<sup>rd</sup> Floor to provide three courtrooms, retiring rooms for Tribunal members and better meeting rooms for those attending the Tribunal's hearings.

The following pages of the Report provide an account of the Tribunal's work during the year with some statistical information. Although the Profession has increased in number some fourfold over the last 40 years and there has been a prodigious increase in the amount of regulation, the number of cases where the Tribunal has found there has been a failure to observe the high standards demanded of the Profession remains very low. However the reputation of solicitors is disproportionately damaged by those who are perceived not to adopt high standards- even more so by those who are found wanting by the SDT.

I have been honoured to serve as the President of the Tribunal for the last 8 years and warmly welcome Jeremy Barnecutt who has been chosen by the solicitor and lay members of the Tribunal to be my successor. He will have some important challenges ahead as the SDT refines its disciplinary functions so as to adapt to the new structures which will be permissible under the Legal Services Act. The need for anyone who is involved in the provision of legal advice to observe high standards of ethical behaviour -not merely avoid falling foul of regulation- is to me both obvious and desirable. The Legal Services Act in Section 1 enshrines the fundamental concept of a profession – independence and integrity and acting in the best interests of clients. These are duties owed by members of the Profession to each other as well as those it seeks to serve. The Profession with its obligations of independence and integrity has always recognised that if it is to be worthy of the name it must ensure that, by custom or rule, it can demonstrate a willingness to enforce high

standards and in this the SDT has had and must continue to have a vital role. It is this that has held the profession together and has served the public well.

The Tribunal is very sorry to have lost the services of Anjali Arya and Anna Maxwell Hyslop, lay members first appointed in 1999 and 1997 respectively. Tony Gibson, Richard Bamford and Adrian Gaynor Smith have completed over 25 years service as solicitor members, a record of public service which has been admirable and deserving of the profession's acknowledgement, and thanks. I congratulate Heather Baucher, on her appointment as a circuit judge and Peter Kempster on his appointment as First Tier Judge on tax cases. Heather Baucher, Peter Kempster and Stephen Jones solicitor members have retired from the Tribunal. They too have done exceptional service, for much of the time voluntarily. All are deserving of appreciation for work done devotedly and conscientiously. Anjali Arya, a management consultant, has accepted an invitation to become a non executive member of the Board of SDTA.

This has been a challenging year for all members of the Tribunal, both solicitor and lay, and it is right that I acknowledge their conscientious and careful approach to the task and convey thanks to them all.

Finally, I again pay tribute to the Tribunal's staff who under the guidance of the Clerk, Sue Elson, continue to work hard to provide an efficient service sometimes not matched by the co-operation of those appearing before the Tribunal.

The Tribunal has a good reputation for being courteous, careful and just and I am very confident that its newly won independence will help it to retain the high level of public confidence it deservedly enjoys.

**Anthony Isaacs**  
**President**  
**May 2009**

## **A Lay View**

I am delighted to make this year's Lay Member's Report.

In the seventeen years that I have been a lay member of the Tribunal I have seen many changes, but I think none is more significant than the fact that we now hold our proceedings in public and have done so since 1992. This seems to me entirely right and necessary, and helpful to my and the other lay members' task of bringing to the Tribunal a sense of what the public wants from the profession: professionalism, high standards of probity and quality, and accountability.

The lay members provide a balance to the legal professionals on the Tribunal. We come from a range of backgrounds and bring varied knowledge and expertise to the Tribunal's decision-making. I find our contribution – as “the voice of the public” – is welcomed and valued by the solicitor members of the Tribunal, who are keen to know that the decisions we together make are what the public would want us to make: fair and unbiased in the protection of all those who use solicitors.

The cases we consider cover a wide range, but the most frequent seem to be where a solicitor has failed in the administration of her or his practice, often through the pressure of work or personal circumstances. It is right that sanctions be imposed to protect the public and maintain the good reputation of the solicitors' profession and are dealt with by imposing fines and suspension. But it is generally the persistent and unapologetic malpractice, or clear dishonesty, that attracts the most severe sanction we can (and do) impose – striking off. This is not something we do lightly, and we think long and hard before taking away someone's livelihood. But it can be necessary for the public's protection (as well as to uphold the standards and reputation of the profession) and the public protection is our main task.

Finally I want to say how much I enjoy my work on the Tribunal. It gives me great satisfaction to play a part in upholding standards and protecting the public. And I very much enjoy working with the other members and sharing with them, and their professional experience, when dealing with the often challenging and difficult decisions we face.

**Caroline Pickering**  
**Lay Member**

## **APPLICATIONS**

### **Hearings and Summary of Decisions**

During the year under review the Tribunal sat on 226 days (169 in the previous year) for the hearing of applications.

During the period under review the following applications were received.

APPLICATIONS RECEIVED	To 30/4/09	To 30/4/08
Number of applications* involving practising solicitors - relating to 417 (313) solicitors, 10 (6) registered foreign lawyers and 1 (0) recognised bodies	247	234
Number of applications* in respect of solicitors' clerks - Relating to 10 (16) clerks, 12 clerks were included in applications against solicitors – a total of 22 clerks)	10	16
Number of applications for restoration to the Roll	4	6
Number of applications to revoke, quash, review or vary an Order under s.43	3	0
Number of applications seeking determination of an indefinite period of suspension	3	3
Number of applications made in respect of former solicitors (i.e. no longer on the Roll)	1	3
<b>TOTAL</b>	<b>268</b>	<b>262</b>

\*(It should be noted that one application may be in respect of two or more solicitors or clerks – previous year's figures appear in brackets)

Section 43 (as amended by the Legal Services Act 2007) applies to those who are not admitted solicitors and who are employed or remunerated by solicitors

An Order made pursuant to s.43 of the Solicitors Act 1974 (as amended by the Access to Justice Act 1999) prevents a solicitor from employing someone to whom the Order relates without the consent of The Law Society.

The total number of applications received during the year under review (compared with those received in previous years) and the number of sitting days were as follows:

Year ending 30 <sup>th</sup> April	No. of applications	No. of sitting days
2005	235	131
2006	212	136
2007	249	178
2008	262	169
2009	268	226

Of the applications made in the year ending 30<sup>th</sup> April 2009, 2 were made directly by members of the public. No case to answer was established in respect of 1 of them, in 1 case a prima facie case was found and the matter is listed for a substantive hearing. Applications for Restoration to the Roll, for determination of an indefinite suspension or the revocation of a s.43 Order accounted for 10 matters. The balance was made up of applications by The Law Society (through the Solicitors Regulation Authority). 3 Law Society applications were withdrawn.

The number of cases concluded in the year under review in respect of which a supplementary statement was filed was 10 and in 9 cases 2 or more such statements were filed.

### **SUMMARY OF ORDERS**

Orders made by the Tribunal during the period under review are listed below. It should be noted that a distinction must be made between applications received and Orders made. A number of Orders made relate to applications made prior to the year under review and the Tribunal will hear a number of applications made this year in its next year.

An overview of Orders made in respect of solicitors in the last six years is shown in the table below.

Year end 30 April	Number of Strike Offs	Suspensions	Fines	Reprimands	No Order, costs only Order or case dismissed
2004	52	38	70	12	5
2005	54	42	79	17	12
2006	63	39	64	16	10
2007	67	33	86	20	6
2008	61	47	110	37	15
2009	57	37	122	55	15

### **OTHER ORDERS**

Figures in brackets relate to the year 2007/08.

- A. There were 7 cases in which an Order for costs only was made (11).
- B. There were 5 cases in which the Tribunal found none of the allegations to have been substantiated (1).

- C. The Tribunal considered 2 applications for restoration to the Roll (7). Both applications were refused.
- D. Orders were made pursuant to Section 43 of the Solicitors Act 1974 in respect of 16 clerks (16).
- E. There were 3 applications for revocation or review of a Section 43 Order (1), which were refused.
- F. Orders prohibiting restoration to the Roll without the consent of the Tribunal were made in respect of 1 former solicitor (1).
- G. 1 application was made to determine a period of indefinite suspension (3) which was granted.
- H. In 14 cases a Direction made by the then Office for the Supervision of Solicitors was ordered to be treated as an Order of the High Court for the purposes of enforcement (11).
- I. 3 applications were withdrawn (5). (An application may not be withdrawn without the consent of the Tribunal.)

### **Appeals**

During the year there were 12 appeals heard against findings of the Tribunal and 9 were dismissed, 2 partly upheld and 1 remitted for a rehearing. There were 9 appeals lodged and those are currently awaiting a hearing.

## **SOLICITORS' EMPLOYEES**

The table below shows an overview of the Orders made by the Tribunal in respect of solicitors' employees (including applications for revocation of Section 43 Order) for the last six years.

2004	6
2005	15
2006	8
2007	19
2008	17
2009	19

\* S.43 relates to those employed or remunerated in a practice who are not qualified as solicitors. The Order which may be made under Section 43 of the Solicitors Act is that no solicitor may employ or remunerate an employee against whom serious misconduct is established without the consent of The Law Society. The Law Society acquired its own jurisdiction in 2002 and since then those cases usually only come before the Tribunal if they are contested, or are applications for revocation or review of a Section 43 Order made by the Law Society.

## **An overview of the year**

In this year of transition the Tribunal has seen a high level of activity. The number of sitting days increased from 169 in the year to 30 April 2007 to 226 in the year under review an increase of 33 per cent. Cases requiring one full day's hearing or more accounted for 151 of the sitting days over two thirds of the total. This huge increase in the Tribunal's workload has put a lot of pressure on the Tribunal's staff and there has been greater demand made on the Tribunal's members both solicitor and lay. It should be noted from the tables on pages 10 and 11 that in the year under review:

- the number of applications shows only a 2 per cent increase
- the number of strike off's reduced from 61 to 57
- the number of suspensions reduced from 47 to 37
- the number of fines was up by about 10 per cent and the number of reprimands by almost 50 per cent.
- the number of sitting days up by 33%

Some of the increase in the number of sitting days is attributable to attempts (many in the Tribunal's view without any or any significant merit) to frustrate or delay the hearing of the case on its merits. It is also clear that in a few cases the sophistication and number of allegations made acts to encourage respondents or their counsel to dispute allegations rather than address the underlying alleged failure to behave professionally.

In the latest year, there was a sharp increase in the number of cases decided in which lower level fines and reprimands were imposed. This possibly indicates the difficulty for practitioners (especially sole practitioners and small firms) in ensuring punctilious compliance with regulation. Such compliance is however necessary if the reputation of the Profession is to be maintained. However, the importance of clear concise and unambiguous regulation is not to be under-estimated nor the need for the Profession to have respect for the manner in which the SRA enforces its Rules.

A few long and high profile cases have resulted in some press attention particularly those involving the Miners' Compensation Scheme. It is increasingly clear from those cases which have been decided by the SDT, that the behaviour of solicitors has varied from a failure to interpret the Introductions and Referrals Code correctly to conduct which was seriously reprehensible.

Many decisions of the Tribunal point to a continuing need for greater awareness by solicitors of the Rules of Conduct and in particular the Solicitors' Accounts Rules, the new Code of Conduct and Guidance given by the Law Society. The Tribunal is not impressed with unmeritorious challenges to the validity of the Rules or attempts to delay or frustrate hearings. The Tribunal would wish to emphasise its intention to ensure compliance with its procedural rules including Civil Evidence Act procedures and its practice direction regarding adjournments.

Access to a third Court Room has enabled the Tribunal to keep pace with its workload though increased demand on the services of our Clerks (who formally work part-time) has resulted in greater delay than we would wish in the production of detailed findings. The Tribunal are taking steps to address this but publication of more information on the Tribunal's website will need to await some upgrading of our I.T. However the number of pending cases at the end of the year was greatly reduced from 56 at the end of April 2008 to 29 at the end of the current year. The Tribunal is committed to necessary transparency of its hearings which, as a matter of existing policy, for many years has taken place in public with decisions announced at the end of the hearing.

### **THE COST OF RUNNING THE TRIBUNAL**

The costs of the Tribunal according to figures supplied by The Law Society have over the recent past been as follows:

<b>Calendar Year</b>	<b>Total £'000</b>	<b>Annual cost per practising solicitor £</b>
2003	745	7.45
2004	800	8.00
2005	863	8.63
2006	1.009	8.77
2007	1.049	9.12
2008*	1,193	10.37

For 2003 – 2005 the annual cost is based on an average of 100,000 practising solicitors. The number of Practising Certificates issued by The Law Society for the year to November 2006 was approximately 115,000 and the annual cost per practising solicitor is based on this figure for the years 2006 to 2008.

The Lay members have been remunerated by the Ministry of Justice (formerly the Department of Constitutional Affairs) which has also been responsible for their expenses (approx £75,000 for the calendar year ended 31<sup>st</sup> December 2008) (£55,000 for calendar year ended 31<sup>st</sup> December 2007).

The cost of running the Tribunal has in the past been ascertained from figures supplied by The Law Society. Salaries, staff costs and administration expenses and costs of the Tribunal's Court Rooms and offices were charged as direct expenses to which an overhead element was added.

\* From 1 July 2008 and for subsequent years the Tribunal will be responsible for all its administrative costs within a budget approved by the Legal Services Board. The 2008 costs were partly under the old Law Society regime and partly under the new Tribunal regime and comparison with earlier years is therefore not consistent. The figures quoted in the table for 2008 are estimated.

### **Pro Forma Accounts for the year to 31 December 2008**

As noted the calendar year 2008 covered a 6 month period when the Law Society was financially responsible for the SDT and a 6 month period from 1 July when SDTA started to assume responsibility for the financing and administration of the Tribunal. The following is a pro forma account of expenditure financed by the Law Society during the period. It has not been audited. It includes a Law Society overhead charge, rent and service charges on additional leasehold property taken for the SDT under leases entered into in August 2008 and remuneration and expense reimbursement to solicitor members whose remuneration was authorised when the relevant provisions of the Legal Services Act 2007 were brought into effect on 1 July 2008. The large increase in sitting days and additional expenditure on premises and remuneration for solicitor members means that the figures below are therefore not comparable with those for the preceding year. Next year's report will include Solicitors Disciplinary Tribunal Administration Ltd's audited figures.

### **Solicitors Disciplinary Tribunal Administration Limited**

The Company was incorporated on 23<sup>rd</sup> July 2008 as a Company limited by guarantee. Members of the Company are all current members of the Tribunal. The Directors are Jeremy Barnecutt (Chairman), Michael Baughan, Anthony Isaacs and Anjali Arya. The Company's accounting reference date is 31<sup>st</sup> December and the first audited accounts for the period from incorporation up to 31<sup>st</sup> December 2009 will be presented at the Company's Annual General Meeting expected to be held at the end of May 2010.

	<b>Estimated expenditure for year to 31 December 2008</b>	<b>Budget 2009 approved by the Legal Services Board</b>
<b>Staff salary and related costs</b>		
Salaries, NIC, pension	444191	520647
Group Finance inc Pension costs	32092	40000
Other staff costs	18760	9000
<b>General administration costs</b>		
Printing, stationery	8110	40000
Postage, Courier	3973	29500
Solicitor members remuneration	104650	287500
Solicitor members expenses	42429	45000
HR and related costs	16542	30000
IT support	78000	78000
Catering	6242	5000
Legal fees	12227	25000
Financial controller, audit	5496	22380
Council&Comms Annual allowance	6860	
Exc.Secretarial expenses		15000
Other (inc contingency for 2009)	9410	27000
<b>Building costs</b>		
Rent, rates, service charge	280698	280000
Group facilities inc insurances	37254	38000
Maintenance/Other		5000
Irrecoverable VAT	12139	65000
<b>Total</b>	<b>1,119,073</b>	

## **THE MEMBERS OF THE TRIBUNAL**

Mr. Isaacs retired as President after serving in that capacity for 8 years. He remains a solicitor member of the Tribunal. The solicitor and lay members have appointed Mr. Jeremy Barnecutt as President in accordance with statutory provisions.

The following Solicitor and lay members were re-appointed by the Master of the Rolls at the end of the year under review: Mr. Anthony Isaacs, Mr. David Leverton, Mrs Elodie Stanley, Mr. Colin Chesterton, Mr. Jeremy Barnecutt, Mr. John Potter, Mrs Karen Todner, Mr. Roger Woolfe, Mr. Ken Duncan, Miss Alison Banks, Mr. Richard Nicholas, Miss Jacqueline Devonish, Mr. Dominic Green, Miss Nicola Lucking, Mr. David Glass, Mr. Edward Richards, Mrs Jane Martineau, Mr. Nicholas Pearson, Mr. David Potts, Mrs Valerie Murray-Chandra, Mr. John Jackson, Mrs Sarah Gordon, Mr. Stephen Howe, Mr. Steven Marquez, Mr. Paul Wyatt and Mrs Nalini Chavda.

The following solicitor and lay members have retired from the Tribunal: Mrs Heather Baucher, Mr. Stephen Jones, Mr. Peter Kempster and Ms Anjali Arya and Lady Maxwell-Hyslop.

Brief biographical details of the members of the Tribunal who served during the year under review appear on pages 19 to 26 of this report.

## **STAFF CHANGES**

Muz Khan, a barrister by training, served as a clerk until June 2009 when he resigned to take up another appointment.

Brief biographical details of the current members of the Tribunal staff appear on pages 27 and 28 of this report.

## **BIOGRAPHICAL DETAILS**

### **Solicitor Members**

#### **Anthony H. Isaacs (President)**

Member of the Tribunal since 1988. Admitted 1960. Partner in City firm 1964. Senior Partner 1987-1996. Specialised in Company and Commercial law. Member of Company Law Committee. DTI Inspector. Nominated (i.e. independent ) Member of the Council of Lloyds 1993-1999. Chairman of Lloyds' Investigations Committee 1994-2000.

#### **Anthony G. Gibson**

Member of Tribunal since 1980.

Admitted in 1965. Partner in a six partner family practice in Newcastle established in 1720. President of Newcastle Incorporated Law Society 1989-90. Practises mainly in family law, commercial conveyancing and trusts. Member of STEP.

#### **Richard B. Bamford**

Member of Tribunal since 1984.

Admitted in 1964. Joined present Cambridgeshire private client practice in 1965; partner 1966; senior partner 1989 to 2005 now a consultant to this firm. 50% of time since 1987 spent on administration and legal aspects of (inter alia) navigation on the River Cam and flood defence and land drainage for the Fens area around Ely otherwise trust and property matters.

#### **Adrian Gaynor-Smith**

Member of Tribunal since 1984.

Admitted in 1963. Private practice in Malvern from 1965 in partnership with his wife and others. Now semi-retired working as consultant to their former practice. Has undertaken contentious and commercial work, commercial conveyancing and advocacy. Has also undertaken part-time judicial appointments in Welfare Benefits Law, Coroners Courts, Disciplinary Appeals Tribunal (Certified Accountants) and Deputy District Judge. Currently acts as a local conciliation officer when called on.

#### **John R. C. Clitheroe**

Member of Tribunal since 1992.

Admitted in 1959 specialising in criminal and commercial litigation. A former senior partner, of a London firm.

Advised solicitors, accountants and medical professions in ethical regulatory and disciplinary matters since 1962.

Past member of Law Society Criminal Law Committee.

Member General Professional Programme Committee of the International Bar Association.

**David J. Leverton**

Member of Tribunal since 1992.

Admitted in 1958. Now retired from previous firm but remains in practice for SDT.

Former Managing Partner of a Lincoln's Inn firm. Senior litigation lawyer in the practice: wide cross-section of litigation experience before becoming a family law specialist twenty five years ago. Wide experience of proceedings in Court and before tribunals: one of the original members of the former standing committee set up by The Law Society and the Court of Protection to advise on changes in procedure and the conduct of business in that Court.

**Mrs Elodie Stanley**

Member of the Tribunal since 1994.

Admitted in 1980. In partnership in three central London firms since 1983. Deals with all aspects of property law residential and commercial and specialises in leasehold reform and enfranchisement.

**J. Colin Chesterton**

Member of Tribunal since 1994.

Admitted in 1980.

Consultant in a firm in Devon, Somerset and Dubai

Until 2009 general High Street practice. Work now almost exclusively Deputyships in the Court of Protection for serious head injury clients though some CSA appeals and welfare benefits.

**Jeremy N. Barnecutt (Solicitor Vice President) President 2009**

Member of Tribunal since 1994.

Admitted in 1976. Partner in a London firm specialising in Chancery litigation, contentious and non-contentious probate work.

**Alan G. Ground**

Member of Tribunal since 1996.

Admitted in 1962. Partner in a City firm from 1969, Leader, commercial, competition, and EU Law Groups 1983 -1994. Law Society International Committee 1983-1992, Human Rights Working Party 1988-1992. Director, Eurostar 1994-1997.

**R. John C. Potter**

Member of Tribunal since 1997. Admitted in July 1987.

Higher Rights of Audience July 1999.

A partner in a Legal Aid franchised Manchester firm. Exclusively undertakes defence criminal litigation. Duty solicitor. Past President of the Manchester Law Society and continues to be a Council Member of the Manchester Law Society. Represents the local Law Society on the local user committees of the Magistrates' Court and the Crown Court.

**Andrew N. Spooner**

Member of Tribunal since 1999.

Admitted in 1978. Former Head of Commercial Litigation at a Birmingham firm and member of its Management Board. Specialises in major commercial disputes and now works as a specialist litigation consultant to a niche employment law practice. Member of the Association of Midlands Mediators. Deputy District Judge.

**A. H. Boyd Holmes**

Member of Tribunal since 1999.

Admitted in 1976.

Managing partner of a Carlisle firm, since 1989: undertakes property & trusts work. Member of STEP; member of CLARITY; interest in management.

**William M. Hartley**

Member of Tribunal since 1999.

Admitted in 1970. Partner in a Manchester firm for 27 years specialising in non-contentious work. Former member of STEP.

Author of the first six editions of "Matrimonial Conveyancing", first edition of "Declarations of Trust" and contributor to Readers' Digest "Know Your Rights". Last Chairman of the High Peak Division (Buxton) of the General Commissioners for Income Tax. Recent author of a business history "An Old Dynasty of Velvet" (2009).

**Laurence N. Gilford**

Member of Tribunal since 1999.

Admitted in 1973. Specialising in civil/commercial Litigation. In partnership in total of four central London/City firms since 1976.

Appointed Deputy District Judge in December 1991.

**Miss Teresa Cullen**

Member of Tribunal since 1999.

Admitted in 1983. A partner in a West End firm. Specialises in Matrimonial/litigation. Family mediator (Resolution), Civil and Commercial Law Mediator (ADR Group). Assessor on Family Law Panel; In practice for over 20 years. Member of The Law Society Family Law Panel (Advanced).

**J. Peter Davies**

Member of Tribunal since 2001.

Admitted as a Solicitor 1981. A partner in firms in London and Cardiff until 1998 when he set up niche litigation practice in Cardiff specialising in professional negligence and personal injury work: Deputy District Judge since 1992. President Adjudication Panel for Wales.

**Stephen N. Jones**

Member of Tribunal since 2001.

Admitted in December 1979. Partner in a Birmingham firm. Specialises in litigation, acting principally for financial institutions and banks.

Deputy District Judge since August 1992. Higher Rights of Audience (Civil).

**Mrs Karen Todner**

Member of Tribunal since 2002.

Admitted in 1987. Senior Partner in Criminal and Mental Health Practice, established in 1990. Duty Solicitor. Member of Serious Fraud Panel. Member of London Criminal Court Solicitors Association and Criminal Law Society Solicitors Association. President of Mental Health Review Tribunals.

**Roger Woolfe**

Member of Tribunal since 2002.

Admitted in 1970. Partner in Holborn firm since 1971. Senior Partner since 1994. Specialises in commercial property work. Particular interest in rules and ethics of the solicitors' profession as Committee Member of City of Westminster and Holborn Law Society.

**Peter Kempster**

Member of Tribunal since 2002.

Admitted in 1987. Practises in corporate tax with a large London firm. Fellow of the Institute of Chartered Accountants in England & Wales. Past President of the Chartered Institute of Taxation.

**Mrs Heather Baucher**

Member of Tribunal since 2002.

Trained with present firm from 1984 – 1986. Admitted 1986. Partner in the Practice since 1989. Practised in Liverpool until 1999 when transferred to London office to head Litigation section. Specialises in Defendant based personal injury, disease, professional negligence and Tribunal work. Sits as a Recorder.

**Ken Duncan**

Member of Tribunal since 2006.

Admitted in 1971. Partner in a City firm from 1977 to date. Specialises in Property litigation.

Deputy District Judge since August 2000.

**Miss Alison Banks**

Member of Tribunal since 2006. Admitted in 1993.

Previously partner in High Street practice specialising in personal injury and general litigation now concentrating exclusively on criminal defence litigation. Duty Solicitor.

### **Richard Nicholas**

Member of Tribunal since 2006.

Admitted in 1979. Partner in Merseyside firm. Senior Partner since 1989. Specialises in mental health and human rights work. LSC Pier Reviewer and part time President of the Mental Health Review Tribunal.

### **Miss Jacqueline Devonish**

Member of the Tribunal since 2006.

Admitted in 1991. Private practice in London since qualification. Two partnerships since 1994 as a "High Street" practitioner in general civil litigation, family, wills, education and conveyancing. Chair of Governors to a primary school, Governing Body Clerk for London Borough of Brent, and Independent Appeal Panel Clerk for the London Borough of Barking & Dagenham. More recently prosecuting for the government agency VOSA. Also a member of the CIPFA quality assurance panel'.

### **Dominic Green**

Member of Tribunal since 2006.

Admitted in 1993. Private practice in Westminster firm, specialising in media related disputes, intellectual property litigation and defamation. Previously Head of Media and Entertainment in Soho W1 firm and partner for 5 years in music and media practice in Covent Garden, WC2.

### **Miss Nicola Lucking**

Member of Tribunal since 2006.

Admitted in 1974. Partner since 1981 with country practice based in the Norfolk Broads. Specialises in commercial and residential property work. Special interest in social housing. Director of St. Matthew Housing and Circle Anglia and Chair of Wherry Housing Association. Member of the Corporation of Paston College.

### **David Glass**

Member of Tribunal since 2006.

Admitted in 1969. Partner in Cheltenham firm 1973 – 2006, now consultant with same firm. Specialised in litigation and family work. Deputy District Judge since 1999. Member Legal Services Consultative Panel. Treasurer Gloucestershire and Wiltshire Law Society.

### **Edward Richards**

Member of Tribunal since 2006.

Admitted 1993. Litigation partner in west country firm since 1996. Undertakes a range of civil litigation work. Member of the Personal Injury Panel. DELS Mediator. Notary Public.

**Mrs Jane Martineau**

Member of Tribunal since 2006.

Admitted in 1974. Expertise in the fields of insurance, professional indemnity and shipping disputes. A trained mediator and member of ADR Chambers UK.

**Nicholas Pearson**

Member of Tribunal since 2006.

Admitted in 1976. After training and working for 3 years with a leading City litigation practice, worked for over 25 years with a large firm of international lawyers firstly in Hong Kong for 9 years before returning to London in 1988, from where he managed his firm's global dispute resolution practice. Main areas of contentious work include commercial, company, fraud, trusts and insolvency. Chaired his firm's global professional responsibility and practice committee. Retired from the firm at the end of 2006.

**David Potts**

Member of Tribunal since 2006.

Admitted in 1977. A consultant Solicitor in active legal practice, specialising in Real Property Litigation, in a regional commercial firm with offices in Nottingham, Birmingham and London. Previously a partner in two practices and for a number of years an in-house solicitor. Broad overall experience of civil and criminal litigation and also non-contentious work. Experience as a partner of practice management. Since 1999 a County Court Deputy District Judge. In 2006 appointed Solicitor Advocate (Higher Courts Civil Proceedings).

## **Lay Members**

### **Lady Bonham Carter**

Member of Tribunal since 1980.

Born and raised in USA until came to the UK as a teenager.

Served as a JP in Greenwich and Woolwich from 1966 -1990.

A member of the Immigration Appeals Tribunal 1970 - 2002.

### **David E. Marlow**

Member of Tribunal since 1983. Chartered Accountant. Formerly Chief Executive of 3i.

### **Michael C. Baughan (Lay Vice President)**

Member of Tribunal since 1990.

Retired from Lazards where he was a Managing Director from 1986 to 1999:

Governor of Westminster School, Governor of Haberdashers' Aske's Federation.

Consultant to Penfida LLP.

### **Mrs Caroline Pickering**

Member of Tribunal since 1992. Chair of Broadland Housing Association providing social and supported housing in Norfolk. Chair of FareShare, a new national charity redistributing surplus good quality food to those in need to combat food poverty across the spectrum of the young to older people. Formerly a Director at the Housing Corporation. Chair of National Approved Letting Scheme, an accreditation scheme for letting and managing agents.

### **Lady Maxwell-Hyslop**

Member of Tribunal since 1997.

On the staff of the Sergeant-at-Arms, House of Commons, 1966-68

Extensive experience as school governor (with responsibility for special needs) of an 11-18 comprehensive school; three years as Chairman.

Served on board of governors (Vice Chairman) of special school attached to psychiatric clinic.

### **Gerald Fisher**

Member of Tribunal since 1999

35 years experience in personnel work in industry, finally as Group Personnel Director of a FTSE 100 Company.

Currently a member of Employment Tribunals, the Central Arbitration Committee and Vice Chairman of the Council of Aston University. Also a member of the Regulatory Decisions Committee of the Financial Services Authority and the Disciplinary Committee of the Chartered Institute of Public Finance and Accountancy. Member of the Disciplinary Committee of the Royal Pharmaceutical Society.

Wide experience in employment and disciplinary matters in industry and commerce.

### **David Gilbertson QPM**

Member of the Tribunal since 1999. Retired as a Deputy Assistant Commissioner in the Metropolitan Police in 2001 after 30 years service, the last three of which were served as HM Assistant Inspector of Constabulary at the Home Office with

responsibility for a wide range of national policy matters. He is now a partner in an international consultancy which specialises in change management for large organisations.

Awarded the Queens Police Medal in 1999, he was previously responsible for all police operations in north and west London. During a varied career, he has been a visiting lecturer at the City University, New York, and was seconded to the New York City Police and the National Peace Secretariat in South Africa.

He is a member of the Tom Paine Society which is committed to the principles of democracy and freedom.

### **Ms Anjali Arya**

Member of Tribunal since 1999.

An independent management consultant specialising in organisation and people development and diversity. Formerly Head of Personnel in local government. Currently a Non-Executive Director of the Crown Prosecution Service and a Trustee of the Royal National Theatre. Previously Chair of Hounslow Arts Trust (Watermans) in Brentford, Chair of a Black HIV/AIDS voluntary organisation, Committee Member of Hounslow Asian Women's Centre and Housing Advice Switchboard.

### **Michael Taylor CBE DL**

Member of Tribunal since 2001.

Formerly Managing Director of his own consultancy company. Earlier employed by the Ministry of Defence, mainly in telecommunications, and a graduate of the Royal College of Defence Studies, London. Awarded an MBE in the 1982 Falklands Campaign and a CBE in the 1998 New Year Honours List. Chairman of the Dorset Police Authority, a Non-legal Member of the Asylum & Immigration Tribunal and a Deputy Lieutenant of Dorset.

### **Mrs Valerie Murray-Chandra**

Member of Tribunal since 2002.

Born Jamaica West Indies, grew-up in UK. Acter, writer, broadcaster, JP at Highbury Corner Magistrates Court, panel member at Inner London and City Family Proceedings Court, Lay Advocate, recent (2001) degree in Law and History, former Probation Committee Member involved with grievance and disciplinary hearings as well as employment selection, former proprietor of property enterprise and currently involved in market research.

### **John Jackson**

Member of Tribunal since 2002.

Formerly Company Secretary of British Gas and Clerk to Dulwich College in South London, now a member of the Parole Board. Has been a non-executive director in the NHS and a prison visitor and lay assessor and until recently a member of the Council of the Institute of Chartered Secretaries and Administrators. A member of the disciplinary committee of CIPFA.

### **Mrs Sarah Gordon**

Member of Tribunal since 2002.

A qualified veterinary surgeon and member of the Royal College of Veterinary Surgeons. 10 years experience of general veterinary practice. Employed by Defra since 1991. Veterinary Manager of the Leicester Foot and Mouth Disease Centre in 2001 then Deputy Head of the Defra FMD Claims Unit. Currently Divisional Veterinary Manager of Lincoln State Veterinary Service Animal Health Office.

### **Stephen Howe**

Member of Tribunal since 2006.

Retired Manager for Waitrose Ltd. Non-Executive Director for HMCS Regional Risk and Audit Committee South West Region. Member of Hampshire and Isle of Wight Courts Boards. JP since 1981.

### **Stephen Marquez**

Member of Tribunal since 2006.

To 1987 senior manager with Systems Designers International plc.

1987 to 2003 senior manager with CACI Limited. Director of CACI Limited. Executive Vice-President of CACI International Inc.

Formerly a volunteer with The Terrence Higgins Trust.

JP since 2002 - 2008.

Non-executive Chairman 6pm Holdings PLC (quoted on the Maltese Stock Exchange)

### **Paul Wyatt**

Member of Tribunal since 2006.

Managing Director of his own consultancy company in Cornwall dealing with employee relations, employment law and industrial relations. Employment Tribunal and Central Arbitration Committee panel member. Non-executive Director of Cornwall & Isles of Scilly Primary Care Trust.

Trustee and former Chairman of Speakability. Trustee for 15 years with Employment Opportunities for people with disabilities. Now ex officio member of HR and Remuneration Committees.

**Mrs Nalini Chavda**

Member of Tribunal since 2006.

1969 – arrived in UK from Kenya, East Africa.

1970-2005 – joined Civil Service. 35 years business experience gained from Department for Work and Pensions. Successful completion of two high profile secondments, BBC Coventry and Warwickshire Radio and Training Enterprise Council (TEC now LSC) Early retirement in 2005 as a Senior Executive Officer with extensive experience in diversity and disability, management, marketing and public relations. Fast tracked through a wide range of senior management positions.

1989 – nominated for and became a Justice of the Peace for the city of Coventry through extensive voluntary work.

1999 – appointed as DTI Employment Tribunal lay member. Wide experience in Tribunal and court work.

1999 – 2002 – served on Board of Governors at Hereward College. (National College for Disabled Students).

## **STAFF**

### **Susan Elson, MBE**

Solicitor admitted in 1970. Clerk to the Tribunal.

Accredited Mediator, Sits as part time Immigration Judge; part time Parking & Traffic Adjudicator; a member of the panel of Legal Assessors to the Disciplinary Committee of the Royal College of Veterinary Surgeons; the Health Professions Council and the General Osteopathic Council, member of Disciplinary Board of Royal Institution of Chartered Surveyors. Member of CIPFA Practice Standards Committee. Experience of legal work in private practice and in industry.

### **Sheila Whitfield**

Solicitor admitted in 1982. Joined the Solicitors Disciplinary Tribunal in 1998 as part time Deputy Clerk to provide cover for the full time Clerk and to enable the use of double courts. MA Cantab (Modern Languages).

Worked in private practice in a City firm and subsequently in local government, specialising in the law relating to Mental Health and Incapacity.

Sits as a part time President of the Mental Health Review Tribunal.

### **Rose James**

Part-time Deputy Clerk since May 2008.

Admitted as a solicitor in 1978. From 1983 - 1986 she was the Resident Magistrate in the Civil Courts in Nairobi. From 1986 - 2003 she worked in the administration of legal aid, first with The Law Society followed by the Legal Aid Board and finally the Legal Services Commission. She was the Deputy Legal Director of the Commission from 1998 - 2003.

### **Lubna Shuja**

Part-time Deputy Clerk since May 2008.

Solicitor Admitted in 1992. Previously a partner and head of litigation in high street practice in Bradford. Specialising in personal injury, civil litigation an matrimonial. Also a mediator. A member of the Association of Midlands Mediators.

### **Elizabeth Aldred**

Membership Services Manager. Joined the Solicitors Disciplinary Tribunal in August 1995. Duties include management of the production of written Findings, day to day administration of the Tribunal, maintenance of the database and computerised case management system, editor of the website and preparation of AGM and Training Days.

BA (Hons) in Law and Business Studies and MSc in Criminal Justice Studies.

### **Valerie Ralph**

Senior Assistant Clerk. Joined Solicitors Disciplinary Tribunal in March 1994. Main responsibilities include listing of cases, members rota and answering general correspondence.

Previously worked for South West Essex Magistrates Services, originally as a Court Assistant and then as a Trainee Court Clerk.

Diploma in Magisterial Law: Fellow of the Institute of Legal Executives (October 2002)

**Paul Condon**

Full time Assistant Clerk. Joined the Solicitors Disciplinary Tribunal in 2004. Helps the Senior Assistant Clerk and deputises for her in her absence. Holds a degree in Music with Sound Recording.

**Christine Donnelly**

Full time Audio Secretary since March 2001. Main responsibility is typing the Tribunal's Findings.

Previously worked for a number of City legal practices in varied areas of law over the past twenty years.

**Samantha Pinto**

Full time secretary to the Membership Services Manager (since March 2008) Joined the Solicitors Disciplinary Tribunal in 2001. Main responsibilities are secretarial assistance to the Membership Services Manager and typing the Tribunal's Findings. Completed a legal secretarial course and obtained various OCR qualifications.

**Susan Bromley**

Full time audio secretary since September 2007 and is responsible for typing the Tribunal's Findings.

Previously worked for Kent Police and conveyancing office in firm of solicitors.

## **Explanation and Details of some aspects of the Tribunal's work**

### **Speed of Process and Duration of cases**

- 1 So far as the Tribunal is concerned, a case starts with the lodgement of an application and a Statement now made under Rule 5 of the 2007 Rules delivered by the Applicant to the Tribunal. The matter is then considered to determine whether a case to answer is made out. Thereafter the statement is served on the Respondent by the Tribunal when the Respondent is given under the Rules at least six weeks' notice of a pre-listing day when the parties are requested to indicate whether or not the allegations are admitted and the anticipated length of hearing and dates to avoid. A hearing date is usually fixed at the pre-listing day.
  
2. A survey of all cases heard substantively during the period under review shows that 21% per cent were concluded within six months of being placed before the Tribunal. A further 64% per cent were concluded between six months and one year. The Tribunal's written Order is handed down at the conclusion of the hearing.

29 cases were outstanding for more than one year (56 cases at the end of the previous year). An earlier substantive hearing was not achieved for a number of reasons including preliminary procedural and human rights challenges, one or more supplementary statements adding to the allegations already made having been issued; the ill health of the Respondent or parallel proceedings either in the criminal or civil courts where it would be inappropriate to proceed with the disciplinary hearing until the conclusion of those parallel proceedings.

Some cases may be delayed because the applicant or respondent (or both) are not ready to proceed, most often in cases where the allegations are not admitted or, for example, a further disclosure of documents is necessary.

3. Time limits apply for the service of notices under the Civil Evidence Act and in connection with other procedural matters. The Tribunal expedites cases if the parties seek an early hearing.
  
4. The hearing date for a case estimated by the parties to be lengthy (extending over more than one day) will depend on the availability of the parties, advocates, witnesses and Tribunal Members and whether or not other cases have been listed requiring courtroom accommodation and the services of a Clerk. The Tribunal has seen an increase in the length and complexity of cases. There have been a number of matters where preliminary issues have had to be resolved, for example issues of legal professional privilege, claims of unreasonable delay in bringing the matter to the Tribunal, and whether a hearing should take place in private.
  
5. 129 cases took one day or more to reach the conclusion of the substantive hearing. Of these, 37 cases took one day, 12 cases took two days, 5 cases

took three days, 1 case took 4 days, 1 case took 6 days, 1 case took 10 days, 1 case took 11 days, 1 case took 12 days, 1 case took 15 days and 1 case took 17 days. In addition 7 preliminary points/case management hearings took one day each. These more lengthy cases took up 151 (67%) sitting days compared to 80 (47%) in the previous year. The Tribunal often sits from 9.30 a.m. to 5.00 p.m. or later to ensure the timely conclusion of matters.

The Tribunal's procedures are governed by the Solicitors (Disciplinary Proceedings) Rules 2007 (S.I. 3588).

## **ANALYSIS OF SUBSTANTIATED ALLEGATIONS AGAINST SOLICITORS DURING THE YEAR UNDER REVIEW**

Allegations may be framed in different ways and the analysis has been based on the allegations as framed which have been categorised in seven groups. Spread across the categories below dishonesty and/or a failure to exercise probity, integrity and trustworthiness was found in 19% of cases (17% last year).

### **SOLICITORS**

The allegations were broken down into the following groups:

**A CRIMINAL CONVICTIONS**

**B SOLICITORS ACCOUNTS RULES BREACHES**

**C CLIENTS MONEY**           improper utilisation  
misappropriation

**D FAILURES**                   failure to pay counsel's/agent's fees  
failure to comply with undertaking  
failure to comply with OSS direction/resolution  
failure to account  
failure to provide costs information  
failure to supervise  
failure to comply with Solicitors Separate Business  
Code  
failure to respond to OSS/others  
failure to comply with Solicitors Indemnity Rules

**E BREACHES**                breach of duty to the court/misleading the court  
breach of s.34 Solicitors Act 1974 (Accountant's  
Reports)  
breach of condition on Practising Certificate  
breach of Solicitors Practice Rules  
breach of duty of good faith to others/OSS  
breach of professional duty (failure to disclose)  
breach of restriction on employment of struck  
off/suspended solicitor  
breach of Legal Aid Regulations  
breach of Solicitors Introduction & Referral Code  
1990  
breach of Solicitors Publicity Code 1990 & 2001

**F DELAYS**

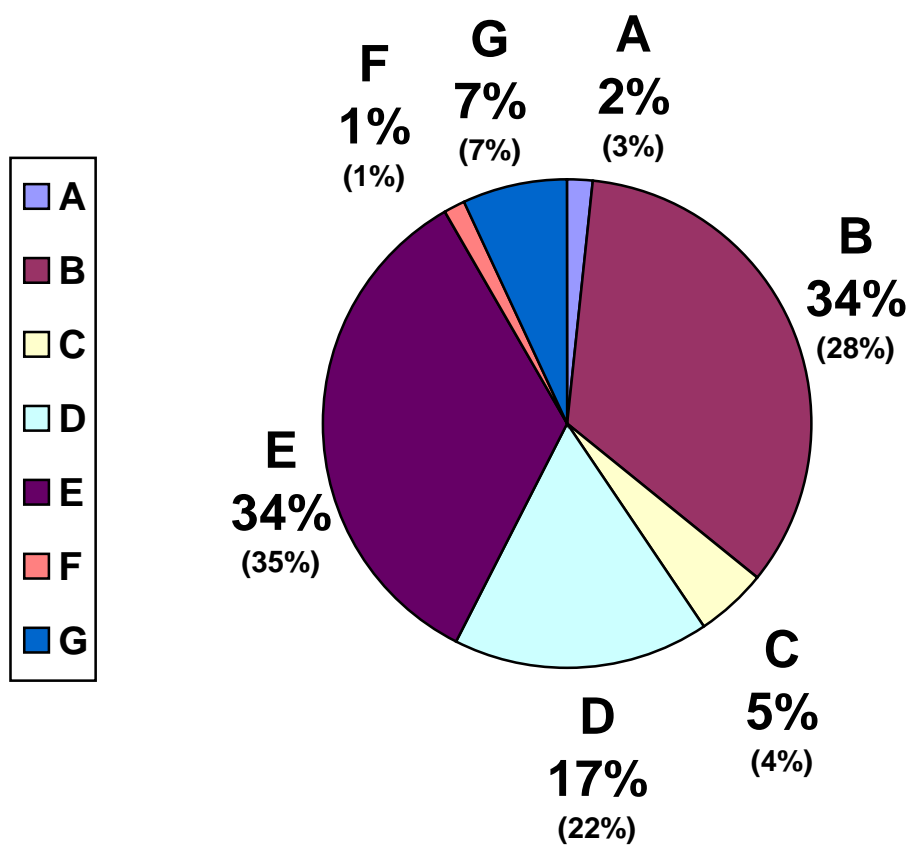
delay in delivery of papers  
delay in professional business

**G OTHER**

**Includes:**

making false documents  
no Practising Certificate  
conflict of interest  
costs not justified (overcharging)  
abandonment of practice

(2007/08 figures in brackets)



## **Solicitors struck off the Roll**

57 Solicitors were struck off the Roll in the year under review. Examples of conduct leading to a striking off were where:-

- Respondents were found dishonestly to have misappropriated clients' money
- Respondents had a criminal conviction
- Respondents charged success fees in circumstances where the Tribunal found it was improper to do so.
- Respondents grossly misled clients
- Respondents failed to discharge their professional duties honestly and reliably

A Respondent had withdrawn clients' money without the authority required by the Solicitors Accounts Rules. Such money was held by him for the payment of stamp duty, which he did not pay. The Tribunal found him to have been dishonest and that he failed to act in the best interests of his clients by failing to pay stamp duty and Land Registry fees. He was struck off the Roll.

## **Suspension from practice**

13 Solicitors were suspended indefinitely

15 Solicitors were suspended for one year or more

9 Solicitors were suspended for less than one year

These are cases where the solicitor's offences were very serious but not considered sufficient to justify permanent removal of a right to practise. Included in such cases are those where the Respondent suffers from a serious illness affecting his ability properly to serve his clients. In the case of an indefinite suspension, the solicitor may apply, in appropriate circumstances, for the period of suspension to be brought to an end.

A solicitor did not promptly pay practice creditors who obtained a County Court Judgment against him and had failed to respond promptly and substantively to communications from his professional regulator. The Tribunal accepted his explanations that he was a poor administrator but noted that he had had similar allegations substantiated against him some three years earlier. The Tribunal suspended him from practice indefinitely.

A solicitor who had told a client that he was progressing an insurance claim when he was not and had fabricated documents was, after the Tribunal learned that the solicitor, who hitherto had enjoyed an unblemished record, had suffered from depression and an inability to cope, ordered that he be suspended from practice for three years.

### **Fines**

122 solicitors were subject to Orders imposing fines upon them. Fines ranged from £500 to £25,000

Fines are payable to H.M. Treasury and totalled in the year under review £762,500 (£585,500 in the previous year)

Fines can be imposed in a wide variety of cases. Under the Legal Services Act 2007, the limit on the amount of fine which may be imposed by the Tribunal has been lifted. This provision is expected to be brought into force later this year.

A solicitor sole practitioner who had ceased to practice had been fined £1,000 for practising for a brief period without holding a practising certificate, without indemnity insurance and for not responding promptly and substantively to letters from his professional regulator. The Tribunal further ordered that unless the Respondent met his regulatory obligations within 3 months he would be suspended indefinitely.

In another case serious breaches of the Solicitors Accounts Rules coupled with failure to supervise staff led to the imposition of fines upon two solicitors who were partners of £10,000 and £2,000 respectively. Such fines reflected their respective degree of capability.

### **Reprimand**

55 solicitors were reprimanded.

A sole practitioner who had failed to deliver the statutory Accountant's Report certifying proper handling of clients' money was, after he explained the professional and personal difficulties he had suffered, reprimanded and ordered to pay costs. The Tribunal advised the Respondent to correct his failure as soon as possible.

### **Mandatory penalty for employment of struck off or suspended solicitors**

**Many solicitors continue to be unaware of the fact that knowingly employing a struck off or suspended solicitor without the consent of The Law Society is an offence under s.41 of the Solicitors Act for which there is a mandatory penalty of suspension or strike off.**

### **Restoration to the Roll**

The Tribunal considered 2 applications for restoration to the Roll. Both applications were refused.

It is unusual for an application for restoration to the Roll to be successful. Where the strike off Order was made in respect of dishonesty on the part of a solicitor, he faces an almost insurmountable obstacle to his restoration.

A former solicitor who had been struck off the Roll in April 2000 for serious misconduct sought restoration to the Roll. The Tribunal refused to restore him to the Roll having learned that he had applied to attend a “solicitors returners” course describing himself as a “property developer” and not mentioning that he had been struck off. He had not worked in a position of trust since being struck off.